ITB No. TPC10805-LS

Taiwan Power Company
Department of Fuels
9F., No. 242, Roosevelt Road, Section 3, Zhongzheng Dist., Taipei City
10016, Taiwan, R.O.C.

Coal Supply Bid Invitation Letter

Date: August 19, 2019

Subject: Coal Supply Bid Invitation
Invitation to Bid No.TPC10805-LS

Gentlemen,
Taiwan Power Company ("Taipower") is inviting bids for the supply of coal from countries and districts abroad on the following terms and conditions:

1. The minimum acceptable quality specifications (based on ISO standards) shall be as follows:

Item	Maximum/Minimum
Gross Calorific Value (kcal/kg, as received)	5,000 Min*1
Total Moisture (%, as received)	30 Max
Ash Content (%, air dried)	8 Max
Total Sulfur Content (%, air dried)	0.5 Max
Volatile Matter (%, air dried)	28 Min
Fixed Carbon (%, air dried)	60 Max
Grindability (Hardgrove Index Value)	42 Min
Ash Fusion Temperature (degree(s) Celsius ,under reducing condition, H=W)	1,150 Min
Mercury Content(mg/kg, dry basis)	0.12 Max
Size	50 x 0 mm
Size above 50 mm (%)	5 Max
Fines under 2 mm (%)	35 Max
Na_2O in Ash (%)	Remark 2

Remark:
1. Gross Calorific Value greater than 6,900 kcal/kg will be treated as 6,900 kcal/kg.
2. Na2O in Ash is 3% Max; if actual CaO+MgO+Fe2O3 > 20% is met, then Na2O in Ash can be raised to 9.0% Max.

2. The quantity of coal to be purchased is 480,000 metric tons, which shall be shipped by Six(6) Panamax Size vessels. Each Panamax Size vessel shall load 80,000 metric tons of coal plus or minus ten percent (10%) at shipmaster's option. In addition, if the quantity of Coal shown in the Bill of Lading (B/L) is greater than 88,000 metric tons, it will be treated as 88,000 metric tons. However, if requested by Taipower that the quantity of Coal shown in the Bill of Lading (B/L) is greater than 88,000 metric tons, then the price to be paid by Taipower will base on the B/L quantity.
3. Each shipment of coal to be purchased by Taipower and delivered by a bidder shall be entirely supplied from a single mine. Supply of coal for the shipment from more than one mine is not allowed. The bidder is requested to provide in the Technical and Commercial Proposal a copy of B/L and a copy of valid certificate of analysis for coal quality (accepted by both buyer and seller for the shipment in question) issued by an independent inspection company of international standing for a shipment supplying at least 32,000 metric tons previously exported within the past five (5) years from the mine offered, and the quality items shown in the certificate shall meet Taipower's coal quality specifications. If the quality specification items required by all of the Bidder's customers do not include all the quality items required under this tender, then the certificate of analysis shall at least include Gross Calorific Value, Total Moisture, Ash Content and Total Sulfur Content. Bidders' Proposals failing to meet this requirement will be rejected. In addition, upon request by Taipower, a bidder shall provide to Taipower's satisfaction relevant supporting documents including certificate issued by relevant authorities of exporting country to demonstrate the legal status and current situation of the coal mine from which the coal will be supplied. If the shipment of coal offered by Bidder is produced by an illegal coal mine producer, the shipment will not be accepted.
4. The coal to be delivered at the Port of Loading shall be in accordance with the following delivery schedule:

Shipment No.	Vessel Size	Nominal Shipload (metric tons)	Delivery Period at Loading Port		
1	Panamax	80,000	2019/10/30	~	2019/11/8
2	Panamax	80,000	2019/11/11	~	2019/11/20
3	Panamax	80,000	2019/11/23	~	2019/12/2
4	Panamax	80,000	2019/12/5	~	2019/12/14
5	Panamax	80,000	2019/12/17	~	2019/12/26
6	Panamax	80,000	2019/12/29	~	2020/1/7

5. Bidders may offer to supply one or more than one shipment. A bidder who wants to bid on less than all of the shipments for which Taipower is seeking bids may choose the shipment(s) on which to bid.

6. Awards will be made on a shipment-by-shipment basis. A bidder may bid different price(s) for different shipment(s).

7. Bidders shall quote prices on both an FOBT Port of Loading and CFR Port of Discharging, Taiwan basis. Taipower has the right to award the contract on either a FOBT Port of Loading or CFR Port of Discharging, Taiwan basis. Taipower will issue the Notice of Award first pursuant to Section 5.1 of the Instruction for Bidding and specify the delivery terms (FOBT Port of Loading or CFR Port of Discharging, Taiwan) of awarded shipment(s) later.

8. A bidder's ocean freight for the shipment shall be offered based on the condition of discharging rate set forth in Section 12.4 of the General Terms and Conditions.

9. All bids will be compared on evaluated CFR Port of Discharging, Taiwan basis in accordance with the formula specified in Section 4.4 of the Instruction for Bidding.

10. As stated above, the award will be made on a panamax size basis.

11. Unless shipowner and the performing vessel comply with the regulations for direct cross-strait shipping between Taiwan Area and Mainland China Area, the performing vessel under the Contract shall not call directly at the ports of Mainland China; hence, the name of the Port of Export set forth by Bidders shall not be located in the Mainland China.

12. All bids and bid bonds must be received by the Taipower's Department of Fuels by 5:00 p.m., August 28, 2019 (Taipei time) (the "Bid Due Date"). Each bidder's bid and bid bonds must be received separately by the Taipower's Department of Fuels. Late bids or bid bonds will be unacceptable and will be returned unopened.

13. Technical and Commercial Proposals will be publicly opened by Taipower at the offices of Taipower at 10:00 a.m., August 29, 2019 (Taipei time), unless a change to such expected time is posted in public. In addition, said opening day will be postponed to the next day if said opening date is not a Working Day.
14. Bids must be firm and must remain available for acceptance by Taipower until September 17, 2019 (Taipei time).

Enclosed herewith you will find the Contract Agreement form and the following bidding documents:

a. Instruction for Bidding;
b. Technical and Commercial Proposal form;
c. Price Proposal form; and
d. General Terms and Conditions ("General Terms").

If you have any questions concerning this Bid Invitation Letter, Contract Agreement form or the bidding documents, please address your questions in writing to Department of Fuels, Taiwan Power Company, 9F., No. 242, Roosevelt Road, Section 3, Zhongzheng Dist., Taipei City 10016, Taiwan, R.O.C. (Facsimile: 886-2-23670597 / 886-2-23678593) no later than August 22, 2019. Taipower will provide a written reply no later than August 26, 2019.

Taipower shall have the right in its sole discretion to cancel or withdraw this invitation at any time and assumes no obligation or liability whatsoever with respect to a bidder's preparations or the costs incurred in responding hereto.

Very truly yours,

Samson P. J. Lee
Deputy Director for
Director of Department of Fuels
Taiwan Power Company
ENCLOSURES

Contract Agreement form

This Contract Agreement is made as of this _____ day of _____, 2019, by and between Taiwan Power Company, a corporation organized and existing under and by virtue of the laws of the Republic of China, with its principal office at No. 242, Roosevelt Road, Section 3, Zhongzheng Dist., Taipei City 10016, Taiwan, Republic of China ("Buyer") and _____, a corporation organized and existing under and by virtue of the laws of _____ with its principal office at _____ ("Seller").

WITNESSETH

In consideration of the mutual covenants and agreements made by and between them, the Parties hereby agree as follows:

I. DOCUMENTS CONSTITUTING THE CONTRACT

A. The following documents shall constitute the coal supply contract between Buyer and Seller:

1. This Contract Agreement;

2. The General Terms and Conditions ("General Terms") provided to Seller by Buyer;

3 Seller's Technical and Commercial Proposal and Price Proposal as accepted by Buyer; and

4. The Instruction for Bidding provided to Seller by Buyer.

These documents collectively shall be referred to as the "Contract".

B. If one document constituting part of the Contract (as such may have been modified, amended, or superseded) conflicts with another, the conflict shall be resolved by giving precedence to the documents in the order in which they are listed in Section I.A above. Unless otherwise specifically stated, addenda to documents shall, in the event of conflict, prevail over the documents themselves and later addenda shall prevail over earlier ones.

II. QUANTITY

Seller shall sell to Buyer and Buyer shall purchase from Seller Coal meeting the specifications guaranteed in Article IV below, in one (1) shipment of 80,000 metric tons plus or minus ten percent (10%) at shipmaster's option. In addition, if the quantity of Coal shown in the Bill of Lading (B/L) is greater than 88,000 metric tons, it will be treated as 88,000 metric tons. However, if requested by Taipower that the quantity of Coal shown in the Bill of Lading (B/L) is greater than 88,000 metric tons, then the price to be paid by Taipower will base on the B/L quantity.

III. COAL MINE

The Coal to be supplied to Buyer shall exclusively come from _____ ("Mine Name") by_____("Coal Mine owner/Coal Mine producer").

IV. QUALITY

The Coal supplied under the Contract shall be in accordance with Seller's specifications, determined under and pursuant to Article 6 of the General Terms:

Item	Seller's Specification	Max/Min
Gross Calorific Value (kcal/kg, as received)	Min	5,000 Min*1
Total Moisture (%, as received)	Max	30 Max
Ash Content (%, air dried)	Max	8 Max
Total Sulfur Content (%, air dried)	Max	0.5 Max
Volatile Matter (%, air dried)	Min	28 Min
Fixed Carbon (%, air dried)	Max	60 Max
Grindability (Hardgrove Index Value)	Min	42 Min
Ash Fusion Temperature (degree(s) Celsius ,under reducing condition, H=W)	Min	1,150 Min
Mercury Content(mg/kg, dry basis)	Max	0.12 Max
Size	50 x 0 mm	
Size above 50 mm (%)	Max	5 Max
Fines under 2 mm (%)	Max	35 Max
Na_2O in Ash (%)	Remark 2	Remark 2

Remark:

1. Gross Calorific Value greater than 6,900kcal/kg will be treated as 6,900kcal/kg.
2. Na2O in Ash is 3% Max; if actual CaO+MgO+Fe2O3 > 20% is met, then Na2O in Ash can be raised to 9.0% Max.

V. SHIPPING

A. Coal to be delivered by Seller shall be shipped from the Port of Loading in accordance with the following delivery schedule, subject to Article 12 (or 13, if applicable) of the General Terms:

Delivery Schedule at Port of Loading

2019// ~ 2019//

B. The Port of Loading shall be_____
_____.

C. The performing vessel shall be _____ Panamax Size vessel at the Port of Loading at the guaranteed loading rate of _____ metric tons per weather working day of twenty-four (24) consecutive hours, Saturdays, Sundays, and holidays included.

VI. BASE PRICE

Subject to the Coal meeting the specifications in Article IV, the Base Price for the Coal to be delivered by Seller shall be FOBT Port of Loading (or CFR Port of Discharging, Taiwan, if applicable) USD_____ per metric ton.

VII. DETERMINATION OF QUALITY

Determination of quality shall be made in accordance with Option ___ in Section 6.4 of the General Terms.

VIII. PAYMENT

Payment for the Coal shall be made in accordance with Option ___ in Article 10 of the General Terms.

IX. NOTICE

Address of Notice to Seller in accordance with Article 25 of the General Terms is specified as below:
To Seller:

X. ENTIRE AGREEMENT

The Contract constitutes the entire agreement of the Parties with respect to the subject matter hereof and shall supersede any prior expression of intent or understanding with respect to the transactions contemplated herein. The Contract may be amended or modified only by a writing signed by the duly authorized representative of the Parties hereto.

IN WITNESS WHEREOF, the Parties have caused this Contract Agreement to be duly executed by their respective authorized representatives.

Seller:	Buyer: Taiwan Power Company
By: _____ Name: Title:	By: _____ Name: Title: Director, Department of Fuels
Attested:	Attested:
By: _____ Name: Title:	By: _____ Name: Title: Deputy Director, Department of Fuels

TAIWAN POWER COMPANY
Invitation to Bid No.TPC10805-LS

Instruction for Bidding

1.0 Bidder

1.1 Bids may be submitted to Taipower by any suppliers, including foreign coal mine owners, foreign coal mine producer, foreign coal mine operators, and foreign and local agents and trading companies, except as specified in Sections 1.4.

1.2 Bids shall be duly executed by an authorized representative of the bidder with authority to bind the bidder. Each bidder shall submit with its TECHNICAL AND COMMERCIAL PROPOSAL with the Certificate of Authorization in the form of the Attachment to the INSTRUCTIONS FOR BIDDING (Attachment 1). The signature of the bidder's authorized representative shall be certified as authentic by a notary public or similar official in the bidder's country authorized to certify signatures as authentic. Such certification shall be in either the Chinese or English language.

1.3 If a bid is submitted by a local firm, including an agent, a trading company, and a subsidiary of a foreign firm, (collectively, "Authorized Local Bidder"), the Authorized Local Bidder shall submit copies of its certificates of registration, tax-payment and selling permit for bituminous coal, petroleum coke or other substances liable to cause air pollution which was issued by Department of Environmental Protection, County/City Government (由縣市政府環境保護局核發之「生煤、石油焦或其他易致空氣污染之物質販賣許可證) with the Technical and Commercial Proposal. The originals of these three certificates shall be presented to Taipower for verification if Taipower deems necessary. In addition, a Foreign Supplier's Statement signed by the Authorized Local Bidder and its Foreign Supplier shall also be attached to the Technical and Commercial Proposal. (A specimen of an acceptable Foreign Supplier's Statement is attached to the Technical and Commercial Proposal form). The signature of the Foreign Supplier's authorized representative shall be certified as authentic by a notary public or similar official in the Foreign Supplier's country authorized to certify signatures as authentic. Such certification shall be in either the Chinese or English language.

1.4 Bids will not be accepted from a R.O.C. political party or a bidder which is affiliated with a R.O.C. political party. Bids also will not be accepted from a bidder which is prohibited pursuant to paragraph one of Article 103 of the R.O.C. Government Procurement Act from participating in tendering or being awarded a contract. In addition, bids submitted in the following ways will not be acceptable: (1) submitted by the company and its branch office, respectively; (2) submitted by different branch offices of the same company, respectively.

2.0 Submission of Bids

2.1 Each bid shall consist of the following documents and all necessary attachments:

(i) Technical and Commercial Proposal, and

(ii) Price Proposal.

Bidders shall submit bids in one complete set in the forms provided herewith without alteration. Any alteration made by a bidder to the above documents or any part thereof may result in the disqualification of that bidder and his bid in Taipower's discretion. All information provided by bidders shall be in the English language.

2.2 Bids shall be executed by the bidder's authorized representative.

2.3 The Technical and Commercial Proposal and the Price Proposal shall each be sealed in a separate envelope, clearly marked on the front as "Technical and Commercial Proposal" and "Price Proposal", respectively. These two envelopes shall be submitted to Taipower in a single envelope marked on the front as "Spot Coal Bid" and with date and hour of opening of Technical and Commercial Proposals (as specified in the Coal Supply Bid Invitation Letter). The bid envelope and the envelopes containing the Technical and Commercial Proposal and Price Proposal, respectively, shall each be marked on the upper left hand corner with the name and address of the bidder, and the Invitation to Bid number.

2.4 Any bid submitted with both the Technical and Commercial Proposal and the Price Proposal in the same envelope will be rejected. In order to comply with the requirements of the R.O.C. Government Procurement Act, any bid submitted without the requested certificate (attached with the Technical and Commercial Proposal form) will be rejected.

2.5 The bid envelope shall be addressed to:

Department of Fuels
Taiwan Power Company
9F., No. 242, Roosevelt Road, Section 3, Zhongzheng Dist., Taipei City 10016, Taiwan, R.O.C.

Bids shall be delivered by hand, by express courier, or by certified mail (air mail, if international). Facsimile bids will be unacceptable.

3.0 Handling of Bids

3.1 Technical and Commercial Proposals will be publicly opened at the time and date stated in the Coal Supply Bid Invitation Letter, unless a change to such expected time is posted in public. In case of any ambiguity as to the content of the Technical and Commercial Proposal, Taipower may request clarification from the bidder.

3.2 Taipower reserves the right to reject any bid which has not been properly completed. Any Technical and Commercial Proposal containing pricing information shall automatically be rejected. The Price Proposal relating to those Technical and Commercial Proposals rejected by Taipower will not be opened and will be returned to bidders. Taipower shall notify bidders whose bids are rejected of the reasons for their rejection.

Taipower reserves the right not to award any shipment which would result in Taipower's purchases of coal of Mainland China origin, including both spot and term

contracts, exceeding 30 percent of Taipower's then current total annual requirements.

3.3 Price Proposal relating to those Technical and Commercial Proposals that Taipower has determined to be acceptable shall be publicly opened, following notice to bidders who remain eligible for Contract award after Taipower's review of the Technical and Commercial Proposals, at the offices of Taipower at the time and date specified in such notice unless Taipower notifies such eligible bidders of a change to such expected time. Eligible bidders may appoint one authorized representative to attend the Price Proposal opening meeting at Taipower by presenting or faxing to Taipower, on or before the date prior to the Price Proposal opening meeting, a completed copy of the "Authorization for Bidder's Representative" form attached to these Instruction for Bidding (Attachment 2). If an eligible bidder fails to appoint an authorized representative to attend the Price Proposal opening meeting, it shall be deemed to have waived its right to reoffer lower prices at the Price Proposal opening meeting. If all bids for any shipment exceed Taipower's ceiling price (see Section 4.6 of these Instruction for Bidding) and if the eligible bidder whose evaluated CFR price is lower than any other evaluated CFR price for the shipment has sent an authorized representative, Taipower may request such eligible bidder to reoffer one lower price for such shipment. Such eligible bidder's representative as is authorized to do so may reoffer one lower price by amending the bidder's Price Proposal at the Price Proposal opening meeting. If the eligible bidder whose evaluated CFR price is lower than any other evaluated CFR price for the shipment has not sent an authorized representative or if the reoffer of lower price still exceeds Taipower's ceiling price, Taipower may request a reoffer of lower prices from all eligible bidders who have sent an authorized representative to reoffer lower prices at the Price Proposal opening meeting, but such requested reoffer of lower prices shall not occur more than three times.

Unless permitted by Taipower, the authorized representative of the eligible bidder, will not be allowed to leave the Price Proposal opening meeting room and/or contact anyone, including the bidder, by any means until the meeting is over.

3.4 Subject to Sections 3.1 and 3.3 of the Instruction for Bidding, bids may not be altered after the Bid Due Date. While bid evaluation is underway, bidders shall not contact Taipower by any means unless Taipower takes the initiative in contacting the bidder. If a bidder is requested to make clarifications to its bid, it will be informed in writing, and such clarifications shall be submitted in the manner and form directed by Taipower.

3.5 Bidders shall quote only one offer for each shipment; no alternative quotation will be considered.

3.6 Each bidder must ensure that bid bond(s) deposited by the bidder and received by Taipower on or before the Bid Due Date pursuant to Section 7.1 of these Instruction for Bidding adequately cover the shipment(s)/quantity offered by the bidder; otherwise the shipment(s) of the bid submitted by such bidder that is/are not adequately covered with bid bond(s) will be considered unacceptable. If a bidder offers to supply more than one shipment, and, if Taipower is unable to identify which

shipments offered are adequately covered with bid bonds, the shipments starting from the first shipment offered by the bidder that can be adequately covered with bid bonds will be deemed to be the shipments that are adequately covered with bid bonds.

3.7 In accordance with Article 50 of the R.O.C. Government Procurement Act, if any of the following circumstances occur with respect to a bidder, Taipower will not open the bid of such bidder if such circumstance is found before bid opening or award the contract to such bidder if such circumstance is found after bid opening:

(a) the method of bidding does not comply with the requirements of the bidding documents;

(b) the content of the bid is inconsistent with the requirements of the bidding documents;

(c) the bidder borrows or assumes any other firm's name or certificate to bid, or bids with forged documents or documents with unauthorized alteration;

(d) the bidder forges documents or alters documents without authorization in connection with its bid;

(e) the contents of the bid exist significantly abnormal connection with those of other bidders;

(f) bidder is prohibited pursuant to paragraph one of Article 103 of the R.O.C. Government Procurement Act from participating in tendering or being awarded a contract; or

(g) the bidder does anything else in breach of Act or regulations which impair the fairness of the procurement.

4.0 Evaluation of Bids

4.1 Comparison of the bidders' Price Proposal will be made on a U.S. dollar basis. All non-U.S. dollar Price Proposal will be rejected.

4.2 The price quotation for each shipment shall include all items specified in the price format of the Price Proposal form. Failure to submit a price quotation for a shipment with all items specified in the price format of the Price Proposal form will make the bid unacceptable.

