

MEMORANDUM OF UNDERSTANDING BETWEEN CIL & DGR

1. Introduction.

(a) The Scheme to raise ex-servicemen (ESM) Coal Transportation Company was formulated between the erstwhile Ministry of Energy and Ministry of Defence in 1979 with the aim of having union free captive transport organization in Coal Subsidiaries and to provide resettlement opportunity to ESM.

(b) The scheme has been successful and mutually beneficial. Though instructions/guidelines exist on formation and running of ESM Coal Transportation Companies, based on the experience gained so far, it has become necessary to review and revise the role of various stake holders to make its implementation more effective.

2. Formation of an ESM Coal Transportation Private Limited Company.

(a) On receipt of request from the CIL Coal subsidiaries, the DGR will process the case by selecting eligible ESM (O) as Director's to form the ESM Coal Transportation Company. Process of selection, eligibility conditions and sponsorship will be as per the guidelines issued by the DGR for formation and running of Coal Transportation Company. After selection, the prospective Directors will be directed to visit coal subsidiary for recce and prepare the feasibility report. The concerned coal subsidiary will assist them to prepare the feasibility report. Based on this report DGR will accord approval to the Directors to form an ESM Company. The Directors will then get the ESM Company registered as a private limited company with Registrar of Companies (ROC). On completion of all formalities, DGR will sponsor the ESM Company to the Coal Subsidiary.

(b) The Coal Subsidiary will ensure that award of work to the sponsored ESM Company is done within 30 days from the date of reporting of the ESM Company. The execution of work by the ESM Company will commence within a period of three months from the date of award of work.

3. Financing & Share Holding.

(a) Each ESM Company will start with an initial capital of Rs 60-80 lakhs with equal contribution from each of the directors. This may be revised from time to time based upon economic factors.

(b) All the shares of the ESM Company will only be held by the directors.

(c) The widow / disabled ESM / dependent as nominated by DGR to ESM Company against Tipper Attachment Scheme will contribute onetime payment of Rs. One Lakh. The ESM Company will pay fixed remuneration of Rs 3, 000/- per month to the person attached with them. The capital deposited (Rs. One lakh) will be refunded upon completion of five years.

4. **ESM Employees.**

(a) The ESM Co. will employ a minimum of 75% of total regular employees as ESM or widows/dependants within 6 months of commencement of work. Nominal roll of all employees will be submitted on the laid down format along with half yearly and annual returns by ESM Co. The DGR will arrange for random spot checks to ensure compliance. The following categories will be taken into account while calculating the total number of employees for the purpose of working out 75%.

- (i) Share holders of the Co.
- (ii) Office personnel & Supervisory staff.
- (iii) Tipper owners/owner drivers.
- (iv) Workshop staff, if workshop is established by Co.

Any person employed by tipper owners / owner driver would not be considered to be the employee of the company for the purpose of computing percentage employment of ESM. However, ESM Cos. will discharge all financial liabilities for such employees as required by relevant statute.

(b) All employees of ESM Company should have Identity Card duly signed by one of the Directors of the ESM Company.

5. **Mode of Payment.** All wages paid to the employees should be through bank only and ESM company to submit statement of proof to DGR and coal subsidiaries. The wages paid to the employees should not be less than minimum wage applicable to the coal industry.

6. **Fleet Strength / Ownership and Management.**

(a) All the tippers and pay loaders to be deployed in the company will be owned by the eligible ESM and the ESM Company only. The ESM Company will hold 10 tippers against the widows / disabled ESM / dependent attached under Tipper Attachment Scheme by the DGR. DGR will attach 20 widows / disabled ESM / dependent against 10 tippers owned by the ESM Company. The ESM Company will be responsible for all liabilities whatsoever of these tippers. Hire purchase is permissible. Hiring of loaders / excavators / tippers is not permitted. The ownership pattern of the fleet will be as follows:

Tipper details	1 st 10 Tippers and 1 Loader / excavator	2 nd 10 Tippers and one addl. loader / excavator	Next 10 Tippers and one addl. Loader/ excavator
a. ESM Tippers	08	06	06

b. ESM Company Tippers / Widows' Tippers	02	04	04
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(b) In case the work allocated by the Coal Subsidiary does not have a requirement of pay loader to be deployed, in that case the directors will be permitted to have one tipper each. The fleet strength in that case could be.