4.3 In case of error(s) in the bidder's calculation of evaluated CFR price, the offered CFR price shall govern. In case a discrepancy is found between the offered CFR price ("Price A") and the aggregate of FOBT price and ocean freight ("Price B"), the lower of Price A and Price B shall govern. If Price A is lower than Price B, the FOBT price shall be reduced by the difference in amount between Price A and Price B.

4.4 Bids will be evaluated by comparing evaluated CFR prices determined in accordance with the following formula:

Evaluated CFR price =
(CFR price + P1 + P2 + P3) x
(6,322 kcal/kg/Bidder's Specification for Gross Calorific Value)

Where:
P1 = CFR price x 0.3% x (Bidder's Specification for Total Moisture/1%)
P2 = USD0.5/MT x (Bidder's Specification for Ash Content/1%)
P3 = USD0.5/MT x (Bidder's Specification for Total Sulfur Content/0.1%)

Bidder's Specification for Gross Calorific Value greater than 6,900 kcal/kg will be treated as 6,900 kcal/kg. A fraction of a cent in the calculation of P1, P2, P3 and Evaluated CFR price shall be rounded up to a cent if such fraction is one-half of a cent or more, and shall be rounded down otherwise.

4.5 Example for Bid Evaluation

Example:

Bidder's offered price & specifications:

Offered price : CFR Port of Discharging, Taiwan	Specifications			
	Total Moisture (as received)	Ash Content (air dried)	Total Sulfur Content (air dried)	Gross Calorific Value (as received)
USD60/MT	20%	4%	0.4%	5,300 kcal/kg
P1	= USD60 x 0.3% x (20%/1%)			
P2	= USD0.5 x (4%/1%)			
P3	= USD0.5 x (0.4%/0.1%)			

(the following Evaluated CFR price is proceeded by Excel)

	A	B	C	D	E
1	**Example**				
2	**CFR Port of Discharging, Taiwan**	**Total Moisture (%) AR**	**Ash Content (%), AD**	**Total Sulfur (%), AD**	**Gross Calorific Value (kcal/kg), AR**
3	**60**	**20**	**4**	**0.4**	**5,300**

Evaluated CFR price

= (CFR price + P1+ P2+ P3) x (6,322 kcal/kg/Bidder's Specification for Gross Calorific Value)

=ROUND((A3+ROUND(A3*0.003*(B3/1),2)+ROUND(0.5*(C3/1),2)+ ROUND(0.5*(D3/0.1),2))*(6322/E3),2)

= USD80.64

4.6 Taipower will establish a ceiling price for the bid. Contract award for each shipment will, in principle, be made to the eligible bidder whose bid meets the requirements set forth in the bidding documents and whose evaluated CFR price represents the lowest one within the ceiling price. In accordance with the R.O.C. Government Procurement Act, Taipower reserves the right to reject any or all bids or rebids; to reject any bid in excess of the ceiling price; or to request rebids from bidders in accordance with Section 3.3 of these Instruction for Bidding should all bids exceed the ceiling price. For any shipment, if the offered FOBT price (converted to 6,322 kcal/kg GAR) of the-lowest-evaluated CFR-price-bidders is not comparable to the then current market price, Taipower reserves the right not to award the said shipment and to cancel or retender the said shipment.

5.0 Notice of Award and Contract Agreement

5.1 After evaluation of the Price Proposal, Taipower shall provide the successful bidder(s) with a fax Notice of Award informing such bidder that the bidder(s) is in line for the award. The successful bidder(s) shall also receive from Taipower, for the successful bidder(s)' execution, counterparts of a Contract Agreement that shall set forth the specific commercial terms relating to the contemplated award for such shipment (e.g. price, total quantity of coal, Port of Loading, etc.). In addition, the successful bidder(s) shall receive another two (2) copies of the General Terms, two (2) copies of the Instruction for Bidding, which are to be initialed by the successful bidder(s), and a copy of the Technical and Commercial Proposal and Price Proposal as accepted by Taipower.

5.2 The successful bidder(s) must execute the required number of counterparts of the Contract Agreement, initial each page of the required number of counterparts of the Contract Agreement and each page of the two (2) copies of the General Terms and two (2) copies of the Instruction for Bidding, and return the counterparts of the Contract Agreement(s), one (1) copy of the General Terms and one (1) copy of the Instruction for Bidding to be received by Taipower within fourteen (14) days after the date on which the successful bidder(s) received the unexecuted Contract Agreement and uninitialed General Terms and Instruction for Bidding from Taipower.

5.3 The issuance and receipt of the Notice of Award shall be binding upon the successful bidder(s). Taipower will return to the successful bidder(s) one counterpart of the Contract Agreement executed by Taipower.

6.0 Contract Documents

The Contract between Taipower and the successful bidder(s) shall consist of:

(a) The Contract Agreement (containing the basic commercial terms and executed by both parties);
(b) The General Terms;
(c) Technical and Commercial Proposal and Price Proposal of the successful bidder(s) as accepted by Taipower; and
(d) The Instruction for Bidding.

7.0 Bid Bond

7.1 Each bidder shall cause Taipower to receive, on or before the date and time for receipt of bids set forth in Taipower's COAL SUPPLY BID INVITATION LETTER ("Bid Due Date"), a bid bond for each shipment in the full amount as follows:

United States dollars	New Taiwan dollars
80,000 per shipment	**2,440,000 per shipment**

A bid bond shall be deposited for each shipment with respect to which the bidder is submitting a bid and in the form of cash, Taiwan local financial institution's promissory note, Taiwan local financial institution's check, Taiwan local financial institution's certified check, postal money order, bearer R.O.C. Government bond, Taiwan local financial institution's certificate of deposit pledged to Taipower, or Taiwan local bank's bank guarantee or insurance policy under which the bank or insurer is liable jointly and severally with the bidder. Bid bond deposited by cash in United States dollars shall be deposited to Taipower's Account with the details as follows:

Bank name: Taipei Fubon Commercial Bank Business Department
Swift BIC: TPBKTWTP200
A/C name: Taiwan Power Company
A/C No. 200270005437

Bid bond deposited by cash in New Taiwan dollars, to Taipower's A/C No. 93040090265001 at Bank of Taiwan, Kung-Kuan Branch, Taipei, Taiwan.
The copy of certification of depositing shall be attached with the bid.
In lieu of the above-mentioned, irrevocable standby letter(s) of credit in Taipower's favor will also be acceptable. (A specimen of an acceptable bid bond standby letter of credit is attached to these Instruction for Bidding). The standby letter(s) of credit, which shall be denominated in United States dollars or New Taiwan dollars, shall be issued by a bank in Taiwan, or issued by a first class banking institution of international standing outside Taiwan and confirmed at no cost to Taipower by a bank in Taiwan. Each bidder shall, at its expense, ask its issuing bank to notify Taipower by facsimile or email of the standby letter of credit number, the Invitation For Bid number, the amount of the bid bond deposited, the name of the L/C applicant, the name of the advising bank, and the name of the confirming bank before the Bid Due Date, if there shall be one. If the bid bond standby letter(s) of credit is/are established by a foreign supplier on behalf of a bidder in Taiwan, the name of the bidder must be clearly indicated in the standby letter of credit and the facsimile or email advice.
The standby letter(s) of credit shall be valid for at least **two (2) months** after the Bid Due Date. If the validity of the bidder's bid is extended, the validity of the standby letter(s) of credit shall be extended correspondingly. Failure by the bidder to cause the extension of the validity of the bid bond will constitute a violation of a material provision of these Instruction for Bidding.

7.2 Taipower will not consider bids from bidders that fail to post acceptable bid bond(s), including, but not limited to, its form, substance, amount, validity time, issuing bank or confirming bank. Taipower shall be entitled to draw the full amount of the bid bond(s) posted by a bidder if the bidder withdraws its bid after the Bid Due Date and during the period during which the bid is to remain open to acceptance by Taipower. Taipower shall also be entitled to draw the full amount of the bid bond(s) posted by a successful bidder if the successful bidder receives the unexecuted Contract Agreement from Taipower but fails to furnish satisfactory performance guarantee bond(s) to Taipower (in accordance with Article 11 of the General Terms) within fourteen (14) days after receiving the Notice of Award.

7.3 Bid bonds will be refunded or returned to unsuccessful bidders without interest as soon as practicable after the award of a Contract or if the Invitation To Bid is nullified for any reason. The bid bond(s) of a successful bidder will be refunded or returned without interest after the successful bidder provides Taipower with satisfactory performance guarantee bond(s) in accordance with Article 11 of the General Terms and executes and returns the relevant documents in accordance with Section 5.2 of these Instruction for Bidding.

7.4 Notwithstanding Section 7.3 above, bid bond(s) will not be refunded or returned to the bidder, and refunded or returned bid bond(s) will be recovered, if any of the following circumstances occur:

(a) the bidder uses forged or altered documents in connection with its bid;
(b) the bidder borrows the name or certificate of another in connection with its bid;
(c) the bidder assumes the name or certificate of another in connection with its bid;
(d) the bidder withdraws its bid before expiration of the bid;
(e) after opening of Price Proposal, the bidder refuses to be awarded a contract or refuses to execute the contract documents,
(f) after being awarded a contract, the bidder fails to provide sufficient performance guarantee bond(s) or to provide other guarantees sufficiently within prescribed time limits;
(g) a bid bond serves as a performance guarantee bond; or
(h) the bidder is guilty of conduct of a type which the R.O.C. Procurement and Public Construction Commission has found to be a violation of Act or regulations which affect the fairness of the procurement.

8.0 Non-Commitment of Taipower

8.1 Notwithstanding Section 4.6 of these Instruction for Bidding, Taipower does not bind itself to accept the lowest Price Proposal and reserves the right to declare the bidding canceled.

8.2 All the costs incurred directly or indirectly by the bidder in the preparation and presentation of its bid, as well as all the costs of the bid bond shall be borne by the bidder. Taipower assumes no obligation whatsoever with respect to a bid, the preparation thereof, or the costs related thereto.

8.3 Taipower reserves the right to waive any informality or requirement in bids received and to accept any bid considered advantageous to Taipower.

9.0 Taipower's Property

9.1 All data and information given in or appended to the bidding documents are Taipower's property and are furnished to bidders for the sole purpose of enabling each bidder to prepare and submit a bid responsive thereto. The information contained or referred to in the bidding documents or appended thereto shall not be disclosed or released by a bidder for any other use or purpose.

9.2. Taipower has the right to release the evaluated CFR award price and the name of the successful Bidder publicly.

9.3 Bidders' Technical and Commercial Proposal and/or Price Proposal will be returned by Taipower if they are unopened in accordance with the R.O.C. Government Procurement Act.

10.0 Government Procurement Act

10.1 Article 103 of the Government Procurement Act provides that a supplier whose name has been published in the Government Procurement Gazette pursuant to the third paragraph of Article 102 because of any of the circumstances enumerated in Article 101 is prohibited from participating in bidding for or being awarded a contract or subcontract for specified periods of time. A bidder will be required to certify, in the Certificate form attached to the Technical and Commercial Proposal.

10.2 Pursuant to Article 101 of the R.O.C. Government Procurement Act, if Taipower finds a supplier has any of the following circumstances, Taipower will notify the supplier the facts and reasons related thereto, and indicate with a note in the notification that it will be published on the R.O.C. Government Procurement Gazette if the supplier does not file a protest:

(a) the supplier allows any others to borrow its name or certificate to participate in a tender;
(b) the supplier borrows or assumes any other's name or certificate to tender, execute, or perform the contract, or tenders, execute, or perform the contract with forged documents or documents with unauthorized alteration;
(c) the supplier has substantially reduced the work or materials without obtaining a prior approval;
(d) the supplier forges or alters without authorization documents related to tendering, contracting, or contract performance.
(e) the supplier participates in tendering during the period when its business operation has been suspended by a disciplinary action;
(f) the supplier has committed any of the offenses prescribed in Articles 87 to 92 of the R.O.C. Government Procurement Act, and has been sentenced to be guilty by a court of the first instance;
(g) the supplier refuses to execute a contract without due cause after award;

(h) an inspection or acceptance indicates any serious non-conformance with the contractual requirements;
(i) the supplier fails to fulfill warranty obligation after final acceptance;
(j) the time-limit for contract performance is seriously delayed due to causes attributable to the supplier;
(k) the supplier is in breach of the requirement of Article 65 by assigning a contract to others;
(l) a contract is rescinded or terminated for causes attributable to the supplier;
(m) the supplier is under the procedure of bankruptcy; or
(n) the supplier seriously discriminates women, aborigines, or personnel of disadvantaged groups.

The preceding paragraph shall be applied to the supplier's performance guarantor after having been informed by Taipower.

10.3 Where Taipower has notified a supplier pursuant to the preceding Section 10.2 and the supplier does not file a protest or complaint within the prescribed time period, or the complaint filed is not accepted, or the review decision indicates that the notification is not in breach of the R.O.C. Government Procurement Act or untrue, Taipower shall immediately publish the name of the supplier and the relevant circumstance on the R.O.C. Government Procurement Gazette. A supplier whose name has been published on the R.O.C. Government Procurement Gazette is prohibited from participating in tendering, being awarded or sub-contracted within the following periods:

(a) three (3) years from the next date of publication arising from circumstances of items (a) to (e) of Section 10.2, or a sentence of imprisonment under item (f) of the same Section; provided that under the circumstance of item (f) of Section 10.2, the period shall be suspended where there is a final and irrevocable " revocation of original disposition" or "not guilty" verdict; or
(b) one (1) year from the next date of publication arising from circumstances of items (g) to (n) of Section 10.2, or imposition of detention, fine, or probation under item (f) of the same Section; provided that under the circumstance of item (f) of Section 10.2, the period shall be suspended where there is a final and irrevocable "revocation of original disposition" or "not guilty" verdict.

11.0 <u>General</u>

11.1 The singular shall include the plural, and the masculine shall include the feminine and neuter and vice versa where the context requires.

11.2 A bidder's submission of its bid shall be deemed to be conclusive evidence that it has investigated and understood and is fully satisfied with all of the matters, requirements and conditions in the Republic of China which may affect its bid or its execution of the Contract. Each bidder agrees that it has no claims of any kind whatsoever for additional payment, extension of time, or otherwise, on ground of unawareness or inadequate investigation or awareness of any matter, requirement or condition that may be subsequently found by it to affect its bid.

11.3 A bidder's questions concerning any of the bidding documents or request for additional information from Taipower shall be submitted and received by Taipower in writing not later than the time specified in the Coal Supply Bid Invitation Letter. Taipower shall provide a written reply to bidders' questions or post it in public, if deemed necessary, not later than the time specified in the Coal Supply Bid Invitation Letter, Taipower may or may not make any change to the bidding documents in its sole discretion. Any change to the bidding documents made by Taipower prior to the opening of the Technical and Commercial Proposals will be posted in public and Taipower may decide to extend the Bid Due Date, if deemed necessary.

11.4 Should a bidder determine that there is an ambiguity or a conflict in the bidding documents, it shall immediately bring the matter to Taipower's attention. Taipower's interpretation shall be final. Taipower shall not be responsible for any other interpretation.

11.5 By participating in the bidding, each bidder agrees and acknowledges that in no event shall it be entitled to make a claim of any kind against Taipower or Taipower's officers, employees, or consultants arising out of, relating to, or in any way connected with the bidder's bid or Taipower's consideration thereof.

11.6 It is Taipower's policy that bid opening, evaluation and contract award shall be conducted in conformity with relevant laws, rules and regulations. A bidder may contact Justice Investigation Bureau (886-2-29177777, Xindian P.O. BOX 60000) or Taipei Office of Justice Investigation Bureau (886-2-27328888, Taipei P.O. BOX 60000), if it believes there has been non-conformity in relation to this Invitation To Bid.

11.7 In addition to the above, for bidders' reference, the following information relating to the applicability of the R.O.C. Government Procurement Act (hereinafter refer to as "Act") to this tender is listed below:

(a) This tender is applicable to "Property Procurement" as defined in Article 7 of the Act;

(b) This tender is applicable to the "open tendering procedures" as defined in Article 18 of the Act;

(c) This tender is applicable to the "Large Procurement" as defined in Article 36 of the Act;

(d) The "Superior entity", as defined in Article 9 of the Act, is The Ministry of Economic Affairs of the R.O.C.

(e) In accordance with Article 75 of the Act, a bidder may, in the period as specified below, file a protest in writing with Taipower if the bidder deems that Taipower is in breach of laws or regulations or of a treaty or an agreement to which this nation is a party (hereinafter referred to as the "Act and Regulations") so as to impair the bidder's rights or interest in a procurement:

(i) Where the protest is filed for the content of the tender documentation, one quarter of the period for tendering starting from the next date of invitation to

tender and a segment of less than one (1) day shall be counted as one (1) day; provided that the whole period shall not be less than ten (10) days;

(ii) Where the protest is filed for the interpretations, subsequent explanations, amendments or supplements of the tender documentation, ten (10) days from the next date of receipt of the notification from Taipower; or

(iii) Where the protest is filed for the procedures or the outcome of the procurement, ten (10) days from the next date of receipt of the notification from Taipower; or ten (10) days from the next date when said procedures or outcome are known or can be known if such procedures or outcome are not notified or published; provided that the period shall not exceed fifteen (15) days from the next date of the award of contract.

Taipower will make proper disposition and notify the protesting bidder in writing of such disposition within fifteen (15) days from the next date of receipt of the protest. In case that such disposition involves amendment or supplement to the content of the tender documentation, Taipower will notify each bidder in writing of such amendment or supplement, and may extend the time-limit for tendering if required. The address, telephone and fax number of Department of Fuels, Taipower are as follows:

Department of Fuels
Taiwan Power Company
9F., No. 242, Roosevelt Road, Section 3, Zhongzheng Dist., Taipei City 10016, Taiwan, R.O.C.
Tel: 886-2-23666720/886-2-23667399
Fax: 886-2-23670597/886-2-23678593

(f) In accordance with Article 76 of the Act, a bidder may file a written complaint with Complaint Review Board for Government Procurement (CRBGP) within fifteen (15) days from the next date of receipt of the disposition by Taipower of protest if the bidder objects to the disposition, or from the next day of expiry of the period specified in Section 11.7(e) if Taipower fails to dispose the case within the period.

(g) In accordance with Article 85-1 of the Act, in case that a supplier and Taipower cannot reach an agreement in respect of a dispute arising from or in connection with the performance of a contract, the dispute may be referred to the CRBGP for mediation. The entity, address, telephone and fax number of CRBGP are as follows:

Procurement and Public Construction Commission of Executive Yuan, R.O.C.
9F., No. 3, Songren Road, Xinyi Dist., Taipei City 11010, Taiwan, R.O.C.
Tel: 886-2-87897530
Fax: 886-2-87897514

(h) In accordance with Article 108 of the Act, the ROC central government has established procurement control units to monitor and supervise procurement affairs. The address, telephone and fax number of such units in the ROC central government are as follows:

(i) Investigation Bureau, Ministry of Justice

P. O. Box 60000, Xindian, New Taipei City, Taiwan, R.O.C.

Tel. 886-2-29177777

(ii) The Taipei City Field Office, Investigation Bureau, Ministry of Justice
P. O. Box 60000, Taipei City, Taiwan, R.O.C.
Tel. 886-2-27328888

(iii) Central Procurement Control Unit's
Procurement and Public Construction Commission of Executive Yuan, R.O.C.
9F., No. 3, Songren Road, Xinyi Dist., Taipei City 11010, Taiwan, R.O.C.
Tel: 886-2-87897548
Fax: 886-2-87897554

(iv) Procurement Control Unit of Ministry of Economic Affairs
No. 15, Fuzhou St., Zhongzheng Dist., Taipei City 10015, Taiwan, R.O.C.
Tel: 886-2-23971592
Fax: 886-2-23971593

(v) Procurement Control Unit of Taipei City Government
3F., Lower Building, South West Area, No. 1, Shifu Rd., Xinyi Dist., Taipei City 11008, Taiwan, R.O.C.
Tel. 886-2-27208889#1052
Fax. 886-2-2723-9354

(vi) Agency Against Corruption, Ministry of Justice
5F., No. 318 Songjiang Rd., Zhongshan Dist., Taipei City 10468, Taiwan, R.O.C.
Tel: 886-800-286586
Fax: 886-2-25621156
P.O. BOX 14-153 Taipei, Taipei City 10099, Taiwan, R.O.C.
E-Mail: gechief-p@mail.moj.gov.tw

(vii) Taiwan Power Company, Department of Civil Service Ethics
Tel: 886-2-23667364
E-Mail: d05703@taipower.com.tw

TAIWAN POWER COMPANY
Invitation to Bid No.TPC10805-LS

Special Instruction for Bidding

1.0 If Tanjung Bara Coal Terminal (TBCT) is proposed by a bidder as the Port of Loading, such bidder shall quote only for gearless vessel. If the contract is awarded to the bidder, the bidder is allowed to deliver the shipment of coal at Floating Transfer Station/Floating Terminal System (FTS) or combine loading of Tanjung Bara Coal Terminal (TBCT) and Floating Transfer Station/Floating Terminal System (FTS) during contract execution. The handling fee (USD 38,000) shall be waived if loading at FTS or combine loading at TBCT and FTS.

2.0 The loading rate is 35,000 Metric Tons for TBCT Berth or 20,000 metric tons for FTS or 20,000 Metric Tons for combine loading at TBCT and FTS Per weather working day of twenty-four (24) consecutive hours, Saturdays, Sundays, and holidays included.

3.0 For combine loading at TBCT and FTS, shifting time from first port to second port should be for Seller's account.

4.0 For combine loading at TBCT and FTS, 12hrs turn time should be counted only once.

Attachment 1

Certificate of Authorization

Mr. / Ms. _____ Title: _____ ("the Authorized Representative") is duly authorized to execute the Technical and Commercial Proposal, the Price Proposal, and the Contract Agreement (if the Bidder is successful) for the Invitation to Bid No. TPC10805-LS.

Signature of the Authorized Representative: _____

Dated: _____

Bidder: _____ (Company name)

Notary Public Column:

Note:
The signature of the Authorized Representative shall be certified as authentic by a notary public.

Attachment 2

Authorization for Bidder's Representative

To: Department of Fuels
Taiwan Power Company

Re: Invitation to Bid No. TPC10805-LS

Please be advised that:

Signature: _____
Name: _____
Title: _____
Company: _____
Address: _____
Telephone: _____

will be attending the Price Proposal opening meeting for the referenced Invitation To Bid as our company's representative ("Authorized Representative"). The Authorized Representative (please check one):

□ is fully authorized to reoffer a lower price on behalf of our company if all bids for any shipment exceed Taipower's ceiling price and Taipower requests our company to reoffer a lower price by amending our company's Price Proposal at the Price Proposal opening meeting.

□ is authorized only to attend the Price Proposal opening meeting and is not authorized to reoffer a lower price.

The Authorized Representative will have a copy of this Authorization and upon request will make it available for inspection at the Price Proposal opening meeting.

Bidder:
Company name: _____

By: _____
(Authorized Signature)
Name: _____
Title: _____
Date: _____

Attachment 3

SPECIMEN OF BID BOND form

Irrevocable Standby Letter of Credit (see note 1)	Credit number
Place and date of issue	Date and place of expiry **October 28, 2019** at the negotiating bank in Taiwan
Applicant	Beneficiary Taiwan Power Company No. 242, Roosevelt Road, Section 3, Zhongzheng Dist., Taipei City 10016, Taiwan, R.O.C.
Advising Bank	Amount

Gentlemen:

We hereby issue in your favor the Irrevocable Standby Letter of Credit which is available with any bank in Taiwan by negotiation against beneficiary's draft(s) or simple receipt(s) at sight drawn on us accompanied by the following document:

Beneficiary's signed statement certifying that _____(name of the Bidder) has deviated from the requirements as specified on the invitation documents under Invitation to Bid No. TPC10805-LS of Beneficiary.

Special Instructions:

1. Partial drawings are allowed.
2. All charges including confirmation fee, if any, are for applicant's account.

We hereby agree with the drawers, endorsers and bona fide holders of draft drawn and negotiated under and in compliance with the terms of this credit that such draft(s) or simple receipt(s) will be duly honored without recourse upon presentation to the drawee.

This credit is subject to the Uniform Customs and Practice for Documentary Credits (2007 Revision), International Chamber of Commerce, Paris, France, Publication No. 600.

Authorized Signature

_____

Note:

1. The standby letter of credit shall be issued or confirmed by a bank registered in the Republic of China on Taiwan.
2. The successful bidder may use the Bid Bond to serve as its Performance Guarantee Bond by means of amending the amount, validity and contents of the signed statement.

TAIWAN POWER COMPANY
Invitation to Bid No.TPC10805-LS

BIDDER: _____

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Technical and Commercial Proposal

This document presents Bidder's Technical and Commercial Proposal in response to and based upon Taipower's Invitation to Bid No. TPC10805-LS and consists of the following sections:

I. BIDDER
II. PLACE OF ORIGIN AND PORT OF LOADING, ETC.
III. QUALITY
IV. QUANTITY
V. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION
VI. CERTIFICATION RELATING TO GOVERNMENT PROCUREMENT ACT
VII. REMEDY FOR FALSE STATEMENT

If Bidder is an Authorized Local Bidder, Bidder and its Foreign Supplier shall have executed a Foreign Supplier's Statement which is also attached hereto.

Along with Bidder's Price Proposal submitted herewith sealed in a separate envelope, this Technical and Commercial Proposal constitutes a firm and binding offer to supply Taipower with coal at the price indicated in the Price Proposal on the terms and conditions specified herein and in the Instruction for Bidding and General Terms. If Bidder is selected for award, Bidder shall be bound to supply coal to Taipower pursuant to a contract that shall consist of: (a) the Contract Agreement (containing the basic commercial terms and executed by both parties); (b) the General Terms; (c) Bidder's Technical and Commercial Proposal and Price Proposal as accepted by Taipower; and (d) the Instruction for Bidding.

This bid is irrevocable until, and Taipower may accept this bid at any time prior to September 17, 2019 (Taipei time).

Bidder:
Company Name: _____

By: _____
(Authorized Signature)
Name: _____
Title: _____
Date: _____

TAIWAN POWER COMPANY
Invitation to Bid No.TPC10805-LS

BIDDER: _____

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I. Bidder (Please check one)

The Bidder is:

□ A Foreign Supplier, as defined in Section 1.2 of the Instruction for Bidding. (Complete Section I.A.)

□ An Authorized Local Bidder, as defined in Section 1.3 of the Instruction for Bidding. (Complete Section I.A and Section I.B.)

A. The Bidder is:

_____ (Company name)
_____ (Principal office address)
(_____) _____ (Telephone)
(_____) _____ (Facsimile)
_____ **(e-mail address)**

The Bidder is a firm organized and existing under the laws of _____ (Country), with the following principal officers:
_____ (Name & Title)
_____ (Name & Title)

B. The Authorized Local Bidder's Foreign Supplier is:

_____ (Company name)
_____ (Principal office address)
(_____) _____ (Telephone)
(_____) _____ (Facsimile)
_____ **(e-mail address)**

A Supplier's Statement has been completed by the Foreign Supplier and the Authorized Local Bidder and is attached hereto.

TAIWAN POWER COMPANY
Invitation to Bid No.TPC10805-LS

BIDDER: _____

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CERTIFICATION TO SUPPLY THE COAL

If the Bidder is not the Coal Mine owner/Coal Mine producer stated in paragraph II (A) 2. below, the said Coal Mine owner/Coal Mine producer shall sign herein to certify that it has committed to supply the coal for the quoted shipment(s):

Coal Mine owner/Coal Mine producer:
Company Name: _____

By: _____
(Authorized Signature)
Name: _____
Title: _____
Date: _____

Notary Public Column:

Note:

1. The signature of the authorized officer of the Coal Mine Owner/Coal Producer shall be certified as authentic by a Notary Public. Otherwise, this CERTIFICATION TO SUPPLY THE COAL will be unacceptable.
2. Taipower shall be entitled to draw the full amount of the bid bond(s) posted by a successful bidder and may, in its sole discretion, rescind, cancel or terminate the Contract if the successful bidder fails to provide the CERTIFICATION TO SUPPLY THE COAL within fourteen (14) days after its receipt of the Notice of Award from Taipower as described in the Instruction for Bidding.

TAIWAN POWER COMPANY
Invitation to Bid No.TPC10805-LS

BIDDER: _____

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II. PLACE OF ORIGIN AND PORT OF LOADING, ETC.

(A) The coal to be supplied to Taipower if this proposal is accepted will exclusively come from the single mine described below:

1. Coal Mine (name, address, location and country):
   _____ (Name)
   _____
   _____
   (Address, Location and Country)
2. Coal Mine owner/Coal Mine producer (name, address, location and country, Telephone, Facsimile, e-mail address, Principal Officer's Name & Title):
   _____ (Name)
   _____
   _____
   (Address, Location and Country)
   (_____) _____ (Telephone)
   (_____) _____ (Facsimile)
   _____ (e-mail address)
   _____ (Principal Officer's Name & Title)

Note:

1. The bidder is requested to provide in the Technical and Commercial Proposal a copy of B/L and a copy of valid certificate of analysis for coal quality (accepted by both buyer and seller for the shipment in question) issued by an independent inspection company of international standing for a shipment supplying at least 32,000 metric tons previously exported within the past five years from the mine offered, and the quality items shown in the certificate shall meet Taipower's coal quality specifications. If the quality specification items required by all of the Bidder's customers do not include all the quality items required under this tender, then the certificate of analysis shall at least include Gross Calorific Value, Total Moisture, Ash Content and Total Sulfur Content. Bidders' Proposals failing to meet this requirement will be rejected.
2. In addition, upon request by Taipower, a bidder shall provide to Taipower's satisfaction relevant supporting documents including certificate issued by relevant authorities of exporting country to demonstrate the legal status and current situation of the coal mine from which the coal will be supplied. If a shipment of coal offered by Bidder is produced by an illegal coal mine producer, such shipment will not be accepted. The bidder proposing coal mine with the origin of Indonesia is requested to provide in the Technical and Commercial Proposal a copy of ET Batubara issued by the Ministry of Trade of the Republic of Indonesia.
3. In addition, a Certificate of Origin (Specimen of which is attached to the General Terms and Conditions, please see Attachment 4) issued by the Bidder, to the effect that the whole cargo of the shipment supplied by the Bidder is exclusively mined from the mine as described in this section is required as one of the necessary documents for the payment for the coal. (Please see Article 10 of the General Terms and Conditions).

TAIWAN POWER COMPANY
Invitation to Bid No.TPC10805-LS

BIDDER: _____

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(B) Name of the Port of Loading (The Port of Loading shall be the port at which the coal will be loaded.):

_____ (Name, Location and Country)

If the coal is to be supplied from the Mainland China, please state the name of the Port of Export below. (The Port of Export shall be the port defined in the General Terms AND Coniditions, Article 1 Definitions, Paragraph of "Port of Export," which shall not be located in the Mainland China, and only one Port of Export is allowed for each shipment):

_____ (Name, Location and Country)

(C) Guaranteed loading rate:

_____ metric tons per weather working day of twenty-four (24) consecutive hours, Saturdays, Sundays, and holidays included

(D) Type of Panamax Size vessel which will be acceptable to Bidder (Please check one):

□ Only geared Panamax Size vessel
□ Only gearless Panamax Size vessel
□ Either geared or gearless Panamax Size vessel

(E) Determination of quality (Please refer to Section 6.4 of the General Terms and Conditions and check one):

□ Option 1
□ Option 2

(F) Payment (Please refer to Article 10 of the General Terms and Conditions and check one):

□ Option 1
□ Option 2 (applicable only if it is required by the mandatory regulations which are enacted by the government of the country where the Bidder is registered.)

TAIWAN POWER COMPANY
Invitation to Bid No.TPC10805-LS

BIDDER: _____

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III. QUALITY

Each shipment of coal to be supplied to Taipower will meet or better the following specifications, each of which is at least as restrictive as the corresponding specifications set forth in Taipower's COAL SUPPLY BID INVITATION LETTER:

_____(Mine Name)

Item	Max/Min
Gross Calorific Value (kcal/kg, as received)	Min
Total Moisture (%, as received)	Max
Ash Content (%, air dried)	Max
Total Sulfur Content (%, air dried)	Max
Volatile Matter (%, air dried)	Min
Fixed Carbon (%, air dried)	Max
Grindability (Hardgrove Index Value)	Min
Ash Fusion Temperature (degree(s) Celsius ,under reducing condition, H=W)	Min
Mercury Content(mg/kg, dry basis)	Max
Size	50 x 0 mm
Size above 50 mm (%)	Max
Fines under 2 mm (%)	Max
Na_2O in Ash (%)	Remark

Remark:
Na2O in Ash is 3% Max; if actual CaO+MgO+Fe2O3 > 20% is met, then Na2O in Ash can be raised to 9.0% Max.

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TAIWAN POWER COMPANY

Invitation to Bid No.TPC10805-LS

BIDDER: _____

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IV. QUANTITY

Bidder proposes to supply Taipower with coal meeting or bettering the specifications promised in Section III (QUALITY) above, at the prices quoted in Bidder's Price Proposal, in shipment(s) as specified in the table below.

Bidder guarantees to load each offered shipment of coal in accordance with the following schedule corresponding to the delivery schedule set forth in Taipower's COAL SUPPLY BID INVITATION LETTER and in the Bidder's Price Proposal (Please insert 80,000 metric tons for any Panamax Size shipment, and insert "NO BID" for any shipment for which Bidder is not submitting a bid):

Shipment No.	Vessel Size	Quantity (metric tons)
1	Panamax	
2	Panamax	
3	Panamax	
4	Panamax	
5	Panamax	
6	Panamax	

TAIWAN POWER COMPANY
Invitation to Bid No.TPC10805-LS

BIDDER: _____

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V. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

Bidder certifies that:

(1) The prices in Bidder's Price Proposal have been arrived at independently, without consultation, communication, or agreement with any other bidder or potential bidder;

(2) The prices that have been quoted in Bidder's Price Proposal have not been disclosed knowingly by Bidder and will not be disclosed knowingly by Bidder, directly or indirectly, to any other bidder or potential bidder prior to the time bids are due; and

(3) No attempt has been made or will be made by Bidder, directly or indirectly, to induce any other person or firm to submit or not to submit a bid for the purpose of restricting competition.

VI. CERTIFICATION RELATING TO GOVERNMENT PROCUREMENT ACT

The Bidder shall execute the Certificate attached hereto, as described in Section 10.1 of the Instruction for Bidding.

VII. REMEDY FOR FALSE STATEMENT

If any information provided or any certification made in or in connection with this Technical and Commercial Proposal is determined at any time to have been false, Taipower shall, without limitation as to other possible remedies, have the right to rescind, cancel or terminate without further liability any contract awarded in response to this proposal and to forfeit the related bid bond or performance guarantee bond. In such event, the bidder would also be subject to being prohibited, pursuant to Articles 101 through 103 of the R.O.C. Government Procurement Act, from bidding for or being awarded contracts.

TAIWAN POWER COMPANY
Invitation to Bid No.TPC10805-LS

BIDDER: _____

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Certificate

In order to comply with the requirements of the R.O.C. Government Procurement Act (hereinafter refer to as "Act"), the undersigned Bidder hereby certifies that:

1. its business items comply with relevant requirements of the R.O.C. Corporate Act (公司法) or the Business Registration Act (商業登記法), which make it enable to legally perform the Contract after being awarded the Contract.
   (applicable to Authorized Local Bidder only)
2. (a) the Bidder does not submit two or more bids;
   (b) the Bidder and another Bidder are not branch offices of the same company; and
   (c) the Bidder and its branch office do not submit bids respectively.
   (Article 33 of the Implementation Rules of the Act).
3. neither it nor any of its responsible personnel is the head of Buyer, his spouse, relatives by blood or by marriage within three degrees, or other relatives who live with and share the property with him.
   (Paragraph 4, Article 15 of the Act)
4. it is neither a R.O.C. political party nor affiliated to a R.O.C. political party.
   (Paragraph 1, Article 38 of the Act)
5. Not Applicable.
6. Not Applicable.
7. if the number of bids received by Taipower are less than three, the offered price shall not be higher than the lowest price it offered for the same property under the same market conditions.
   (Article 59 of the Act)
8. it shall not induce Buyer to sign a contract by giving others commission, percentage of the contract price, brokerage, kickback, or any other benefits except those incurred from the normal business practice.
   (Paragraph 2, Article 59 of the Act)
9. it is not prohibited from participating in tendering, or being awarded a contract within the period of time published in the Government Procurement Gazette;
   (Paragraph 1, Article103 of the Act)
   (Remark: Before submitting the bids, Bidders shall visit the web site: http://web.pcc.gov.tw to verify that it (including head office and branch) and/or its subcontractor is (are) not prohibited from participating in Tendering or being awarded.)
10. it complies with the requirements of Article 9 of the Act on Recusal of Public Servants Due to Conflicts of Interest (hereinafter referred to as the "Recusal Act", (公職人員利益衝突迴避法) that no "Public Servant" or "related persons of a public servant" (both are defined in the provisions of Article 2 and 3 of the "Recusal Act", respectively) shall conduct transactions.

Taiwan Power Company
Invitation to Bid No.TPC10805-LS

Bidder: _____

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11. Please check one: (Article 97 of the Act) (applicable to Authorized Local Bidder only)
    - □ it is registered in accordance with the R.O.C. Corporate Act (公司法) or the Business Registration Act (商業登記法) and it is a small and medium enterprise ("SME") as recognized by the R.O.C. SME Development Statute (中小企業發展條例).
    - □ it's registered in accordance with the R.O.C. Corporate Act (公司法) or the Business Registration Act (商業登記法). However, it's not a small and medium enterprise as recognized by the R.O.C. SME Development Statute (中小企業發展條例). After being awarded, the followings are the items and amounts to be subcontracted to other small and medium enterprises as recognized by the R.O.C. SME Development Statute:

      Item _____ Amount _____
      Item _____ Amount _____
      Item _____ Amount _____
      Total Amount_____

    Note:
    The term "SME" as used in the Standards for Identifying Small and Medium-sized Enterprises shall mean an enterprise conforms to the following standards:
    1. The enterprise is an enterprise in the manufacturing, construction, mining or quarrying industry: with paid-in capital of TWD80,000,000 or less, or the number of its regular employees are less than 200.
    2. The enterprise is an enterprise in the industry other than any of those mentioned above: had its sales revenue of TWD100,000,000 or less in the previous year, or the number of its regular employees are less than 100.)
12. Please check one: (Article 98 of the Act)
    - □ it doesn't hire more than 100 employees in R.O.C..
    - □ it hires more than 100 employees in R.O.C., and the number of employees in R.O.C. is _____; the number of its employees who are physically and/or mentally handicapped is _____ which shall be more than 1% of the total number of employees during the term of contract performance, and the number of the aborigines is _____ which shall also be more than 1% of the total number of employees during the term of contract performance; otherwise, it shall pay a fee in substitute and shall not hire foreign laborers in substitute.
13. Not Applicable.
14. Not Applicable.
15. it is an individual or a registered organization of the aborigines. After being awarded, the followings are the items and amounts to be subcontracted to individual or a registered organization of the aborigines: (If no items or amount apply, "0" may be filled out.) (applicable to Authorized Local Bidder only)

    Item _____ Amount _____
    Item _____ Amount _____
    Total Amount_____

Bidder
Company Name: _____

By:_____
(Authorized Signature)
Name:_____
Title: _____
Date: _____

Note:
In order to comply with the requirements of the R.O.C. Government Procurement Act, any bid submitted without this requested certificate will be rejected.

Note:
This page is applicable to Authorized Local Bidder only.

TAIWAN POWER COMPANY
Invitation to Bid No.TPC10805-LS

BIDDER: _____

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FOREIGN SUPPLIER'S STATEMENT

The undersigned Foreign Supplier, a firm organized and existing under the laws of _____, hereby authorizes the undersigned Authorized Local Bidder to offer to Taiwan Power Company ("Taipower") coal as described in the Technical and Commercial Proposal to which this Statement is attached, such Technical and Commercial Proposal having been examined by Supplier. The Authorized Local Bidder is authorized to enter into a coal supply contract to be awarded by Taipower pursuant to the above-specified INVITATION TO BID and to take any and all actions necessary to comply with the terms of said contract. Any such actions by the Authorized Local Bidder shall be binding on Supplier, and Supplier shall deliver the coal required to be provided under the contract awarded by Taipower in accordance with the terms of that contract.

This authorization shall continue and remain in effect until the completion of performance of any contract awarded by Taipower pursuant to the above-specified INVITATION TO BID.

Supplier and Authorized Local Bidder shall indemnify and hold harmless Taipower and Taipower's officers, employees, and consultants from and against any and all claims arising out of, relating to, or in any way connected with this or any other agreement between Supplier and Authorized Local Bidder.

Supplier:	Authorized Local Bidder:
_____	_____
(Company Name)	(Company Name)
BY: _____	BY: _____
(Authorized Signature)	(Authorized Signature)
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

TAIWAN POWER COMPANY
Invitation to Bid No.TPC10805-LS

BIDDER: _____

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Price Proposal

This document presents the Bidder's Price Proposal in response to and based upon Taipower's Invitation to Bid No. TPC10805-LS. Along with the Bidder's Technical and Commercial Proposal submitted herewith sealed in a separate envelope, it constitutes a firm and binding offer to supply Taipower with coal at the price indicated herein on the terms and conditions specified in the Technical and Commercial Proposal and in the General Terms.