Tipper details	1 st 10 Tippers and 1 Loader / excavator	2 nd 10 Tippers and one addl. loader / excavator	Next 10 Tippers and one addl. Loader/ excavator
ESM Tippers	05	06	04
Director's Tippers	05	-	-
ESM Company Tippers/ Widows' Tippers	-	04	06

Note.

- (i) The ESM companies will be required to induct new Payloaders/ excavators and tippers. Documentary evidence for procurement of these equipment from the manufacturers must be in consonance with registration details. Copy of RC will be submitted to DGR.
- (ii) All Pay Loaders / excavators will be owned by the ESM Company only.
- (iii) The ESM Company will procure, own and operate the tipper only against the ESM / Widow / dependent attached with the company against the Tipper Attachment Scheme.
- (iv) The minimum capacity of the tippers should be 10 wheelers i.e. 16 tonnes.
- (v) A fleet includes Tippers owned by the ESM Co. as well as other ESM. In case of tippers to be owned by other ESM, the ESM before procurement of the tipper will apply to DGR through ESM Company and will produce service documents in original and obtain permission to procure and attach the tipper truck

- (vi) ESM Company will submit copy of Registration Paper of all Tippers and Pay Loaders / excavators and also copies of Pension Payment Orders (PPO), ESM I - Card and Record of Service Book of the ESM to DGR for records.
 - (vii) A detailed monthly account will be maintained by ESM Company in respect of each vehicle and same will be audited annually. Details of these will be included in audit report of the ESM Company. ESM Companies will ensure that on a monthly basis tipper earnings are paid to the tipper owner and monthly wages/ remunerations are paid to the employees / widows. A Quarterly report to this effect will be submitted by the ESM Companies to respective area managers and to DGR. Any disparity if reported by any individual will be ascertained by DGR. If found correct, the concerned ESM Company could be de-sponsored. Statement of profit distribution will be forwarded by the ESM Company to DGR on an annual basis along with the Annual Audit Report.
 - (viii) The ESM tipper once attached to an ESM Company will continue with the same company till the company tenure is completed or when the tipper becomes unfit for operations in the coal mines and is to be replaced. An eligible ESM tipper owner is permitted to attach one tipper only during his life.
7. **Enhancement of Fleet.** Each ESM Company will be initially allowed to commence work with a minimum of 01 Pay loader/ excavator and 10 tippers. This fleet shall be enhanced to 02 pay loaders / excavators and 20 tippers not before 06 months of commencement of work and upto 03 pay loaders/ excavators and 30 tippers not before 12 months of commencement of work. In exceptional circumstances, 40 tippers and 4 Pay-loaders may be permitted with the consent of DGR and Coal Subsidiaries.
8. **Period of Tenure.** The tenure of the ESM Company will be valid for five years extendable for another four years from the date of commencement of work. The concerned Coal Subsidiary and ESM Company will sign the work agreement within a fortnight of commencement of work. One copy of the same will be forwarded by the Coal Subsidiary to the DGR for record. Renewal of the contract for another term of four years may be considered by the Coal Subsidiary and DGR jointly provided the past performance and functioning of the ESM Company has been satisfactory and employment of Ex-servicemen has been as per the laid down policy, for which the Coal Subsidiary should send the proposal to the DGR three months before the tenure of the ESM Company going to complete.