If Bidder is selected for award, Bidder shall be bound to supply coal to Taipower pursuant to a contract that shall consist of:

(a) the Contract Agreement (containing the basic commercial terms and executed by both parties);
(b) General Terms;
(c) the Bidder's Technical and Commercial Proposal and Price Proposal as accepted by Taipower; and
(d) the Instruction for Bidding.

This offer is irrevocable until, and Taipower may accept this offer at any time prior to, the date and time indicated in the Technical and Commercial Proposal.

BIDDER:
Company Name: _____

By: _____
(Authorized Signature)
Name: _____
Title: _____
Date: _____

TAIWAN POWER COMPANY
Invitation to Bid No.TPC10805-LS

BIDDER: _____

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PRICE OFFER

Bidder offers to supply Taipower with coal of the quality and quantity specified in Bidder's Technical and Commercial Proposal in accordance with the delivery schedule specified in Taipower's COAL SUPPLY BID INVITATION LETTER and Bidder's Technical and Commercial Proposal at the following prices (Please insert "NO BID" for any shipment listed below with respect to which Bidder is not submitting a bid):

Shipment No.	Vessel Size	FOBT Port of Loading (USD/MT)	Ocean Freight (USD/MT)	CFR Port of Discharging in Taiwan (USD/MT)	Evaluated CFR Port of Discharging, Taiwan(USD/MT)
1	Panamax				
2	Panamax				
3	Panamax				
4	Panamax				
5	Panamax				
6	Panamax				

Note:
Bidder's calculation of Evaluated CFR Port of Discharging, Taiwan price shall refer to the formula as set forth in Section 4.4 of the Instruction for Bidding.

General Terms and Conditions

These General Terms and Conditions ("General Terms"), which are an integral part of the Contract, consist of the following Articles:

1. DEFINITIONS
2. BASIS OF CONTRACT
3. QUANTITY
4. QUALITY
5. BASE PRICE
6. DETERMINATION OF QUANTITY AND QUALITY OF COAL DELIVERED
7. ADJUSTMENT OF PRICE BASED ON QUALITY
8. REJECTION; LIQUIDATED DAMAGES
9. DETERMINATION AND ADJUSTMENT OF PRICE OF EACH SHIPMENT OF COAL
10. PAYMENT
11. PERFORMANCE GUARANTEE BOND
12. SHIPPING ARRANGEMENTS (CFR)
13. SHIPPING ARRANGEMENTS (FOBT)
14. TRANSFER OF TITLE AND RISK OF LOSS
15. FORCE MAJEURE
16. EXPORT PERMIT, TAX, ETC.
17. LIQUIDATED DAMAGES FOR DELAY AND QUANTITY SHORTAGE
18. WARRANTIES WITH RESPECT TO COAL QUALITY
19. WARRANTIES WITH RESPECT TO ORIGIN OF COAL, CORPORATE AUTHORITY, TITLE
20. WARRANTY AGAINST CONTINGENT FEES AND BENEFITS; PROCUREMENT INTEGRITY
21. CONTRACT TERMINATION OR RESCISSION DUE TO SELLER'S VIOLATION OF CONTRACT OR CHANGE IN SELLER'S FINANCIAL POSITION
22. NO ASSIGNMENT
23. ARBITRATION, LAWSUIT
24. GOVERNING LAW
25. NOTICES
26. NO WAIVER; CUMULATIVE REMEDIES
27. ENTIRE AGREEMENT
28. SEVERABILITY
29. LIABILITY
30. SURVIVAL

1. DEFINITIONS

The terms and expressions used in the Contract shall have the following meanings respectively assigned to them unless the context shall otherwise require:
“ASTM” means the American Society for Testing and Materials.
“Buyer” means Taiwan Power Company.
“°C” means degree(s) centigrade or degree(s) Celsius as defined in the “International System of Units.”
“CFR” means delivery Cost and Freight in accordance with INCOTERMS 2010, and the CFR Price shall include the FOBT. Price and Ocean Freight as set forth in Seller’s Price Proposal and in the Contract Agreement.
“Calendar Year” or “CY” means a period of twelve (12) consecutive calendar months commencing on 1st January and ending 31st December.
“Coal” means steam coal to be supplied to Buyer from Seller's Mine under the Contract.
“Contract” means the agreement formed by the following documents, listed in order of precedence: any ADDENDA to the Contract Agreement (with later ADDENDA to have precedence over earlier ones), the Contract Agreement, these General Terms, Seller’s Technical and Commercial Proposal and Price Proposal as accepted by Buyer, and the Instruction for Bidding.
“FOBT” means delivery Free on Board in accordance with INCOTERMS 2010 and Trimmed.
“ISO” means International Organization for Standardization.
“Kcal” means Kilocalorie(s) as defined in the “International System of Units”.
“Kg” means Kilogram(s) as defined in the “International System of Units”.
“mg” means milligram(s) as defined in the “International System of Units”
“mg/kg” means milligram(s) per kilogram(s) as defined in the “International System of Units”. Also, this can be presented as “ppm”.
"mm" means millimeter(s) as defined in the “International System of Units”.
“Notice of Award” means Taipower’s notice to the successful bidder determined by Taipower, advising the successful bidder that it is in line for award of a contract pursuant to the Invitation To Bid.
“Port of Discharging” means the port at which the Coal is to be unloaded in Taiwan, Republic of China.
“Port of Export” applicable only to the supply of coal from the Mainland China, means the port outside the Mainland China, enroute to the Port of Discharging, as specified in Seller’s Technical and Commercial Proposal and in the Contract Agreement.
“Port of Loading” means the port at which the Coal is to be loaded, as specified in Seller’s Technical and Commercial Proposal and in the Contract Agreement.
“Pratique” means permission to do business at a port by a ship that has complied with all applicable government regulations.
“Seller” means a bidder whose bid has been accepted by Taipower and who is identified as such in the Contract Agreement.
“Seller's Mine” means the mine from which the Coal is to be supplied, as specified in the Contract Agreement.
“Ton(s)” or “MT” means metric ton(s) as defined in the “International System of

Units".
"Trimmed" means having completed any and all work of trimming by manpower, spouts, or any such trimmers as may be available at the Port of Loading.
"µm" means micrometer(s) as defined in the "International System of Units"
"United States dollar(s)" or "U.S. dollar(s)" or "USD" means the lawful currency of the United States of America. A fraction of a cent in any calculation shall be rounded up to a cent if such fraction is one-half of a cent or more, and shall be rounded down otherwise.
"Working Day" means a day upon which business is regularly transacted in the country of the Party charged with acting within a specified time. Unless expressly specified otherwise, the term "Day" shall be deemed to mean "Calendar day".

2. BASIS OF CONTRACT

In consideration of and in reliance on Seller's representations and warranties in Articles 18, 19 and 20 and Seller's other covenants and promises, and subject to the terms and conditions of the Contract, Buyer agrees to purchase and Seller agrees to sell Coal as specified in the Contract Agreement.

3. QUANTITY

The quantity of Coal supplied by Seller shall be the quantity accepted by Buyer in the Contract Agreement.
Each shipment of Coal to be delivered by Seller shall be exclusively mined from Seller's mine set out in Seller's Technical and Commercial Proposal. Supply of Coal from more than one mine is not allowed. If any shipment of Coal delivered by Seller is determined at any time to have been blended from coal from more than one mine, Seller will be subject to being prohibited, pursuant to Articles 101 through 103 of the R.O.C. Government Procurement Act, from bidding for or being awarded contracts.

4. QUALITY

The Coal supplied by Seller shall meet or better the guaranteed specifications set forth in Section III (Quality) of Seller's Technical and Commercial Proposal and the Contract Agreement (hereinafter "Seller's Specifications").

5. BASE PRICE

The Base Price per Metric Ton of the Coal supplied by Seller shall be the Base Price per Metric Ton accepted by Buyer in the Contract Agreement.

6. DETERMINATION OF QUANTITY AND QUALITY OF COAL DELIVERED

6.1 Determination and Expenses

The total weight of each shipment of Coal shall be determined by an independent marine surveyor appointed under Section 6.2(a). The quality shall be determined by an independent inspection company appointed under Section 6.3 and, if required, by an umpire laboratory appointed under Section 6.4(c). In addition, any shipment of Coal may be tested for organic contaminants by an independent testing company appointed under Section 6.5. Seller shall be responsible for providing all the arrangements in order that the independent marine surveyor and independent inspection company can complete all the assignments required under this Article 6.

All expenses relating to the survey and inspection under Section 6.2, the inspection under Section 6.3, and the testing under Section 6.5 shall be paid for by Seller.

The relevant costs regarding the umpire laboratory shall be as provided in Section 6.4(c).

6.2 Weight Certificate and Hold Cleaning Inspection Certificate

(a) The weight of each shipment of Coal shall be determined upon loading to the vessel at the Port of Loading by an independent licensed Marine Surveyor of international standing, or in the case of a shipment from Mainland China, by inspection and survey firms or organizations located in Mainland China, such as Entry-Exit Inspection and Quarantine of the People's Republic of China ("CIQ") ("Marine Surveyor"), appointed by Buyer at Buyer's discretion.

The determination of the Marine Surveyor shall be final, conclusive and binding on the Parties. The Marine Surveyor shall provide a certificate of weight to Seller, with a copy of the same to Buyer. Seller shall, however, also promptly notify Buyer by facsimile or email of the results of the quantity inspection performed by the Marine Surveyor. The weight of a shipment of Coal stated in the bills of lading shall correspond to the weight stated in the certificate of weight given by such Marine Surveyor. A fraction of a Ton shall be rounded up to a Ton if the fraction is one half of a Ton or more, and shall be disregarded if it is less than one half of a Ton.

The Marine Surveyor shall determine the weight of each shipment of Coal on the basis, if reasonably possible, of a survey of the vessel's draft, utilizing the vessel immersion scale weights. In the event that the Marine Surveyor has been unable to carry out a successful draft survey on the vessel which is to be loaded, then the certificate of weight shall be based on a deadweight survey.

(b) The Marine Surveyor shall also inspect all holds of the vessel at the Port of Loading to ensure that they have been thoroughly cleaned and are suitable for carrying that shipment of Coal, and shall give a hold cleaning inspection certificate to Seller, with a copy of the same to Buyer.

6.3 Standards and Determination of Quality

The quality of each shipment of Coal shall be determined, subject to Section 6.4(c), upon loading to the vessel at the Port of Loading by an independent inspection company of international standing, or in the case of a shipment from Mainland

China, by inspection and survey firms or organizations located in Mainland China, such as Entry-Exit Inspection and Quarantine of the People's Republic of China ("CIQ") ("Inspection Company"), appointed by Buyer at Buyer's discretion.

The quality of each shipment shall be determined in accordance with the sampling and analysis procedure set out in Section 6.4 and the ISO standards except for the following items, which shall be determined in accordance with either ISO standards or ASTM standards depending on the Inspection Company or Umpire Laboratory, as applicable:

(1) Total Sulfur, (2) Mercury Content and (3) Ash componets (Na2O, CaO, MgO, Fe2O3, etc.).

In addition, regardless of ISO standards or ASTM standards adopted by Umpire Laboratory, the determination stated by the said Umpire Laboratory shall be final, conclusive and binding on the parties pursuant to Section 6.4.

The Inspection Company shall state its determination in a certificate of analysis, to which the results of the unit samples analysis shall be attached, to Seller, with a copy to Buyer. Seller shall also promptly send to Buyer by facsimile or email a copy of the Inspection Company's certificate of analysis. Buyer may rely upon the copy of the certificate of analysis received from the Inspection Company or the Seller to reject a shipment (provided that the conditions for rejection set forth in Article 8 have been satisfied). Unless either Party timely challenges, pursuant to Section 6.4 (c), the Inspection Company's determination of the quality of a shipment as stated in the Inspection Company's certificate of analysis shall be final, conclusive and binding on the Parties.

6.4 Determination of Quality

OPTION 1

(a) The quality of each shipment of Coal shall be determined for each of the Seller's Specifications. In addition to these determinations, the Ash components, 4 Stages (Initial Deformation, Sphere, Hemisphere, and Flow) of Ash Fusion Temperature and the Moisture in the Analysis Sample shall also be analyzed. The foregoing determinations (including the decimal places) for parameter as stated in Article 6.3 shall be made in accordance with figures reported in ISO or ASTM documentations, as the case may be.

(b) Determination of quality shall be made by analysis of samples extracted from each shipment. The number of samples shall be as determined by the Inspection Company to be representative of each shipment. The procedure for extraction and retention of samples shall be as follows:

(i) Samples of each shipment of Coal shall be extracted in units and prepared, all in accordance with ISO standards and requirements. The following shall be considered a "Sample Set":

(A) A composite sample prepared to 4.75 mm to be used in the Grindability test.

(B) A composite sample prepared to 212 µm to be used in the determination of Ash Components, Ash Fusion Temperature and Mercury Content.

(C) Samples of each unit prepared (to the designated ISO Standard screen

size) to be used in the determination of Total Moisture.

(D) Samples of each unit prepared to 212 µm to be used in the determination of other parameters.

(ii) Three (3) "Sample Sets" shall be established for each vessel shipment and distributed as follows:

(A) One Sample Set shall be used for analysis of that shipment of Coal by the Inspection Company to determine its quality and characteristics pursuant to Section 6.4(a);

(B) One Sample Set shall be delivered by the Inspection Company at Seller's cost to Buyer in a suitable airtight container, properly sealed and labeled, by air parcel or in such other manner as Buyer may direct; and

(C) One Sample Set (hereinafter referred to as "Umpire Sample") shall be retained by the Inspection Company in a suitable airtight container, properly sealed and labeled, for a period of ninety (90) days after completion of loading trimming and stowage of that shipment of Coal.

(iii) In addition to the three Sample Sets, the Inspection Company shall prepare a composite sample to 4.75 mm for use in the microscopic analysis pursuant to Section 6.5 below (the "Microscopic Sample"). The Microscopic Sample shall be retained by the Inspection Company in a suitable airtight container, properly sealed and labeled, for a period of ninety (90) days after completion of loading, trimming and stowage of that shipment of Coal.

(c) Either Party may, within eighty-four (84) days from the date of its receipt of the Inspection Company's report, challenge the determination of the quality of a shipment of Coal. In such an event, the Umpire Sample shall be sent to and analyzed by an independent laboratory ("Umpire Laboratory"), which shall be appointed from the Umpire Laboratory List excluding the Inspection Company attached to the General Terms (Attachment 5) by Buyer at Buyer's discretion. The cost of Umpire Sample delivery to and the analysis performed by such Umpire Laboratory shall be borne and paid for by the Party requesting such further determination.

The "Tolerance" of difference between the Inspection Company's determination and the Umpire Laboratory's determination for each quality parameter is as follows:

(1) Gross Calorific Value (Dry Basis): 72 Kcal/Kg.

(2) Total Moisture (As Received Basis): 0.75% absolute if Total Moisture is less than or equal to 15%; and 5 percent of the mean result if Total Moisture is more than 15%.

(3) Ash Content (Dry Basis): 0.3% absolute if Ash Content is less than or equal to 10%; and 3% of the mean result if Ash Content is more than 10%.

(4) Volatile Matter (Dry Basis): 4% of the mean result or 0.5% absolute, whichever is greater.

(5) Total Sulfur (Dry Basis): 0.1% absolute.

(6) Grindability (HGI) (Air Dried Basis): 5 index points.

(7) Na_2O in Ash (Moisture Free): 0.2% absolute if Na_2O in Ash is below 5%; and 0.7% absolute if Na_2O in ash is equal to or above 5%.

(8) CaO in Ash (Moisture Free): 0.5% absolute if CaO in Ash is below 2%;and 1.0% absolute if CaO in Ash is equal to or above 2%.

(9) MgO in Ash (Moisture Free): 0.2% absolute if MgO in Ash is below 2%;and 0.6% absolute if MgO in Ash is equal to or above 2%.

(10) Fe_2O_3 in Ash (Moisture Free): 2% absolute.

(11)Mercury Content (Dry Basis): 0.05 mg/Kg absolute.

The mean result is the mathematical average of the Inspection Company's determination and the Umpire Laboratory's determination for each quality parameter.

The determination by the Umpire Laboratory, based on its analysis of the Umpire Sample, of the quality and characteristics of said shipment of the Coal shall be final, conclusive and binding on the Parties ; provided, however, that if the difference between such Umpire Laboratory's determination under this Section 6.4(c) and the determination of the Inspection Company under Section 6.3 hereof is within the "tolerance" stated above, such difference shall be disregarded for all purposes and the Inspection Company's determination shall be final, conclusive and binding on the Parties. The differences between the Umpire Laboratory's determination and the determination of the Inspection Company shall be calculated using the figures reported in the analysis report, except for Gross Calorific Value, Ash, Volatile Matter, Total Sulfur Content and Mercury Content which shall be converted into and compared on Dry Basis. If the Umpire Laboratory's determination of either or both Gross Calorific Value or/and Total Moisture becomes final, conclusive and binding, the Gross Calorific Value at As Received Basis which is used to adjust the Contract Price in Article 7 and, if applicable, Article 8 shall be re-calculated based on the final Gross Calorific Value at dry basis and the final Total Moisture. If the Umpire Laboratory's determination of Ash, Volatile Matter and/or Total Sulfur Content become final, conclusive and binding, the Ash, Volatile Matter and/or Total Sulfur Content at Air Dried Basis as determined by Umpire Laboratory will be used to adjust the Contract Price in Article 7 and, if applicable, Article 8.

Notwithstanding the foregoing, if Buyer has rejected a shipment on the basis of the Inspection Company's determinations, such determinations shall be final, conclusive, and binding on the Parties and Seller shall have no right to challenge such determinations under this Section 6.4(c).

OPTION 2

(a) The quality of each shipment of Coal shall be determined for each of the Seller's Specifications. In addition to these determinations, the Ash components, 4 Stages (Initial Deformation, Sphere, Hemisphere, and Flow) of Ash Fusion Temperature and the Moisture in the Analysis Sample shall also be analyzed.

The foregoing determinations (including the decimal places) for parameter as stated in Section 6.3 shall be made in accordance with figures reported in ISO or ASTM documentations, as the case may be.

(b) Determination of quality shall be made by analysis of samples extracted from each shipment. The number of samples shall be as determined by the Inspection Company to be representative of each shipment. The procedure for extraction and retention of samples shall be as follows:

(i) Samples of each shipment of Coal shall be extracted in units and prepared,

all in accordance with ISO standards and requirements. The following shall be considered a "Sample Set":

(A) A composite sample prepared to 4.75 mm to be used in the Grindability test.

(B) A composite sample prepared to 212 µm to be used in the determination of Ash Components, Ash Fusion Temperature and Mercury Content.

(C) Samples of each unit prepared (to the designated ISO Standard screen size) to be used in the determination of Total Moisture.

(D) Samples of each unit prepared to 212 µm to be used in the determination of other parameters.

(ii) Three (3) “Sample Sets” shall be established for each vessel shipment and distributed as follows:

(A) One Sample Set shall be used for analysis of that shipment of Coal by the Inspection Company to determine its quality and characteristics pursuant to Section 6.4(a);

(B) One Sample Set shall be delivered by the Inspection Company at Seller's cost to Buyer in a suitable airtight container, properly sealed and labeled, by air parcel or in such other manner as Buyer may direct; and

(C) One Sample Set (hereinafter referred to as “Umpire Sample”), properly sealed and labeled, shall be promptly delivered at Seller's cost to and analyzed by an independent laboratory (“Umpire Laboratory”), which shall be appointed by Buyer, at Buyer's discretion, from the Umpire Laboratory List excluding the Inspection Company attached to the General Terms (Attachment 5). The costs of the Umpire Sample analysis performed by the Umpire Laboratory shall be paid for by Seller if the Inspection Company's determination has not been challenged. If either party has challenged the Inspection Company's determination, the challenging Party shall pay the whole costs of the analysis of the Umpire Sample performed by the Umpire Laboratory. The results of such analysis shall not be communicated to either Buyer or Seller unless, in accordance with Section 6.4(c), Buyer or Seller instructs the Umpire Laboratory to release to both Parties the results of the Umpire Laboratory's analysis of the Umpire Sample for that shipment.

The “Tolerance” of difference between the Inspection Company's determination and the Umpire Laboratory's determination for each quality parameter is as follows:

(1) Gross Calorific Value (Dry Basis): 72 Kcal/Kg.

(2) Total Moisture (As Received Basis): 0.75% absolute if Total Moisture is less than or equal to 15%; and 5 percent of the mean result if Total Moisture is more than 15%.

(3) Ash Content (Dry Basis): 0.3% absolute if Ash Content is less than or equal to 10%; and 3% of the mean result if Ash Content is more than 10%.

(4) Volatile Matter (Dry Basis): 4% of the mean result or 0.5% absolute, which ever is greater.

(5) Total Sulfur (Dry Basis): 0.1% absolute.