9. **Rates.**
- (a) The ESM Companies will be paid only normative rates and escalation rate as worked out by a professional consultancy firm nominated by CIL and approved by CIL Board.
- (b) While finalising the normative rates views of DGR will be taken by CIL and the same should also be ratified by concerned Coal Subsidiaries where ESM Companies are deployed. The ESM companies will be governed by these normative rates only.
10. **Financial Assistance by the Coal Subsidiary for commencement of operations by ESM Company.**
- (a) In order to facilitate smooth commencement of operation by the ESM Company the Coal Subsidiary will provide 40% of total payment due in first cycle of 30 days to the ESM Company, as advance of payment. The same will be recovered through the bills due to the ESM Company, in eight equal instalments.
- (b) The Coal Subsidiary will assist ESM Companies to obtain loans from the banks to procure new equipment by providing Letter of Intent of granted work.
11. **Security Deposit.** : ESM Company shall furnish security of Rs. 10 Lac by bank guarantee fully pledged to concerned Coal Subsidiary. ESM Company will be required to submit security deposit from 90 days of commencement of the operations in 05 equal monthly installments. At the end of the contract, security deposit will be released to the ESM Company at the earliest but not later than 90 days from the date of completion of contract after due clearance from DGR.
12. **Allotment of Work Type.** Following work will be allotted to ESM Company:
- (a) **Coal Loading & Transportation**
- (i) From Mine Face to Surface
- (ii) From Surface to Surface
- (b) Wagon Loading
- (c) Any additional type of work which is viable and is available for award to ESM Company, will be considered for allotment only after mutual consent between DGR and concerned Coal Subsidiary / CIL. Such inclusion of additional works will then be deemed to be within the ambit of the MoU.
13. **Quantum of Work to an ESM Company.**
- In case of non allocation or allocation below minimum guaranteed work by Coal Subsidiary due to any reason, the concerned ESM company will take up the case with DGR and CIL. CIL and DGR will workout modalities to

ensure that the interest of the ESM Companies are safeguarded in conjunction with concerned Coal Subsidiary and the ESM Company.

14. **Allotment of Work Site.** The Coal Subsidiaries will ensure that work site is mentioned in the Letter of Intent given to ESM Companies. In exigency, the ESM Company may be relocated in other sites with due consent of DGR provided adequate work is not available. In the event of allotting more than one site, such work sites should be within the same area.
15. **Prohibition on Sub-contracting.** No DGR sponsored ESM Co. shall in any manner and under any circumstances, sub-contract the whole or part of the loading and transportation work allotted to them.
16. **Settlement of Bills.** Fortnightly bill of executed work shall be submitted by ESM Companies. These bills will normally be cleared in the following fortnight. In case of any problem, ESM Company may approach the CMD (Coal Subsidiary) / DGR.
17. **Land Space & Accommodation.** Coal Subsidiaries will provide suitable site/space for establishment of temporary garages, workshops, site offices and barrack accommodation for ESM Company. Appropriate accommodation will be provided to the Directors of all the ESM Companies and regular employees at suitable rates as decided by the Coal Subsidiary subject to availability.
18. **Dispute Resolution.**
 - (a) Disputes, if any, will be addressed to the CIL and DGR. The same will be resolved through joint meetings, if required.
 - (b) To review the functioning of the ESM Companies and resolve any functional problems, half yearly meeting of the Directors of the concerned Coal Subsidiary, the representative Directors of the ESM Company and DGR representatives operating within the jurisdiction of the Coal subsidiary will be held on mutually agreed suitable dates.
 - (c) Annual meeting between DGR and Chairman CIL / CMDs of Coal Subsidiaries (where ESM Companies are operating) will be held to review the performance of ESM Companies, revision of rates/ escalation to be paid and to resolve any issues *raised* by the Ex-servicemen and the Coal Subsidiaries.
19. **Compliance of MoU & Termination of Contract.**
 - (a) In case of ESM Companies not adhering to the conditions of MoU and / or terms and conditions of work laid down by the Ministry of Defence/CIL/Coal Subsidiary and /or found indulging in any malpractice, the Coal Subsidiary may initiate any or all of the following actions :-
 - (i) Termination of Contract.

- (ii) Withholding of payment of bills.
- (iii) Forfeiture of Security deposit.

(b) However, before initiating any of these actions, the Coal Subsidiary will issue a show cause notice to ESM Companies under intimation to DGR and afford reasonable opportunity to the ESM Companies to clarify the position.

(c) CIL and Coal Subsidiaries will fully co-operate and ensure compliance of various provisions of MoU.

20. **Reports & Returns.**

(a) All ESM Companies will submit a half yearly return as on 30 June & 31 Dec. The Proforma of the report will be issued by the DGR. The soft copy of the report is to be submitted by 20 July for the period ending 30 June and 20 Jan. of the succeeding year for the period ending 31 Dec.

(b) The hard copy of the half yearly return is to be submitted to DGR with a copy to coal subsidiary.