(6) Grindability (HGI)(Air Dried Basis): 5 index points.

(7) Na_2O in Ash (Moisture Free): 0.2% absolute if Na_2O in Ash is below 5%;

and 0.7% absolute if Na_2O in ash is equal to or above 5%.

(8) CaO in Ash (Moisture Free): 0.5% absolute if CaO in Ash is below 2%;and 1.0% absolute if CaO in Ash is equal to or above 2%.

(9) MgO in Ash (Moisture Free): 0.2% absolute if MgO in Ash is below 2%;and 0.6% absolute if MgO in Ash is equal to or above 2%.

(10) Fe_2O_3 in Ash (Moisture Free): 2% absolute.

(11)Mercury Content (Dry Basis): 0.05 mg/Kg absolute.

The mean result is the mathematical average of the Inspection Company's determination and the Umpire Laboratory's determination for each quality parameter.

(iii) In addition to the three Sample Sets, the Inspection Company shall prepare a composite sample to 4.75 mm for use in the microscopic analysis pursuant to Section 6.5 below (the "Microscopic Sample"). The Microscopic Sample shall be retained by the Inspection Company in a suitable airtight container, properly sealed and labeled, for a period of ninety (90) days after completion of loading, trimming and stowage of that shipment of Coal.

(c) Either Party may, within eighty-four (84) days from the date of its receipt of the Inspection Company's analysis, challenge the Inspection Company's determination. In such an event:

(i) The challenging Party shall promptly notify the other party that the Inspection Company's determination for that shipment of Coal is being challenged.

(ii) Either Buyer or Seller may instruct the Umpire Laboratory in writing, with a copy of the instructions to the other party, to release to both Parties the results of its analysis of the Umpire Sample for that shipment of Coal.

(iii) The determination by the Umpire Laboratory, based on its analysis of the Umpire Sample, of the quality and characteristics of the shipment of Coal shall be final, conclusive and binding on the Parties; provided, however, that if the differences between such Umpire Laboratory's determination under this Section 6.4(c) and the determination of the Inspection Company under Section 6.3 is within the "Tolerance" stipulated above, such differences shall be disregarded for all purposes and the Inspection Company's determination shall be final, conclusive and binding on the Parties. The differences between the Umpire Laboratory's determination and the determination of the Inspection Company shall be calculated using the figures reported in the analysis report, except for Gross Calorific Value, Ash, Volatile Matter, Total Sulfur Content and Mercury Content which shall be converted into and compared on Dry Basis. If the Umpire Laboratory's determination of either or both Gross Calorific Value or/and Total Moisture becomes final, conclusive and binding, the Gross Calorific Value at As Received Basis which is used to adjust the Contract Price in Article 7 and, if applicable, Article 8 shall be re-calculated based on the final Gross Calorific Value at dry basis and the final Total Moisture. If the Umpire Laboratory's determination of Ash, Volatile Matter and/or Total Sulfur Content become final, conclusive and binding, the Ash, Volatile Matter and/or Total Sulfur Content at Air Dried Basis as determined by Umpire Laboratory will be used to adjust the Contract Price in Article 7 and, if applicable, Article 8.

Notwithstanding the foregoing, if Buyer has rejected a shipment of Coal on the basis of the Inspection Company's determinations, such determinations shall

be final, conclusive, and binding on the Parties and Seller shall have no right to challenge such determinations under this Section 6.4(c).

To be consistent with Section 6.4 OPTION 1 (a) and OPTION 2 (a) regarding the quality determinations (including the decimal places) reported in Inspection Company's certificate of analysis, the quality determinations (including the decimal places) for parameters reported in Umpire Sample analysis result shall also be made in accordance with figures reported in ISO or ASTM documentations, as the case may be.

6.5 Organic Contaminants

Buyer may, within ninety (90) days after the completion of loading, trimming and stowage of that shipment of Coal, request that that shipment be analyzed microscopically to determine the presence of petroleum coke, pitch, pitch coke, tar sludge or other by-product-related solids (collectively "Organic Contaminant(s)"). In such event, the Microscopic Sample shall be delivered at Seller's cost to an independent testing laboratory ("Testing Laboratory") to be appointed by Buyer subject to Seller's approval, which approval shall not be unreasonably withheld, in a suitable airtight container, properly sealed and labeled, by air parcel or in such other manner as may be mutually agreed. The microscopic analysis shall be performed in accordance with relevant ISO standards. The Testing Laboratory shall report the results of its analysis to Buyer and Seller. Seller shall, however, also promptly notify Buyer by facsimile or email of the results of the microscopic analysis performed by the Testing Laboratory. The Testing Laboratory's determinations shall be final, conclusive, and binding on the Parties.

6.6 Right to Attend Survey and Inspection

Each Party shall have the right to appoint representative(s) to attend and observe at any time, at such Party's cost, (a) the survey and inspection of the weight and/or quality of any shipment of the Coal and (b) the extraction, sealing and laboratory analysis of all samples (initial as well as final). Each Party shall cooperate to facilitate the exercise of the other Party's rights under this Section.

The witness representative(s) appointed by Buyer shall have the right to witness and inspect (including the necessary testing) the coal cargo during barge loading at jetty (if barge transshipment is required) and during loading into the vessel.

To accomplish the above task (if barge transshipment is required), Seller shall inform the witness representative(s) the loading schedule for all the barges at least three (3) days prior to the start of loading for the first barge.

7. ADJUSTMENT OF PRICE BASED ON QUALITY

Unless a shipment of Coal has been rejected in accordance with Section 8.1, the Base Price per Metric Ton applicable to such shipment shall be adjusted pursuant to this Article 7 to account for quality variations determined in accordance with Article 6.

Adjustments under this Article 7 shall be made in accordance with, and the Initial Commercial Invoice to Buyer under Section 9.1 shall be based upon, the quality determinations made by the Inspection Company. Further adjustments to the Base Price and the invoice as may be necessitated by determinations of the Umpire Laboratory under Section 6.4(c) shall be made as provided in Section 9.1(b).

7.1 Gross Calorific Value (As Received Basis)

(a) If the actual Gross Calorific Value ("GCV") of a shipment of Coal as determined by the Inspection Company is in the range of Seller's Specification for GCV and 6,900 Kcal/Kg, inclusive, the Base Price of that shipment of Coal shall be increased by an amount calculated in accordance with the following formula:

Base Price Increase =
FOBT Price x
((Actual GCV - Seller's Specification for GCV)/Seller's Specification for GCV))

(b) If the actual GCV of a shipment of Coal as determined by the Inspection Company is in the range of Seller's Specification for GCV and 5,000 Kcal/Kg, inclusive, the Base Price of that shipment of Coal shall be reduced by an amount calculated in accordance with the following formula:

Base Price Reduction =
FOBT Price x
((Seller's Specification for GCV - Actual GCV)/Seller's Specification for GCV)) x 1.8

provided that, if the actual GCV is less than 5,000 Kcal/Kg, the actual GCV shall be deemed to be 5,000 Kcal/Kg solely for purposes of calculating the price adjustment to be determined in accordance with this Section 7.1. As to the portion of actual GCV less than 5,000 Kcal/Kg, Section 8.3(a) shall govern.

(c) If the actual GCV of a shipment of Coal as determined by the Inspection Company exceeds 6,900 Kcal/Kg, it shall be deemed to be 6,900 Kcal/Kg for the purpose of determining the GCV Base Price adjustment for that shipment of Coal.

7.2 Ash Content (Air Dried Basis)

If the actual Ash Content of a shipment of Coal as determined by the Inspection Company is equal to or less than 8% but exceeds the Seller's Specification for Ash Content, reductions to the Base Price for that shipment of Coal shall be made as follows:

The Base Price shall be reduced in an amount of **USD0.55** per MT for each 1% difference between the actual Ash Content and the Seller's Specification for Ash Content, pro rata reduction to be made for differences less than one percent;

provided that, if the actual Ash Content is greater than 8%, the actual Ash Content shall be deemed to be 8% solely for purposes of calculating the price adjustment to be determined in accordance with this Section 7.2. As to the portion of actual

Ash Content greater than 8%, Section 8.3(b) shall govern.

7.3 Total Sulfur Content (Air Dried Basis)

If the actual total Sulfur Content of a shipment of Coal as determined by the Inspection Company is equal to or less than 0.5% but exceeds the Seller's Specification for total Sulfur Content, reductions to the Base Price for that shipment of Coal shall be made as follows:

The Base Price shall be reduced in an amount of **USD0.55** per MT for each 0.1% difference between the actual total Sulfur Content and the Seller's Specification for total Sulfur Content, pro rata reduction to be made for differences less than point one (0.1) percent;

provided that, if the actual total Sulfur Content is greater than 0.5%, the actual total Sulfur Content shall be deemed to be 0.5% solely for purposes of calculating the price adjustment to be determined in accordance with this Section 7.3. As to the portion of actual total Sulfur Content greater than 0.5%, Section 8.3(c) shall govern.

7.4 Total Moisture (As Received Basis)

If the Seller's Specification for Total Moisture is equal to or less than 30%, and the actual Total Moisture of that shipment of Coal as determined by the Inspection Company is in the range of Seller's Specification for Total Moisture and 30%, inclusive; then

The Base Price shall be reduced at the rate of 0.45% of FOBT Price for each 1% difference between the actual Total Moisture and Seller's Specification for Total Moisture, pro rata reduction to be made for differences less than one percent;

provided that the actual Total Moisture is greater than 30%, the actual Total Moisture shall be deemed to be 30% solely for purposes of calculating the price adjustment to be determined in accordance with this Section 7.4. As to the portion of actual Total Moisture greater than 30%, Section 8.3(f) shall govern.

7.5 Size

(a) If, based on the Inspection Company's determination, the actual percentage for Size above 50 mm exceeds 5%, and/or the actual percentage for Size under 2 mm exceeds 35% but is less than 40%, the Base Price shall be reduced as follows:

(i) the amount computed at the rate of 1% of FOBT Price for each 1% difference between the actual percentage for Size above 50 mm and 5%; and

(ii) the amount computed at the rate of 1% of FOBT Price for each 1% difference between the actual percentage for Size under 2 mm and 35%, pro rata reduction to be made for differences less than one percent.

If the actual percentage for Size under 2 mm exceeds 40%, in addition to those reductions under Section 7.5(a)(i) and (a)(ii), the Base Price shall be further reduced at the rate of 3% of FOBT Price for each 1% difference between the actual percentage for Size under 2 mm and 40%, pro rata reduction to be made for differences less than one percent.

In no event shall the Base Price reduction under Section 7.5(a) exceed ten (10) percent of FOBT Price.

(b) Seller shall ensure that, in addition to meeting the maximum size specification, all Coal shipped hereunder shall not cause difficulty or dust dispersion when it

is unloaded, handled and processed by Buyer. Seller shall be liable to Buyer for any and all damages, losses, or costs caused by or related to the difficulty or dust dispersion in unloading, handling or processing the Coal.

8. REJECTION; LIQUIDATED DAMAGES

8.1 Right to Reject

Without limitation on any other right Buyer may have to reject a shipment of Coal, Buyer shall have the right to reject any shipment of Coal if, based on the Inspection Company's determination:

(a) the actual GCV is below 5,000 Kcal/Kg;
(b) the actual Ash Content exceeds 8%;
(c) the actual total Sulfur Content exceeds 0.5%;
(d) the actual Volatile Matter is below 28%;
(e) the actual Grindability is below 42 index points;
(f) the actual Total Moisture is greater than 30%;
(g) the actual Fixed Carbon exceeds 60%;
(h) the actual Ash Fusion Temperature is below 1,150°C;
(i) the actual Mercury Content is greater than 0.12 mg/kg;
(j) the total of actual CaO, actual MgO and actual Fe_2O_3 is equal to or less than 20%, and the actual Na_2O in Ash exceeds 3%; or
(k) the total of actual CaO, actual MgO and actual Fe_2O_3 is greater than 20%, and the actual Na_2O in Ash exceeds 9%.

If, in accordance with the Inspection Company's determination, a shipment is subject to being rejected, Buyer shall have no obligation to unload the vessel until it has determined an appropriate course of action with respect to such shipment, and Seller shall be responsible for any third party claims against Buyer, including, without limitation, any demurrage incurred with respect to the vessel carrying such shipment and any other vessels whose unloading is delayed as a result of a delay in unloading the vessel carrying such shipment.

8.2 Rejection of Shipment

Seller shall be liable for any and all losses, damages, and costs suffered by Buyer (including, without limitation, third-party claims against Buyer) resulting from Buyer's rejection of any shipment of Coal under this Article 8. Without prejudice to the foregoing, if Buyer rejects a shipment of Coal under this Article 8 after the vessel with that shipment of Coal on board has sailed from the Port of Loading and if Seller and Buyer fail to agree otherwise within seven (7) Working Days from Seller's receipt of Buyer's notice rejecting the shipment, Buyer's determination regarding disposition of the cargo shall control.

8.3 Liquidated Damages

If, Buyer has the right to reject a shipment of Coal in accordance with Section 8.1 but determines, upon Seller's request, not to reject such shipment, or in any other case in which: (i) the Umpire Laboratory's quality determinations in accordance with Section 6.4(c) become final, conclusive and binding on the parties, (ii) any quality parameter fails to meet the relevant minimum/maximum specifications set forth in subsections (a) through (k) below, and (iii) Buyer has not rejected the shipment, Seller shall be liable for liquidated damages determined as follows:

(a) If actual GCV is less than 5,000 Kcal/Kg, the associated liquidated damages shall equal:

FOBT Price x
((5,000 Kcal/Kg - Actual GCV)/Seller's Specification for GCV) x 3.6

(b) if the actual Ash Content exceeds 8%, the associated liquidated damages shall equal USD**1.5** per MT for each 1% difference between the actual Ash Content and 8%, pro rated for differences less than one percent;

(c) if the actual total Sulfur Content exceeds 0.5%, the associated liquidated damages shall equal USD**1.5** per MT for each 0.1% difference between the actual total Sulfur Content and 0.5%, pro rated for differences less than point one (0.1) percent;

(d) if the actual Volatile Matter is below 28%, the associated liquidated damages shall equal:
FOBT Price x 2% x ((28% - Actual Volatile Matter)/1%)
In no event shall the associated liquidated damages under Section 8.3(d) exceed twenty (20) percent of FOBT Price.

(e) if the actual Grindability is below 42 index points, the associated liquidated damages shall equal:
FOBT Price x 2% x (42 index points - Actual Grindability)
In no event shall the associated liquidated damages under Section 8.3(e) exceed twenty (20) percent of FOBT Price.

(f) if the actual Total Moisture is greater than 30%, the associated liquidated damages shall equal 1.5% of FOBT Price for each 1% difference between the actual Total Moisture and 30%, pro rated for differences less than one percent.

(g) if the actual Fixed Carbon exceeds 60%, the associated liquidated damages shall equal 1% of FOBT Price for each 1% difference between 60% and the actual Fixed Carbon, pro rated for differences less than one percent.
In no event shall the associated liquidated damages under Section 8.3(g) exceed ten (10) percent of FOBT Price.

(h) if the actual Ash Fusion Temperature is below 1,150°C, the associated liquidated damages shall equal:
FOBT Price x 2% x ((1,150°C - Actual Ash Fusion Temperature)/10°C)
In no event shall the associated liquidated damages under Section 8.3(h) exceed twenty (20) percent of FOBT Price.

(i) if the actual Mercury Content is greater than 0.12 mg/Kg, the associated liquidated damages shall equal 0.3% of FOBT Price for each 0.01 mg/Kg difference between the actual Mercury Content and 0.12 mg/Kg.
In no event shall the associated liquidated damages under Section 8.3(i) exceed ten (10) percent of FOBT Price.

(j) if the total of actual CaO, actual MgO and actual Fe_2O_3 is equal to or less than 20%, and the actual Na_2O in Ash exceeds 3%, the associated liquidated damages shall equal:
FOBT Price x 1% x ((Actual Na_2O in Ash - 3%)/1%)
In no event shall the associated liquidated damages under Section 8.3(j) exceed ten (10) percent of FOBT Price.

(k) if the total of actual CaO, actual MgO and actual Fe_2O_3 is greater than 20%, and the actual Na_2O in Ash exceeds 9%, the associated liquidated damages shall equal:

FOBT Price x 1% x ((Actual Na_2O in Ash - 9%)/1%)

In no event shall the associated liquidated damages under Section 8.3(k) exceed ten (10) percent of FOBT Price.

If liquidated damages are payable with respect to more than one quality characteristic (e.g., ash content and sulfur content), such liquidated damages shall be cumulative. Deduction of liquidated damages shall be in addition to any price adjustments determined in accordance with Article 7.

9. DETERMINATION AND ADJUSTMENT OF PRICE OF EACH SHIPMENT OF COAL

9.1 Determination of Price of Each Shipment of Coal

(a) The price for each shipment of Coal shall be determined in the following two steps:

(i) the price per Ton shall be multiplied by the total tonnage of the shipment of Coal as determined by the Marine Surveyor under Section 6.2; and

(ii) the resulting amount shall be reduced, as appropriate, by the Freight Rate Adjustment specified in Section 9.2.

As used in this Section 9.1(a), the price per Ton shall be the Base Price for a shipment of Coal under Article 5 as adjusted pursuant to Article 7 (and, if applicable, after deduction of liquidated damages calculated in accordance with Section 8.3), all as determined utilizing the Inspection Company's determinations under Article 6. The adjustments to Base Price under Article 7 (and, if applicable, liquidated damages calculated in accordance with Section 8.3) shall be cumulative, but such adjustments shall not reduce the Base Price below zero. The price of a shipment of Coal so determined shall be stated in Seller's commercial invoice ("Initial Commercial Invoice") to Buyer, which shall be paid by Buyer in accordance with Section 10.1.

(b) If a characteristic of the quality of a shipment of Coal is adjusted in accordance with Section 6.4(c) and such characteristic is covered by Article 7 or Sections 8.3 or 9.2, then the calculations in Article 7, Section 8.3, or Section 9.2, as applicable, shall be reperformed utilizing the quality determinations of the Umpire Laboratory, and the price of the Initial Commercial Invoice for that shipment of Coal shall be further adjusted utilizing the revised calculations based on the quality determinations of the Umpire Laboratory in place of the determinations of the Inspection Company. Upon such further adjustment of the price of that shipment of Coal, Seller shall prepare and submit to Buyer another commercial invoice, setting out the price of the shipment of Coal as so re-calculated ("the New Invoice"). The New Invoice shall supersede Seller's Initial Commercial Invoice to Buyer under Section 10.1 for the same shipment of Coal. The New Invoice shall be accompanied by a statement of the difference between the amount of the Initial Commercial Invoice and the amount of the New Invoice. Such difference shall be paid, by means of telegraphic transfer, to the Party to whom it is due, free of interest, as follows:

(i) if the difference is owed to Buyer, Seller shall pay such amount with a notice to Buyer on the date of payment within thirty (30) days after the issue date of the Umpire Laboratory's quality determinations; and

(ii) if the difference is owed to Seller, Buyer shall pay such amount with a notice to Seller on the date of payment (A) within thirty (30) days after the date of the Umpire Laboratory's quality determinations or (B) within twenty-one (21) days after receipt and acceptance of Seller's New Invoice, whichever is later.

Payments not made within the time period specified above shall bear interest at the rate of 10% per annum, calculated from the first day following the end

of such period until the amount owed is paid in full.

If amounts are owed to Buyer, and Seller has not paid such amounts within thirty (30) days after the issue date of the Umpire Laboratory's quality determinations, Buyer shall have the right to draw such amounts and interest under Seller's performance guarantee bond.

9.2 Freight Rate Adjustment

If the aggregate of the actual Total Moisture and Ash Content of a shipment of Coal as determined by the Inspection Company exceeds 40%, the price of that shipment of Coal determined pursuant to Section 9.1 shall be further reduced by an amount calculated in accordance with the following formula to compensate for additional ocean freight payable by Buyer for that shipment of Coal by reason of such excessive moisture and ash content:

Ocean Freight Rate per Ton x Quantity per Section 6.2(a) x
((M - 40%) / (100% - 40%))

Where "M" represents the aggregate of the actual Total Moisture and Ash Content of that shipment of Coal as determined by the Inspection Company.

10. PAYMENT

All the payments under the Contract shall be made in U.S. dollars. However, if the Seller is a local firm in Taiwan, only OPTION 1 listed below can be exercised, and (1) payment shall be made in New Taiwan dollars, and the exchange rate for the United States dollar to the New Taiwan dollar, unless otherwise specified, shall be the average of the U.S. Dollars buying rate and selling rate last announced by Bank of Taiwan on the date of completion loading as stated in the Statements of Facts. If such date is not a banking day, the immediate succeeding banking day shall be used. (A fraction of the exchange rate shall be rounded up to a cent if the fraction of a cent is one half or more, and shall be rounded down otherwise.); (2) the business tax incurred in Taiwan shall be borne by Buyer; (3) the Government Uniform Invoice shall be original.
In addition, if the said shipment of Coal is produced from a new coal mine which has not been discharged, handling and burned by Buyer before, the payment of the Contract price will not be made by Buyer until the Coal having been discharged, handling and burned by Buyer without any problem.

OPTION 1

10.1 Payment by Telegraphic Transfer

Payment for the Coal under the Contract shall be made by telegraph transfer to Seller's account as specified by Seller within seven (7) Working Days after Buyer's receipt and acceptance of the following documents listed in subparagraphs (a) through (l) below (each of which shall clearly state on its face the Contract number; if payment is made to the local firm in Taiwan, the Government Uniform Invoice shall be original):

(a) Seller's signed Initial Commercial Invoice in duplicate, setting out the total quantity of Coal shipped determined in accordance with Section 6.2(a), the price of that shipment of Coal determined in accordance with Section 9.1(a), the applicable Base Price, all adjustments made under Article 7 and Section 9.2 and deductions, if any, of liquidated damages in accordance with Section 8.3, together with all calculations and data on which those adjustments are based, the name of the vessel, and the bill of lading data and, if the Seller is a local firm in Taiwan, the supporting information of the foreign exchange rate.

(b) (For FOBT shipment only) Original clean on-board ocean bill of lading in duplicate.

(c) (For CFR shipment only) Original clean on-board ocean bill of lading in duplicate, marked "Freight prepaid".

(d) (For CFR shipment only) Certificate of shipowner/shipping agent stating that the ocean freight has been duly received when the bills of lading are issued to the charterer.

(e) The certificate of weight and the hold cleaning inspection certificate, each in duplicate, given by the Marine Surveyor.

(f) The certificate of analysis in duplicate, given by the Inspection Company, stating all items listed in Section 6.4(a).

(g) A certificate of origin jointly issued by (1) coal mine owner/ coal producer and (2) Seller, certifying that that shipment of Coal is exclusively mined from the

mine set out in Seller's Technical and Commercial Proposal. The signature of the authorized officer of the Coal Mine Owner/Coal Producer shall be certified as authentic by a Notary Public, otherwise, the Certificate of Origin will be unacceptable. (A specimen of a certificate of origin is attached to these General Terms).

(h) Cargo Manifest in duplicate, given by shipowner/shipping agent.

(i) Stowage Plan in duplicate, given by shipowner/shipping agent.

(j) Seller's certificate stating that, with respect to the Contract and that shipment of Coal: (i) no person has been or will be employed or retained upon an agreement or understanding for a contingent fee, bribe, commission, proportional payment, brokerage, thank-you payment, kickback, gift, treat or other improper benefits in violation of the warranty in Section 20.1 of these GENERAL TERMS; (ii) no contingent fee, bribe, commission, proportional payment, brokerage, thank-you payment, kickback, gift, treat or other improper benefits has been or will be paid in violation of the warranty in Section 20.1 of these GENERAL TERMS; and (iii) no person has been or will be admitted to any share or part of the Contract or that shipment of Coal, or to any benefit that may accrue therefrom, in violation of the warranty in Section 20.2 of these GENERAL TERMS.

(k) A Statement of Facts (including notice of readiness given at the Port of Loading) in duplicate, giving an account in detail of all material actions taken by or on behalf of or relating to the vessel and its operations from the time it arrived at the Port of Loading until the time it sailed from the Port of Loading.

(l) One copy of the shipment advice provided by Seller to Buyer pursuant to Section 10.2.

10.2 Shipment Advice

Within three (3) Working Days after completion of loading of a shipment of Coal on board the vessel designated by Buyer, Seller shall by facsimile or email advise Buyer of the contract number of the Contract, details of the Initial Commercial Invoice required under Section 10.1(a) above, a copy of clean on board bill of lading required under Section 10.1(b) above, and the full text of the certificate given by the Inspection Company under Article 6.

10.3 Seller's Default

If Buyer is unable to receive or unload a shipment of Coal in the Republic of China, or encounters difficulties in such receipt or unloading or in clearing such shipment through Republic of China customs, as a result of Seller's delay in making available to Buyer, pursuant to Section 10.1, one or more of the shipping documents or, pursuant to Section 10.2, the facsimile or email advice to Buyer, or as a result of the failure of any such documents, upon presentment, to conform to the requirements stated in Section 10.1, then any and all losses, damages and costs (including, without limitation, demurrage and other third-party claims against Buyer) incurred by Buyer in respect of that shipment of Coal and/or the carriage thereof arising from such Seller’s delay or failure shall be borne and paid for by Seller.

10.4 Banking Charges

Banking charges outside of Taiwan, Republic of China, if any, in respect of or in connection with payment under this Article 10 shall be for Seller's account. Banking charges inside of Taiwan, Republic of China, if any, in respect of or in connection with payment under this Article 10 shall be for Buyer's account.

OPTION 2

10.1 Payment by Letter of Credit

Payment for the Coal under the Contract shall be made to Seller by an unconfirmed irrevocable sight L/C in favor of Seller for an amount in U.S. dollars adequate to pay Seller for the price of the Coal to be shipped on that vessel in accordance with the terms of the Contract. At the request of the Seller, the L/C would be issued in a form of transferable L/C, however, subject to Buyer prior approval of the transferring bank's name and the transferee's name and address. Any additional cost incurred therefrom shall be solely borne by the Seller. The operation of said transferable L/C shall be conducted in accordance with the Article 38 of the ICC Uniform Customs and Practice for Documentary Credits (2007 Revision). Nevertheless, Buyer's approval of transferring bank and/or transferee both designated by Seller will in no way relieve Seller from any obligation, responsibility and/or liability under the Contract, and shall not constitute either transfer or assignment of any part or whole of the Contract.

The said L/C will be issued to the L/C beneficiary not later than seven (7) days prior to the scheduled date of arrival of the carrying vessel at the Port of Loading after Seller's posting performance bond in accordance with Article 11. Seller shall be entitled to draw against the above L/C the amount of the Initial Commercial Invoice upon presentation to the negotiating bank of the documents listed in subparagraphs (a) through (j) below:

(a) Seller's signed Initial Commercial Invoice in duplicate, setting out the total quantity of Coal shipped determined in accordance with Section 6.2(a), the price of that shipment of Coal determined in accordance with Section 9.1(a), the applicable Base Price, all adjustments made under Article 7 and Section 9.2 and deductions, if any, of liquidated damages in accordance with Section 8.3, together with all calculations and data on which those adjustments are based, the name of the vessel, and the bill of lading date.

(b) (For FOBT shipment only) Original clean on-board ocean bill of lading in duplicate.

(c) (For CFR shipment only) Original clean on-board ocean bill of lading in duplicate, marked "Freight prepaid".

(d) (For CFR shipment only) Certificate of shipowner/shipping agent stating that the ocean freight has been duly received when the bills of lading are issued to the charterer.

(e) The certificate of weight and the hold cleaning inspection certificate, each in duplicate, given by the Marine Surveyor.

(f) The certificate of analysis in duplicate, given by the Inspection Company, stating all items listed in Section 6.4(a).

(g) A certificate of origin jointly issued by (1) coal mine owner/ coal producer and

(2)Seller, certifying that that shipment of Coal is exclusively mined from the mine set out in Seller's Technical and Commercial Proposal. The signature of the authorized officer of the Coal Mine Owner/Coal Producer shall be certified as authentic by a Notary Public, otherwise, the Certificate of Origin will be unacceptable. (A specimen of a certificate of origin is attached to these General Terms).

(h) Seller's certificate stating that, with respect to the Contract and that shipment of Coal: (i) no person has been or will be employed or retained upon an agreement or understanding for a contingent fee, bribe, commission, proportional payment, brokerage, thank-you payment, kickback, gift, treat or other improper benefits in violation of the warranty in Section 20.1 of these GENERAL TERMS; (ii) no contingent fee, bribe, commission, proportional payment, brokerage, thank-you payment, kickback, gift, treat or other improper benefits has been or will be paid in violation of the warranty in Section 20.1 of these GENERAL TERMS; and (iii) no person has been or will be admitted to any share or part of the Contract or that shipment of Coal, or to any benefit that may accrue therefrom, in violation of the warranty in Section 20.2 of these GENERAL TERMS.

(i) A Statement of Facts (including notice of readiness given at the Port of Loading) in duplicate, giving an account in detail of all material actions taken by or on behalf of or relating to the vessel and its operations from the time it arrived at the Port of Loading until the time it sailed from the Port of Loading.

(j) One copy of the shipment advice provided by Seller to Buyer pursuant to Section 10.2.

10.2 Shipment Advice

Within three (3) Working Days after completion of loading of a shipment of Coal on board the vessel designated by Buyer, Seller shall by facsimile or email advise Buyer of the contract number of the Contract, the letter of credit number, details of the Initial Commercial Invoice required under Section 10.1(a) above, and the full text of the certificate given by the Inspection Company under Article 6. Within three (3) Working Days after completion of loading of a shipment of Coal, Seller shall forward to Buyer by express registered air-mail one original and one copy of the clean on board ocean bill of lading, together with one original of cargo manifest, one original of stowage plan and a copy of each of the other documents listed in Section 10.1. The face of the envelope shall be marked "Shipping Documents", and shall clearly state the name of carrying vessel and the contract number of the Contract.

10.3 Seller's Default

If Buyer is unable to receive or unload a shipment of Coal in the Republic of China, or encounters difficulties in such receipt or unloading or in clearing such shipment through Republic of China customs, as a result of Seller's delay in making available to Buyer, pursuant to Section 10.1, one or more of the shipping documents or, pursuant to Section 10.2, the facsimile or email advice to Buyer, or as a result of the failure of any such documents, upon presentment, to conform

to the requirements stated in Section 10.1, then any and all losses, damages and costs (including, without limitation, demurrage and other third-party claims against Buyer) incurred by Buyer in respect of that shipment of Coal and/or the carriage thereof arising from such Seller's delay or failure shall be borne and paid for by Seller.

10.4 Banking Charges

Banking charges outside of Taiwan, Republic of China, if any, in respect of or in connection with payment under this Article 10 shall be for Seller's account. Banking charges inside of Taiwan, Republic of China, if any, in respect of or in connection with payment under this Article 10 shall be for Buyer's account.

11. PERFORMANCE GUARANTEE BOND

11.1 Form of Bond

To ensure that Seller will perform its obligations in accordance with the terms and conditions of the Contract, Seller shall, within fourteen (14) days after its receipt of the Notice of Award from Buyer as described in the Instruction for Bidding and at its expense, deposit a performance guarantee bond in the full amount to be determined as follows:

Vessel Type	United States dollars	New Taiwan dollars
Panamax Size	**320,000** per shipment	**9,760,000** per shipment

(a) The performance guarantee bond shall be in a form satisfactory to Buyer and may be in the form of cash, Taiwan local financial institution's promissory note, Taiwan local financial institution's check, Taiwan local financial institution's certified check, postal money order, bearer R.O.C. government bond, Taiwan local financial institution's certificate of deposit pledged to Buyer, irrevocable standby letter of credit issued or confirmed by a bank in Taiwan, or Taiwan local bank's guarantee or insurance policy under which the bank or insurer shares liability with Seller jointly and severally. The performance guarantee bond deposited by cash in United States dollars shall be deposited to Taipower's Account with the details as follows:

Bank name: Taipei Fubon Commercial Bank Business Department
Swift BIC: TPBKTWTP200
A/C name: Taiwan Power Company
A/C No. 200270005437

If a standby letter of credit is used, it shall be issued by a bank in Taiwan, or issued by a first class banking institution of international standing outside Taiwan and confirmed at no cost to Buyer by a bank in Taiwan. Seller shall, at its expense, ask its issuing bank to notify Buyer by facsimile or email of the standby letter of credit number, the Contract number, the amount of the performance guarantee bond deposited, the name of the L/C applicant, the name of the advising bank, and the name of the confirming bank, if there is one. The name of Seller must be clearly indicated in the standby letter of credit and the facsimile or email advice. (A specimen of an acceptable performance guarantee bond standby letter of credit is attached to the GENERAL TERMS, please see Attachment 6).

(b) If Seller fails to cause the performance guarantee bond required hereunder to be deposited within the required time period specified above, Buyer shall have the right to draw the full amount of Seller's bid bond and may, in its sole discretion, rescind, cancel or terminate the Contract.

(c) Only after the deposit of the performance guarantee bond by Seller will the relevant letter of credit for the Contract be issued to Seller.

11.2 Validity of Bond

The performance guarantee bond shall remain in force until six (6) months after the latest delivery date specified in the CONTRACT AGREEMENT or, if no such delivery date is specified, until six (6) months after the termination or expiration of the Contract. If Buyer has any claim against Seller which is not finally settled within the term of the performance guarantee bond, Seller shall cause, not later than ten (10) days before the date of expiry of the performance guarantee bond, the extension of the validity of that performance guarantee bond for such period of time as required by Buyer (or Seller shall provide Buyer with the equivalent extension of validity with respect to a performance guarantee bond in another form satisfactory to Buyer).

11.3 Drawing Bond

Buyer may, in addition to other remedies available to Buyer, draw any part or all of the amount of the performance bond (and interest earned thereon) as Buyer determines to be necessary to compensate Buyer for its losses, damages, expenses, or other costs (or any part thereof), in accordance with the following stipulation:

(a) In case that any of the circumstance stipulated in the subparagraph 3 to 5 of the first paragraph of the same Article 50 occurs, Buyer may claim for damages against Seller pursuant to the second paragraph of Article 50 of the Act and draw an amount of the performance bond equivalent to the compensation for any losses resulting therefrom;

(b) If Seller is in breach of the requirements of Article 65 of the Act by assigning the Contract to others, Buyer may draw the full amount of the performance bond;

(c) If Seller substantially reduces the quantity of the coal to be delivered under the Contract without obtaining a prior approval, Buyer may draw an amount of the performance bond equivalent to the deficit resulting from the deduction from the amount payable by Buyer to Seller under the Contract for the amount necessary to compensate for Buyer's losses;

(d) The Contract is rescinded, cancelled or terminated, in part or in whole, for causes attributable to Seller, Buyer may draw any part or all of the amount of the performance bond in proportion to the Contract price value so rescinded, cancelled or terminated;

(e) If the quality determination indicates non-conformity with the contractual requirements which rejected by Buyer or Seller fails to take measures in accordance with relevant requirements within the time period specified by Buyer, Buyer may draw an amount of the performance bond equivalent to the deficit resulting from the deduction from the amount payable by Buyer to Seller under the Contract for the amount necessary to compensate for the losses, additional expense or penalty resulting from such non-conforming coal;

(f) If Seller fails to perform a part or all parts of the Contract within the time period as specified in the Contract (or the extended time period, if Buyer has agreed to extend the contractual time period), Buyer may draw an amount of the performance bond equivalent to the deficit resulting from the deduction from the amount payable by Buyer to Seller for the amount of the liquidated damages under the Contract;

(g) If Seller fails to return the amount of the paid Contract price returnable to

Buyer, Buyer may draw an amount of the performance bond equivalent to the amount of the paid Contract price returnable;

(h) If Seller fails to extend the validity of the performance bond as required by the Contract, Buyer may draw the performance bond not so extended; or

(i) If Seller refuses to honor its liabilities for the compensation for the damage to Buyer attributable to Seller, Buyer may draw an amount of the performance bond equivalent to the non-fulfilled compensation.

11.4 Release of Bond

Buyer will release the performance guarantee bond after Seller has satisfied all of its obligations under the Contract.

12. SHIPPING ARRANGEMENTS(CFR)

If shipment under the Contract is to be made on a CFR basis, the following provisions shall govern the shipping arrangements:

12.1 Delivery Schedule

Seller shall deliver the Coal in accordance with the delivery schedule set forth in the CONTRACT AGREEMENT.

12.2 Seller's Responsibilities

(a)Seller shall be solely responsible for the ocean transportation of the Coal and shall arrange for single deck bulk carriers suitable to enter, berth at and leave the Port of Loading and the Port of Discharging. Seller shall give Buyer at least twenty (20) days notice of the estimated time of arrival ("ETA") of each vessel at the Port of Loading. Such notice shall state the Port of Loading, vessel's particulars including vessel name, D.W.T., draft, length overall, breadth, month-year built, flag, number of hatches/holds, geared or gearless, size of each hatch, and Buyer shall within two (2) Working Days after receipt of such notice confirm to Seller if the vessel specified by Seller is acceptable or not. Seller shall advise Buyer of any alteration to such notice.

The vessel to be nominated by Seller shall be tight, staunch, strong and in every way fitted for the voyage, and shall be classed highest or equivalent geared or gearless single-deck self-trimming Handy Size, Panamax Size or (gearless) Cape Size bulk carrier (as specified in the CONTRACT AGREEMENT). However, oil/bulk/ore combined carrier is not acceptable.

(b)If the performing vessel is a gearless vessel, the size of each hatch opening shall not be smaller than 12M × 12M in length and width, and the hatch cover shall be side-rolling opening type; or if the performing vessel is a geared Panamax size vessel, the size of each hatch opening shall not be smaller than 10M × 10M in length and width, and the hatch cover shall be side-rolling opening type, otherwise, Buyer shall have the right to reject the vessel. If Buyer determines not to reject such vessel, in addition to all other remedies available to Buyer, Seller shall be liable for any damages caused by discharging facilities, and any time lost and/or delay of discharging thus incurred shall be for Seller's account, even on demurrage.

(c)Seller shall bear any extra insurance premium on cargo and freight owing to vessel's age (over 15 years), class, country where built, flag, ownership, or any other reason. Upon receipt of Buyer's notice, Seller shall pay said premium to the insurance company appointed by Buyer and shall notify Buyer of the payment, within the period advised by Buyer. The performing vessel shall enter a Protection and Indemnity (P & I) Club, failure to this Section shall be considered as fundamental breach or default of the Contract.

(d)The age of the performing vessels shall be less than but not equal to 18 years for North Pulau Laut Coal Terminal (NPLCT), less than but not equal to 28 years for Mainland China Area and Russia ports, and less than but not equal to 20 years for all other loading ports. (The vessel’s age shall be calculated from the month when the vessel was built up to the month which the latest day

of laydays is located). In addition, the DWT of Panamax shall not exceed 100,000 tons. The BEAM of Panamax vessel shall not exceed 38 meters, and the BEAM of Cape Size vessel shall not exceed 45 meters. The Performing vessel for Cape Size shipment shall be subject to arrival draft max. 14.5 meters and Length Overall (LOA) max. 289 meters limitations at Discharging Port, Taiwan. Otherwise will not be acceptable.

(e) If the performing vessel is a geared vessel, Seller shall provide vessel's gears for discharging at Seller's costs and risk. In addition, if suitable grabs are necessitated for discharging, then, Seller shall provide grabs suitable for discharging at Seller's risk and expenses. The lifting capacity of each gear on the vessel shall be 20 tons at least, each hatch must be equipped with one gear on the deck at Seller's risk and costs. If there is any hatch without gear on the deck, the discharging rate shall be decreased proportionally according to the ratio between the number of gears and hatches. If the lifting capacity of each gear is 25 tons or more, the vessel shall be equipped with at least four (4) units of vessel's gears.

(f) If the cargo is to be discharged in whole or in part at port public berth(s), or if Buyer requests Seller to arrange discharging equipment, Seller shall be under the obligation to cause and ensure that all discharging equipment in connection with discharging from the vessel will be available and will be properly operated by qualified operators at the risks of Seller, the cost for discharging equipment shall be paid by Buyer according to the relevant stipulations of this Contract.

All time lost as a result of lifting on and/or off, preparation, adjustment and breakdown of all such discharging equipment shall be for Seller's account and relevant expenses shall be paid for by Seller, even on demurrage.

(g) Seller shall ensure that the shipmaster advises Buyer of vessel's ETA at the Port of Discharging by facsimile or email 168 hours, 72 hours, 48 hours, 24 hours and 12 hours respectively prior to vessel's ETA at the Port of Discharging.

(h) If a vessel is being loaded during a time of precipitation, Seller shall ensure that the shipmaster closes all cargo holds.

(i) Seller shall ensure that the shipmaster loads the cargo into the holds as evenly as possible, acts in accordance with IMO regulations, recommendations and memoranda whatsoever prepared by IMO or other international organization or Protection and Indemnity clubs or any governmental agencies, and takes necessary measures to prevent the cargo from overheating. Seller shall furnish shipowner with the category and characteristics of Coal loaded as per IMO's code or regulations, such notice shall be given to shipowner prior to the commencement of loading. Seller shall also be responsible for proper trimming and stowage of cargo to the satisfaction of the shipmaster.

(j) As soon as possible after the completion of loading of the vessel, Seller shall inform Buyer by facsimile or email the tonnage of Coal loaded, time of completion of loading, departure time from the Port of Loading and estimated time of arrival ("ETA") at the Port of Discharging.