(c) The half yearly return as received will be further examined by DGR for correctness. In case of any dispute, the same will be verified.

(d) All ESM Companies will submit their Annual Audit Reports duly verified by a qualified Chartered Accountant on completion of each financial year to DGR by 31 Oct with a copy to Coal Subsidiary.

(e) Non-submission of specified reports or incorrect facts/figures may result in cancellation of sponsorship/non-renewal of the contract.

(f) All statutory obligations will be followed by the ESM Companies. Concerned Coal Subsidiary being Principal Employer will ensure compliance and in case of any dispute, the same will be settled in review meeting.

21. **Miscellaneous.**

(a) At least one Director of ESM Company shall always be available at worksite. The Directors of ESM Companies shall directly deal with the Coal Subsidiaries for their day to day workings and shall not do so through power of attorney. All the payments shall be made in the name of ESM Companies and not to any other Agency / Authorised Representative / Power of Attorney Holder. Updated Telephone Nos , E- Mail and Correspondence Address of the Directors will be available with Coal Subsidiary and DGR.

(b) GPS based vehicle tracking system shall be installed on all tippers engaged in transportation of coal. For this purpose, the Vehicle Mounted Unit (VMU) with accessories will be provided by Coal Subsidiary. Such VMUs shall be returned to the Coal Subsidiary in case the tipper is not used for coal transportation related to the project. The safety, protection and maintaining the VMUs *in* operative mode will be the responsibility of the ESM company. In case of damage / loss of such units the cost of equipment and accessories will be recovered from the ESM Company bill.

(c) Supplement and addendum to the MoU may be included to deal with specific requirement of the Coal Subsidiary on mutually agreed terms between DGR and the Coal Subsidiary.

22. **Date of Implementation of MoU.** This MoU supersedes the previous MoU signed on 16th Apr 99 and will come into immediate effect for new ESM Companies from the date of sponsorship. Existing ESM Companies will continue to be governed by the previous MoU dated 16 Apr 1999. The MoU will be effective for a period of 05 years from the date of approval unless it is reviewed and revised at a shorter interval by the signatories. Amendment, supplement and addendum to the MoU can be issued when mutually agreed.

Signature
DGR Representative

Signature
CIL Representative

MEETING HELD BETWEEN CIL AND DGR REPRESENTATIVE FOR REVIEW AND REVISION OF THE MoU FOR FORMATION AND RUNNING OF ESM COAL LOADING AND TRANSPORTATION COMPANY ON 11 DEC 2013

1. The meeting was held in the Office of CIL on 11th Dec 2013. The meeting commenced at 1715 hrs and was upto 1800 hrs. The following were in attendance:

- (a) Mr. S. Narsing Rao, Chairman, CIL
- (b) Maj Gen Amrik Singh, DG(R)
- (c) Mr. N. Kumar, Dir(Tech), CIL
- (d) Col TS. Gill, DRZ East
- (e) Col HS Cheema, Director (SE)
- (f) Mr. Asok Ray, GM (Prod), CIL

2. DGR raised the issue of fixation of normative rates, modalities and frequency of escalation to be paid to ESM Companies. DGR explained that a representative of DGR should be co-opted while working out normative rates by professional consultant engaged by CIL, in which chairman agreed that the representative will be co-opted while deriving the normative rates payable to ESM Company. As regards the frequency of rate escalation the chairman gave his consent that escalation due to change in fuel prices will be calculated quarterly and escalation of rates on other aspects based on WPI will be calculated yearly and both will be paid retrospectively.

The new escalation formula will be worked by the same consultant who derives normative rates.

3. DGR raised the issue of assured quantity of work to be given to an ESM Company for the duration of its tenure. Chairman CIL agreed that yearly assured quantity will be given to the ESM Company with the trigger level of 80 % below which the concerned the ESM Company will take up the case with CIL and DGR.

4. Dir(Tech), CIL who is also the officiating CMD, SECL raised the issue of extension to existing ESM companies who are completing its tenure till new ESM Companies are sponsored and they start functioning. DG(R) gave its consent to the same.

(HS Cheema)
Col
Dir(SE)
For DG(R)

(Mr. Asok Ray)
GM Production
Coal India Ltd.