(k) Should the vessel deviate from the normal intended voyage under the Contract, Seller shall ensure that the shipmaster informs Buyer of the same without delay. General Average, if any, shall be settled at a place to be agreed upon with the cargo underwriters according to York-Antwerp Rules 1994.

(l) Seller shall ensure that the vessel used for the carriage of the Coal shall provide free use of winches and power for the purpose of discharging the Coal and all work associated or incidental thereto, together with lighting facilities on board that may be needed for working on the vessel.

(m) The vessel must be equipped with proper safety measures to ensure safe entry to and exit from the ship. The vessel's gangway, hold-ladders, gangboard and other measures shall be kept in good and safe condition throughout the discharging process, otherwise, Buyer has the right to refuse or stop discharging, any time thus lost shall not count as laytime, even on demurrage.

(n) For Hsinta Taipower Coal Terminal, the vertical height from pier to vessel's hatch opening should be kept within 8.931 meters, the vertical height from pier to bottom of vessel's hold should be kept within 26.534 meters for Capesize vessel and 25.167 meters for Panamax vessel throughout the discharging process. For Linkou Taipower Coal Terminal, the vertical height from pier to vessel's hatch opening should be kept within 14.4 meters, the vertical height from pier to bottom of vessel's hold should be kept within 18.2 meters throughout the discharging process. For other ports, the vessel's air draft should be kept within fifteen (15) meters throughout the discharging process. Time lost due to insufficient ballast pump capacity in relation to the actual loading or discharging rate shall not be counted as laytime, even on demurrage. Seller shall be liable to Buyer for any and all losses, damages and costs (including, without limitation, third-party claims against Charterer) caused by or related to Seller's failure to perform in accordance with provisions contained herein.

(o) If bilge accumulates in any hold of the vessel and creates a situation that Buyer's equipment cannot be operated, Seller shall ensure that shipowner pump the bilge out. Otherwise, Buyer may stop unloading, and all time lost therefrom and costs for the delay in unloading will be the sole responsibility of Seller, even on demurrage.

(p) Buyer reserves the right to reject any of the following vessels which are not suitable to unload the cargo at Taipower Coal Terminal in Kaohsiung Port or Taichung Port:

MV "Zalongo", MV "Irene V", MV "Mare Tirreno", MV "Baraganul", MV "Baia Noua", MV "Kasturba", MV "Blue Coral", MV "Pansolar", MV "Panstar" and MV "Hong Express" .

(q) Seller shall warrant that no part of the coal loaded has been in contact with sea or salt water from the port of loading to the port at which the coal is to be unloaded. Seller shall be liable to Buyer for any losses, damages and costs caused by or related to Seller's failure to perform in accordance with the warranties contained herein.

(r) The Minimum Breaking Load (MBL) of each mooring line on the vessel must be sound enough for safe mooring and berthing. For all vessels call at Hsinta Taipower Coal Terminal, Seller shall present to Charterer (Hsinta Power Station) prior to vessel's arrival at Hsinta Taipower Coal Terminal, the information of vessel mooring line material, nominal diameter (mm) and strength (Minimum Breaking Load, tones) for setting Quick Unmooring Equipment's mooring line Safety Load (MBL x coefficient, normally 55%),

which is up to 60 tonnes. Each mooring line can not break if the terminal's Mooring Line Load Monitor shows load in any one mooring line is still within the Safety Load.

In addition, each mooring line on the vessel must be maintained at proper tightness and be adjusted in accordance with draft variations throughout the discharging process.

Seller shall be liable to Buyer for any and all losses, damages and costs (including, without limitation, third-party claims against Charterer) caused by or related to Seller's failure to perform in accordance with provisions contained herein.

(s) The performing vessel should comply with the related regulations and restrictions of Industrial Safety and Environmental Protection throughout the discharging process at Taipower Coal Terminals. In addition, the performing vessel should not drain bilge and marine waste oil, or emit exhaust gas during her berthing. Owner shall bear all costs, penalties and expenses incurred by buyer due to seller's or its agent's non-compliance of such regulations and restrictions. Any time lost as a result of such non-compliance shall not count as laytime, even on demurrage.

12.3 Port of Discharging

Unless otherwise provided for in the Contract, the cargo shall be discharged at one or two berths (including Taipower Coal Terminal) in Taipei Port, Taichung Port, Hsinta Port, Linkou Port or Kaohsiung Port, Taiwan, R.O.C., at Buyer's option. Seller shall ensure that the shipowner verifies whether there are any restrictions, limitations or regulations whether promulgated by governmental authority or by authorized private organization(s) (including draft, entry and facilities, etc.) at the Port of Discharging and shall bear all costs and expenses incurred due to shipowner's or vessel's non-compliance with such limitations, restrictions, and regulations. Any time lost as a result of such non-compliance shall not count as laytime, even on demurrage.

If a vessel is discharged at Hsinta Taipower Coal Terminal or Linkou Taipower Coal Terminal, Seller should present a Safety Pledge Letter to Buyer (Hsinta Power Station or Linkou Power Station) prior to vessel's first arrival. Vessel will not be permitted to enter Hsinta Taipower Coal Terminal without presenting Safety Pledge Letter. The Safety Pledge Letter shall contain the following:

1. Vessel's particulars and stowage plan,
2. Vessel's general equipment,
3. Vessel's itinerary,
4. Vessel's safety measures, and
5. Seller represents and warrants that it has received Taipower Coal Terminal operation manual for unloading coal and the vessel will strictly adhere to the provisions outlined in this.

If a vessel is discharged at Hsinta Taipower Coal Terminal or Linkou Taipower Coal Terminal and if tug, mooring and unmooring are arranged by Buyer, Buyer will pay tug, mooring and unmooring surcharge to Seller at the amount of New Taiwan Dollars (TWD)1,200,000 for discharging at Hsinta Taipower Coal Terminal, TWD 700,000 for discharging at Linkou Taipower Coal Terminal in

lump sum on entire cargo. The surcharge shall be paid in U.S. dollars within eight (8) Taipei banking days after vessel has completed discharging at Taipower Coal Terminal and Buyer has received Seller's invoice/receipt. The applicable exchange rate between New Taiwan Dollars and U.S. Dollars shall be the average of the U.S. Dollars buying rate and selling rate last announced by the Bank of Taiwan on the date when the vessel has completed discharging at Taipower Coal Terminal. If such date is not a Taipei banking day, the immediate succeeding banking day shall follow. (A fraction of the exchange rate shall be rounded up to 0.1 cent if the fraction of a cent is one half or more, and shall be disregarded otherwise). However, if the Seller is a local firm in Taiwan, The surcharge shall be paid in TWD in Taiwan.

Wharfage and fresh water charge etc. at Hsinta Taipower Coal Terminal or Linkou Taipower Coal Terminal shall be paid by seller to Buyer (Hsinta Power Station or Linkou Power Station)

12.4 Discharging Rate

If the whole or a part of cargo is discharged at Taipower Coal Terminal in Kaohsiung Port, Hsinta Port, Linkou Port or Taichung Port, the laytime allowed shall be calculated based on the discharging rate of 20,000 metric tons for Handy Size and geared Panamax size vessels, 22,000 metric tons for gearless Panamax Size vessels, and 24,000 metric tons for Cape Size vessels per weather working day of 24 consecutive hours, Saturdays, Sundays and holidays included.

If the whole or a part of cargo is discharged at Taipei Port, the laytime allowed shall be calculated based on the discharging rate of 18,000 Metric Tons for gearless Panamax Size vessels per weather working day of 24 consecutive hours, Saturdays, Sundays and holidays included.

12.5 Discharging Terms and Conditions

(a)Notice of Readiness ("N/R") shall be tendered during office hours (i.e. 08:00-17:00 on Monday through Friday, provided that Saturdays, Sundays and holidays recognized by the Government of the Republic of China are excepted) upon vessel arrives at the Port of Discharging, whether in berth or not, provided the vessel is in free pratique or customs clearance by port authorities and ready to discharge cargo in every respect, but not including the arrangement of discharging equipment such as mobile cranes, bulldozers, etc. if the cargo is discharged at port public berth.

If free pratique or customs clearance is not granted after N/R is tendered, such N/R shall become null and void and a fresh N/R shall be tendered after free pratique and customs clearance are granted.

(b)Laytime shall commence twenty-four (24) hours (hereinafter referred to as "Turn Time") after N/R is accepted. If the discharging be commenced earlier, then the actual discharging time before the expiry of this 24 hours period shall count as laytime. Any time lost due to any stoppages shall not be counted as laytime and the time lost due to the **stoppage** of discharging facilities (including shipunloader, gear, crane, grab, bulldozer, conveyor etc. used directly for the discharge of coal from the vessel) caused by any reason shall be deducted

from laytime proportionally as per the **stoppage** of each unit of discharging facilities. The laytime or demurrage shall end at the point of time when all the Coal on board the vessel has been completely discharged from the vessel. If there are any stevedore damage which vessel sustained at Taipower Coal Terminal due to any cause attributable to Buyer and the repair will be made at discharging port after the completion of discharging, the laytime or demurrage shall end at the point of time when the repair is finished. However, if the repair is delayed or interrupted due to any cause attributable to the vessel, Seller or its agent, the master or crew, any time lost thus incurred shall not count as laytime, even on demurrage.

If vessel arrives at the Port of Loading and commences to load the cargo before the beginning of the delivery schedule as specified in the CONTRACT AGREEMENT, Buyer shall have the right to deduct the portion of time which equals to the time calculated from the actual commencement of loading to the beginning of the delivery schedule specified in the CONTRACT AGREEMENT, from the total time loss for awaiting discharging at the Port of Discharging, even the vessel is already on demurrage.

If vessel arrives at the Port of Loading later than the latest day of the delivery schedule as specified in the CONTRACT AGREEMENT, and is still accepted by Buyer, without prejudice to the rights and remedies that Buyer is entitled to have according to the Contract, only actual time used for discharging shall count as laytime.

(c) If vessel after berthing is not in all respects ready for discharging, the actual time lost until she is in fact ready for discharging shall not be counted as laytime, even on demurrage.

If vessel's berthing (including waiting for berth) or discharging is to be interrupted due to bad weather or government orders (including typhoon, strong wind, raining etc.), any time lost shall not count as laytime. In addition, if it is interrupted due to any insufficiency or fault attributable to the vessel, the shipowner, the shipmaster and/or crew, any extra costs and expenses thus incurred shall be borne by Seller and any time lost shall not count as laytime, even the vessel is then on demurrage.

(d) The vessel shall be suitable for grab discharge and the cargo shall be stowed only in the hold area in which the mechanical bucket and/or grab and bulldozer usually used for discharging can be operated freely. No cargo shall be loaded in deep tanks, bunker spaces, wing tanks or any other compartment which can not be reached by the mechanical bucket and/or grab or bulldozer during its free operations. Otherwise, any additional expenses thus incurred in discharging shall be for Seller's account and time thus lost (including time lost due to collecting Coal from frame and/or bars and/or longitudinal in the main holds which cannot be reached by mechanical bucket and/or grab and/or bulldozer during its free operation) shall not count as laytime, even on demurrage.

(e) Time lost due to events of Force Majeure as provided in Article 15 shall not count as laytime; provided, however, that Buyer has given Seller written notice of the Force Majeure event in accordance with Article 15; the time between the occurrence of such Force Majeure and receipt of written notice of its

occurrence by Seller shall count as laytime.

The time lost due to the breakdown of discharging facilities (including shipunloader, gear, crane, grab, bulldozer, conveyor etc. used directly for the discharge of coal from the vessel) caused by any reason shall be deducted from laytime proportionally as per the breakdown of each unit of discharging facilities. The charges imposed by port authority for stand-by of stevedores for awaiting the repair of the vessel's gears or mobile cranes, if any, shall be for Seller's account.

(f) All time lost for opening and closing of hatches and removal and/or replacing of beams at the Port of Discharging shall be for Seller's account, and the time for these activities shall not count as laytime, even on demurrage.

(g) Seller shall ensure shipowner, in complying with Port/Terminal regulations and Buyer's instructions, to conduct any arrangement to have vessel berth i.e. application for pilot and tow service etc., immediately after the vessel tendering of N/R and conduct discharging immediately after the vessel is berthed and have the vessel vacated from the discharging berth promptly after completion of the discharging without delay.

If Seller fails to act accordingly, or any other causes attributable to Seller's default which delays vessel's prompt berthing, discharging, or delays vessel's prompt departure from the discharging berth and such delays prevent other waiting vessel(s) from berthing, or any other causes attributable to Seller and which as a result adversely affects the efficient use of the discharging terminal, then, without Buyer's prior notification, Seller shall compensate Buyer for all losses, damages, expenses and/or liability against Buyer's presentation of evidence of having incurred such losses, damages, expenses and/or liability caused thereby or resulting therefrom. In case of needs for mooring of other vessel, without Buyer's prior notification, Buyer has the right to order and to have the vessel towed off the berth, at Seller's risk and expenses. Seller shall responsible for all losses and damages incurred therefrom as a result of delay or failure.

If it deems necessary, Buyer may unilaterally change the unloading turns of the vessels, or reschedule the order of the discharging of cargoes, including, but not limited to, instructing the vessel to stop unloading and removing such vessel from the berth to another stand-by place. In such circumstances, Seller and/or shipowner is not entitled to demand compensation for any losses, expenses, or damages incurred or sustained therefrom, nor to claim any damages of “detention of the vessel” or whatsoever, and the vessel that still carries Buyer’s cargoes shall not leave the discharging port without the prior written permission of Buyer. Provided always that the above provision should not alter the calculation of discharging time, nor relieve Buyer from fulfilling its obligation of paying the demurrage as stipulated in the Contract.

(h) If the performing vessel has to anchor at the other port to wait for discharging berth due to port congestion, bad weather or the regulation of the port authorities at the discharging port, N/R may be tendered during office hours when the vessel arrives at the other port. If the vessel arrives at a time other than office hours, N/R shall be tendered during the office hours of the next working day. If the shifting from the other port to the discharging port is

conducted during the 24 hours Turn Time period, the ending of 24 hours Turn Time shall be extended according to the period of shifting time. If the shifting is conducted after the 24 hours Turn Time period, the shifting time should be deducted from laytime even on demurrage.

12.6. Multi -port Discharging

If Multi -port discharging is requested by Buyer, the following provisions shall be applied:

(a)Buyer shall pay Seller Multi-ports discharging surcharge at the rate of USD0.50 per Metric Ton on entire cargo according to the quantity stated on Bills of Lading when each next discharging ports requested..

(b) Laytime used and turn time for the previous Port of Discharging will terminate temporarily when the vessel completes the discharging of that portion of cargo which Buyer by prior notice requires Seller to discharge at the previous Port of Discharging.

(c) The subsequent laytime used shall commence upon the vessel's arrival at the anchorage of the next discharging port, whether in berth or not (excluding the shifting time from anchorage to the berth). However, if Turn Time has not been expired at the previous discharging port, it shall continue to count upon the vessel's arrival at the next discharging port.

(d) Any expenses and time lost from the time when vessel completes the discharging at the previous Port of Discharging to her arrival at the next Port of Discharging shall be for Seller's account and shall not count as laytime.

(e) The multi-ports discharging surcharge as stated in paragraph (a) of this subsection shall be paid by Buyer to Seller within eight (8) Working Days after (i) the vessel has completed discharging and (ii) Buyer has received and accepted L/C beneficiary (payee)'s commercial invoice and (iii) the relevant receipt, by means of telegraphic transfer of funds to L/C beneficiary (payee)'s bank account specified by Seller. However, at Buyer's option, the related discharging equipment expense as stated in paragraph (b) or (c) of this subsection may be paid in New Taiwan Dollars to the domestic shipping agent designated by Seller.

If the payment made by Buyer to Seller is in U.S. Dollars under this subsection, the exchange rate between New Taiwan Dollars and U.S. Dollars for the above payment shall be the average of the U.S. Dollars buying rate and selling rate last announced by Bank of Taiwan on the date when the vessel has completed discharging at public berth(s) in Keelung Port. If such date is not a Taipei banking day, the immediate succeeding banking day shall follow. (A fraction of the exchange rate shall be rounded up to a cent if the fraction of a cent is one half or more, and shall be disregarded otherwise.)

12.7 Demurrage and Despatch

(a)If the laytime used for discharge exceeds the laytime allowed, Buyer shall pay demurrage to Seller in respect of such excess time at the rate of **USD13,600** for Panamax Size shipment per running day (pro rata for fractions of a day) However, if "only geared Panamax Size vessel" is elected in item II.(D) of

Technical and Commercial Proposal, the demurrage rate shall be **USD16,600** for Panamax Size shipment per running day (pro rata for fractions of a day)..

(b) If the laytime used for discharge is less than the laytime allowed, Seller shall pay despatch money to Buyer in respect of the laytime saved at 50% of the rate of demurrage per running day (fraction pro rata).

(c) All claims for demurrage or despatch money, as the case may be, in respect of the discharging of vessel shall be settled and paid within sixty (60) days after the completion of discharging.

(d) If despatch money is not settled within above-mentioned time period, Buyer shall have the right to deduct such amounts from contract price payable to Seller. If the contract price payable to Seller is insufficient for deduction, Buyer shall have the right to draw the balance amount and interest earned thereon under Seller's performance guarantee bond.

12.8 Overtime

Buyer shall have the option to request that the discharging be carried out beyond ordinary working hours, in which case the extra costs of stevedores and all extra expenses incurred on shore shall be for account of Buyer; provided, however, that the expenses for overtime of the officers and crew of the vessel shall always be borne by Seller.

12.9 Shifting

Shifting time and expenses shall be for the Party ordering the same. If shifting is ordered by the port authorities or shipowner, the shifting time and expenses shall be for Seller's account.

If shifting is mutually ordered by Buyer and Shipowner due to bad weather, Buyer and Seller shall be equally liable for the shifting expenses (including pilotage, tuggage, mooring and unmooring charges). However, the shifting time shall be for Seller's account, even on demurrage. The shifting expenses shall be paid to Seller in U.S. dollars within eight (8) Taipei banking days after vessel has completed discharging and Buyer has received Seller's invoice/receipt. The applicable exchange rate between New Taiwan Dollars and U.S. Dollars shall be the average of the U.S. Dollars buying rate and selling rate last announced by the Bank of Taiwan on the date when the vessel has completed discharging. If such date is not a Taipei banking day, the immediate succeeding banking day shall follow. (A fraction of the exchange rate shall be rounded up to 0.1 cent if the fraction of a cent is one half or more, and shall be disregarded otherwise). However, if the Seller is a local firm in Taiwan, The shifting expenses shall be paid in TWD in Taiwan.

Shifting from anchorage to berth (from anchor up or pilot on board whichever is earlier to all made fasten alongside berth) shall not be counted as laytime, even on demurrage.

At the Port of Discharging, Buyer has the right to order vessel to shift from one berth to another berth or anchorage according to Buyer's need. Seller and shipowner shall render all co-operation possible. In this circumstances, shifting time and expenses (including pilotage, tuggage, mooring and unmooring charges) thus incurred shall be for Buyer's account, however, the costs for bunker fuels

used and the service of officers and crew shall always be borne by Seller.

12.10 Marine Regulations

(a)Shipowner and the performing vessel shall comply with all applicable laws and regulations whether promulgated by governmental authorities or by authorized private organization(s) of the port (or terminal) at which she call. If she fails to do that, Seller shall be liable for all losses, expenses and responsibilities thus incurred and shall indemnify and defend Buyer, its agents, officers and employees against, and shall hold them free and harmless from, any and all losses, expenses, liabilities and claims of any kind and character arising from the failure on the part of the shipowner, the vessel, her master and crew to comply with any such laws and regulations.

Buyer's acceptance of nomination of vessel shall in no way relieve shipowner of responsibility for failing to comply with the requirements stipulated in this Section.

(b)In full compliance with the "Regulations Governing the Civil Relationship Between Taiwan and Mainland China" and its enforcement rules and any rule, regulation, order issued pursuant to said Regulations, unless shipowner and the performing vessel comply with the regulations for direct cross-strait shipping between Taiwan Area and Mainland China Area, the performing vessel under the Contract shall not call directly at the ports of Mainland China or other specific countries announced by the Government of the Republic of China, enroute either to or from the ports of Taiwan, Republic of China.

(c)Unless owner and the performing vessel comply with the regulations for direct cross-strait shipping between Taiwan Area and Mainland China Area, no vessels under the flag of the following regimes or countries shall be used: Mainland China

(d)Vessel(s) owned or operated by South Korea company or vessel(s) under the flag of South Korea are not acceptable until the South Korea government removes the discriminative measures against R.O.C. company or vessel(s) in shipping trade.

12.11 Stevedore Damage

(a)Buyer is not responsible for the stevedore damage which the vessel sustained at the Port of Discharging, unless notified in writing by master/shipowner's agent at the time of occurrence of such damage or as soon as possible thereafter but before departure. Master shall use his best effort to obtain the written acknowledgement by the responsible parties causing the damage unless the damage have been made good in the meantime.

(b)If the damage is too serious or too numerous (But Not Affect The Safety Of Ship Structure And Navigation) to be finished repairing before Coal is completely discharged, the marine surveyor along with the representative of insurance company will be notified to inspect and to take a picture as a testimony, and there and then advise owner to set sail. Regarding the above said damage, Buyer will require shipowner to consign it to elsewhere for repair. Shipowner may address the bill of repairing expenditure to Buyer for damages.

(c)When Buyer assumes the solvable approaches to damage as said above,

Seller shall ensure that shipowner will not make an excuse or any reason for keeping ship berth at Buyer's wharf, otherwise the loss of demurrage that occurs to Buyer will be borne and paid by Seller (including the loss caused to other ships carrying Buyer's coal waiting outside the port).

(d) Buyer's maximum liability hereof, arising from any cause whatsoever, whether based on contract, tort (including negligence) or any other theory of law, shall not exceed reasonable direct repair costs.

12.12 Agent

The agency fee at Port of Discharging shall be borne by Seller. Unless requested by Buyer or port authorities, shipping agent at Port of Discharging shall be appointed by Seller. If Buyer is of the opinion that the shipping agent appointed by Seller is incompetent, Buyer may, by notice to Seller, require that such agent to be replaced. Seller shall act accordingly without delay.

13. SHIPPING ARRANGEMENTS (FOBT)

If shipment under the Contract is to be made on a FOBT basis, the following provisions shall govern the shipping arrangements:

13.1 Buyer's Right to Designate Panamax Size Vessel Type

For Panamax Size shipment, should Seller indicate in its TECHNICAL AND COMMERCIAL PROPOSAL that both geared and gearless Panamax Size vessel are acceptable to Seller, Buyer shall have the right in its sole discretion to nominate geared or gearless Panamax Size vessel to load the Coal at the Port of Loading.

13.2 Delivery Schedule

Seller shall deliver the Coal to Buyer in accordance with the delivery schedule set forth in the CONTRACT AGREEMENT and as further specified in Buyer's shipment instructions pursuant to Section 13.5.

13.3 Seller's Responsibilities

Seller shall deliver the Coal FOBT. Port of Loading and be solely responsible for inland transportation and insurance of the Coal and other related matters up to the point of delivery FOBT. Port of Loading and for the timely delivery and orderly and proper loading, trimming and stowage of each shipment of Coal on board the vessel designated by Buyer. Seller shall be responsible for the loading, trimming and stowage of each shipment of Coal on board the vessel to the satisfaction of the shipmaster of that vessel. If the performing vessel for Indonesia shipment is a geared vessel and suitable grabs are necessitated for loading, then, Seller shall provide grabs suitable for loading at Seller's costs and risk. Seller shall also provide free of charge to Buyer a safe berth with minimum draft of 43 feet for Handy Size and Panamax Size vessel and 50 feet for Cape Size vessel at the loading port, where a vessel either laden with a full and complete cargo of the Coal or in ballast, can safely enter, berth at and leave, and where it can always lie safely afloat, and where the loading, trimming and stowage of a cargo of Coal can be carried out as contemplated herein.

13.4 Buyer's Responsibilities

Buyer shall be solely responsible for the ocean transportation of the Coal and shall arrange for single deck bulk carriers suitable to enter, berth at and leave the Port of Loading. Buyer shall be entitled to make such arrangements under which the vessel designated by it to carry any amount of Coal under the Contract may take the Coal as a part of her cargo or may load the Coal together with coal not covered by the Contract. Buyer shall ensure that each vessel designated by it for the carriage of the Coal will: (a) provide Seller with free use of winches and related electricity power required by Seller during loading, trimming and stowage of the Coal on board such vessel; and (b) have lighting facilities and crew available during the loading operation.

13.5 Buyer's Shipment Instructions

Not later than twenty (20) days before the estimated time of arrival at the Port of Loading of the vessel designated by Buyer, Buyer shall give written notice to Seller of the matters stated below and Seller shall within two (2) Working Days after receipt of such notice confirm to Buyer that the vessel specified by Buyer is acceptable and shall designate a safe berth for vessel to load:

(a)The name and the particulars of the vessel;

(b)The laydays spread and the estimated time of arrival ("ETA") of said vessel at the Port of Loading ; and

(c)The quantity of Coal to be loaded on board said vessel, with ten percent (10%) more or less at shipmaster's option.

Buyer shall by facsimile or email immediately advise Seller of any change to the above notice. If Buyer nominates a substitute vessel, Seller shall confirm the acceptance of the vessel within two (2) Working Days.

Buyer shall ensure that the shipmaster of each vessel designated by it to carry the Coal will advise Seller by facsimile or email of that vessel's ETA at the nominated loading berth in the Port of Loading approximately 168 hours, 72 hours and 24 hours in advance. Buyer shall also ensure that, not later than 72 hours prior to the vessel's ETA at the nominated loading berth in the Port of Loading, the shipmaster will provide Seller with written notice of the maximum tonnage of Coal which vessel will load.

13.6 Delivery Obligation and Loading Rate

Seller shall cause and ensure that:

(a) The amount of Coal for each shipment under the Contract shall be as specified by Buyer in its notice given under Section 13.5 (subject to adjustment at shipmaster's option pursuant to Section 13.5(c)) and shall be available and ready for loading at the nominated loading berth; and

(b) Seller shall load Coal aboard vessel at the guaranteed loading rate as stated in Seller's TECHNICAL AND COMMERCIAL PROPOSAL and as specified in the CONTRACT AGREEMENT.

13.7 Loading and Laytime

(a) Each vessel designated by Buyer to carry a shipment of Coal may tender the Notice of Readiness ("N/R") to load to Seller or its agent at any time upon that vessel's arrival at the Port of Loading, whether in berth or not, whether in free pratique or not; provided that the vessel is ready in all respects to load the Coal. Seller shall confirm in writing its receipt of such N/R on the day when such notice is tendered if such notice is tendered during office hours of that day (0900-1700 on Monday through Friday and 0900-1200 on Saturday, excepting Saturday afternoons, Sundays and holidays; provided, however, for those shipments from South Africa, such notice is tendered between 0730 and 1600 hours of that day; excluding Christmas period which runs from 2200 hrs on December 24 to 0600 hrs on December 26); otherwise, Seller's written confirmation shall be given during those hours of the Working Day immediately following. <u>If the vessel arrives at the Port of Loading later than the latest day of laydays, the Parties shall in good faith discuss the loading schedule based on the practice of "first come, first served", including but not</u>

limited to agreeing a new laycan. If the Parties fail to reach agreement on loading schedule, N/R shall be deems as received within the hours stated above. If the vessel is prevented from entering the commercial limits of the Port of Loading because loading berth or layberth or anchorage is not available under the order of Seller's agent or the port authorities and the vessel is ready in all respects to load, N/R may be tendered as stated above. If free pratique or customs clearance is not granted after N/R is tendered, such N/R shall become null and void and a fresh N/R shall be tendered after free pratique and customs clearance are granted.

(b) Laytime shall commence to run twelve (12) (for those shipments from South Africa, eighteen (18)) hours after N/R is accepted, whether the vessel is in berth or not; provided that if loading commences before the expiry of such 12-hour (in later case, 18-hour) period, laytime shall commence to run upon commencement of loading.

(c) Time required for shifting from anchorage to the berth shall not be included in the laytime if the vessel was ordered by the port authorities or terminal to wait for the berth, otherwise, all such time shall be counted as laytime used.

(d) Time required for loading of vessel's bunkers and lubricants shall not be included in the laytime except to the extent that the loading of the Coal is carried out concurrently. Time required for vessel draft survey pursuant to Section 6.2(a) and time required for Hold Cleaning Inspection pursuant to Section 6.2(b) and time required for obtaining cargo export documents and customs clearance from Seller shall count as part of the laytime. The laytime or demurrage shall end at the point of time when the loading, trimming and final draft survey has been completed, or when the vessel cast off the last barge/loading facilities, or when cargo export documents and customs clearance on cargo obtained from Seller, whichever is later.

(e) Time lost due to events of Force Majeure as provided in Article 15 shall not count as laytime; provided, however, that Seller has given Buyer written notice of the Force Majeure event in accordance with Article 15; the time between the occurrence of such Force Majeure and receipt of written notice of its occurrence by Buyer shall count as laytime.

Provided that the breakdown of loading facilities is not attributable to defects in the coal supplied by Seller, including but not limited to sticky coal, oversized coal, breakdown of loading facilities during loading operation shall not be counted in the loading time. The time of breakdown of loading facilities shall be calculated on a prorata basis in accordance with the number of shiploaders and/or vessel’s gears in breakdown to the total number of shiploaders and/or vessel’s gears. However, if the shiploader breaks down before the arrival of vessel at the loading port, it should be repaired before the commencement of laytime. Otherwise after the commencement of laytime, time lost due to non-operation or delay loading caused by such breakdowns shall be counted as laytime.

(f) If warping and shifting alongside the wharf is necessary after the vessel has berthed thereat, the time required therefore shall be included in the laytime, and the costs required for the warping and/or shifting shall be borne by Seller; provided that if the shipmaster decides to shift the vessel after it has berthed

alongside the wharf for any reason other than the request, order or recommendation from Seller or the port authorities, the time required for the shifting shall not be included in the laytime, and the costs required therefore shall be for Buyer's account.

(g) For the shipment of coal loaded on gearless vessels at anchorage by either floating cranes or floating transshippers, if the coal samples is collected by independent quality inspector in the hold, the procedure will be performed throughout the discharging of the barge. Seller shall ensure that (1) sampler safety will be maintained and (2) loading will be temporarily interrupted. All time required for sampling of coal will be included in the laytime used.

13.8 Demurrage and Despatch

(a) In the event that Seller is unable to complete the loading, trimming and stowage of a shipment of Coal FOBT vessel within the laytime allowed, Seller shall pay to Buyer demurrage at the rate of **USD13,600** for Panamax Size shipment per running day (pro rata for fractions of a day) for all time lost after expiry of the laytime allowed. However, if "only geared Panamax Size vessel" is elected in item II.(D) of Technical and Commercial Proposal, the demurrage rate shall be **USD16,600** for Panamax Size shipment per running day (pro rata for fractions of a day).

(b) In the event that the loading, trimming and stowage of a shipment of Coal FOBT vessel are completed before the expiry of the laytime allowed, Buyer shall pay to Seller despatch money at 50% of the demurrage rate for all laytime saved.

(c) All claims for demurrage or despatch money, as the case may be, in respect of the loading, trimming and stowage of Coal FOBT vessel shall be settled and paid within 60 days after the completion of loading, trimming and stowage of that shipment of Coal. If amounts are owed to Buyer, and Seller has not paid such amounts within such time period, Buyer shall have the right to deduct such amounts from contract price payable to Seller. If the contract price payable to Seller is insufficient for deduction, Buyer shall have the right to draw the balance amount and interest earned thereon under Seller's performance guarantee bond.

(d) Except as limited only by Section 13.7(f), once the vessel is on demurrage, all time lost, including time lost due to Force Majeure, shall continue to count as demurrage.

(e) The Statement of Facts of loading for presentment to Buyer as one of the documents required under Section 10.1 hereof shall be prepared by an independent surveyor at Seller's cost, unless otherwise prepared by shipowner or Seller. If the Statement of Facts is prepared by shipowner or Seller, such Statement of Facts shall be confirmed and signed by both shipowner and Seller or their respective agents.

13.9 Overtime

The expenses required for overtime work shall be borne by the Party who has requested the same. If overtime work is ordered by the port authorities, the expenses therefore shall be borne by Seller; provided, however, the expenses for

overtime of the officers and crew of the vessel shall always be borne by Buyer.

13.10 Costs of Delivery

Seller shall bear all of the costs and expenses of and relating to the loading of the Coal on the vessel, wharfage, export and other taxes, imposts and other charges imposed by any government or its agencies, as well as other similar costs which are normally considered to be for Seller's account. Buyer shall bear the shipping agency, berthage, pilotage, tugboat and line handling fees, port charges and other similar costs which normally are considered to be for the vessel's account. If there is doubt as to which Party should bear particular costs or expenses, costs or expenses related to the vessel shall be borne by Buyer, with all other costs and expenses shall be borne by Seller.

13.11 Seller's Shipment Default

In the event of improper loading , trimming, stowage or the amount of Coal which Seller has for any shipment under the Contract is insufficient to meet Buyer's requirements for that shipment stated in Buyer's notice given under Section 13.5 (after taking into account the effect of any action by the shipmaster in accordance with Section 13.5(c)), or in the event constituting " Detention of Vessel " due to Seller's default, then Seller shall pay for any and all losses, damages, and costs (including, without limitation, dead freight and other expenses claimed by the shipping company) suffered by Buyer arising from such improper loading, trimming, stowage, insufficiency or such detention damages claimed by the shipping company (or Buyer), and Seller shall, in addition to the payment of demurrage, pay for any and all losses, damages, and costs arising from or relating to any delay by Seller in loading that shipment of Coal. In such event, the losses, damages, and costs shall be calculated in accordance with the time charter rate (supra, Panamax 4TC or cape 4TC, as the case maybe) reported by Clarkson Securities Limited on B/L date or the demurrage rate as specified in Buyer's relevant charter party, whichever is higher. In the event that no relevant time charter rate has been reported on B/L date, then the immediate succeeding report shall be applied.

13.12 IMO Code

Seller shall furnish the shipowner with the category and characteristics of Coal to be loaded as per IMO's (International Marine Organization) Code or Regulation. Such notice shall be given to the shipowner prior to the commencement of loading. If Seller fails to do so or misstate the category and characteristics of Coal to be loaded, in addition to all other remedies available to Buyer, all losses, damages and costs arising out of this shall be borne by Seller.

13.13 Stevedore Damage

Buyer shall not be responsible for stevedore damage which the vessel sustains at the Port of Loading. Seller shall indemnify and hold Buyer harmless from any and all losses, claims, actions, costs, expenses, judgments, subrogations, or other damages resulting from injury to any person or damage to property of whatsoever nature of any person arising out of or incident to the performance of the work to load cargo onto the vessel at the Port of Loading by Seller (including

but not limited to Seller's employees, agents, subcontractor, stevedore and other designated by Seller to perform the loading work or service in, about or attendant to the loading work). Any time lost due to stevedore damage shall count as laytime.

14. TRANSFER OF TITLE AND RISK OF LOSS

Title to and risk of loss of a shipment of Coal shall pass to Buyer as the Coal passes the vessel's rail at the Port of Loading. For Coal that is rejected under the Contract, title and risk of loss shall revert to Seller immediately upon rejection by Buyer. Seller warrants that the Coal shall be transferred to Buyer free and clear of any liens, encumbrances, or adverse claims of any third party.

15. FORCE MAJEURE

15.1 Events Constituting Force Majeure

Neither Party hereto shall be liable for any delay or failure in the performance of its obligations under the Contract if and to the extent that such delay or failure is directly caused by any event of Force Majeure. The expression "Force Majeure", as used in the Contract, means cause or causes not reasonably foreseeable in normal planning, not avoidable using reasonable diligence, and not within the control of the Party or Parties claiming Force Majeure and includes, but is not limited to:

(a) Acts of God, war (declared or undeclared), blockade, riots, revolution, insurrection, civil commotions, mobilizations, strikes, plagues, epidemics, fires, floods, storms, typhoons, earthquakes, landslides, obstruction of navigation at the Port of Loading, acts of government including policy change, orders of any branch or subdivision thereof, acts of public enemies; and

(b) Major breakdown of or damage to vessels nominated by Buyer, however caused, including, without limitation, acts of God, perils of the seas, fire, barratry of the master and/or crew, pirates, collisions, strandings and accidents of navigation or latent defects in or accidents to hull and/or machinery and/or boilers, whether occasioned by the negligence, default or error of judgment of the pilot, master, mariners or other persons employed by the shipowner, or otherwise.

During any period in which delivery of Coal is suspended or curtailed as a result of Force Majeure, Seller shall allocate coal available to Seller among Seller's customers under existing contracts, including Buyer, in a fair and reasonable manner.

15.2 Notices

The Party whose performance of any obligation is directly affected by a Force Majeure event under Section 15.1 shall, within three (3) Working Days, give notice thereof to the other Party by facsimile or email and shall also, within ten (10) Working Days thereafter as well as after the termination of such events, notify the other Party of particulars of the relevant events and supply supporting evidence. The Party affected by Force Majeure shall use best efforts to mitigate the adverse effect thereof on its performance of the Contract, and shall resume, with the least possible delay, performance of its obligations upon cessation of such cause. If the affected party fails to notify the other party within three (3) Working Days, the Force Majeure event shall take effect after notice has been given.

15.3 Affected Deliveries

As to any quantity of Coal as to which delivery was delayed by Force Majeure, the Party who has received the notice under Section 15.2 shall have the option to cancel such quantities or to take or deliver same at a later date, such option to be exercised within six (6) months after the Force Majeure event is terminated. The timing of any such later delivery shall be as reasonably specified by the Party who received notice of the Force Majeure.

15.4 Obligations Unaffected by Force Majeure

Should either Seller or Buyer declare Force Majeure, nothing in this Article 15 shall relieve either Seller or Buyer from any of its obligations under the Contract (such as , but not limited to, the obligation of Buyer or Seller to pay any amount which has become due and payable under the Contract) which are unaffected by such declaration.

15.5 Extended Force Majeure

In the event that delays caused by Force Majeure events declared by either Party persist in the aggregate for more than 300 days in any 365-day period, then the Party not claiming Force Majeure may terminate the Contract by giving no less than 60 days prior notice to the other Party. No such termination shall excuse either Party from performing all obligations which became due under the Contract (and which were not excused by reason of Force Majeure) before the date of such termination.

16. EXPORT PERMIT, TAX, ETC

Seller shall be responsible for securing export permit. Any export tax, fee, insurance premium derived from complying with government export regulations and other charges of whatsoever nature, which currently exist or may be imposed during the contractual period, shall be for Seller's account.

17. LIQUIDATED DAMAGES FOR DELAY AND QUANTITY SHORTAGE

(a) If Seller fails to load a shipment of Coal at the Port of Loading on or before the latest date of the delivery schedule for that shipment as specified in the CONTRACT AGREEMENT, Seller may load such shipment within the immediately succeeding thirty (30) day period, in which case Seller shall pay Buyer liquidated damages for each day's delay in making the shipment in an amount computed at the rate of 0.1% times the price amount of the shipment (i.e. the Base Price times 80,000 Metric Tons for Panamax Size shipment), including prorated amounts for fractions of a day's delay (rounded to the nearest hour).

(b) If Seller fails to load the late shipment within such thirty (30) day period, Buyer shall have the right to terminate or cancel the Contract without further liability, holding Seller responsible for all resulting damages. If Buyer elects to grant Seller additional time within which to load the Coal, Seller shall load the Coal within such period and shall pay Buyer liquidated damages at the rate

computed above for the total period of delay. If such extension is granted by Buyer, the Contract and the date of expiry of Seller's performance bond associated with the delayed shipment shall be extended correspondingly. If Seller fails to load the Coal within the extension period, Buyer shall have the right to terminate or cancel the Contract without further liability, holding Seller responsible for all resulting damages.

(c) Notwithstanding the foregoing, Seller shall be relieved of liability for liquidated damages under this Article to the extent, but only to the extent, that Seller's failure to perform in a timely manner was:

(i)due to an event of Force Majeure; or

(ii)in the case of a FOBT shipment, due to the failure, for reasons beyond Seller's control, of the performing vessel nominated by Buyer to commence loading on or before the latest date in the delivery schedule specified in the CONTRACT AGREEMENT for delivering that shipment of Coal at the Port of Loading.

(d) In addition to other remedies that may be available to it, Buyer shall be entitled to deduct the amount of liquidated damages (or any part thereof) payable to it under this Article from any amount payable by it to Seller under the Contract, and/or to draw against the performance bond an amount not to exceed the amount of such liquidated damages.

(e) If the quantity of Coal shown in the Bill of Lading (B/L) fails to meet the minimal quantity requirement of the shipment (i.e. 90% of 80,000 metric tons for Panamax Size shipment), in addition to other remedies available to Buyer, Seller shall pay Buyer liquidated damages for quantity shortage as follows:

For Panamax Size shipment:

The Base Price x 80,000 MT x 10% x
((72,000 MT - B/L Quantity)/ 72,000 MT)

In addition, if the quantity of Coal shown in the Bill of Lading (B/L) is greater than 88,000 metric tons for Panamax Size Shipment, it will be treated as 88,000 metric tons for Panamax Size Shipment.

18. WARRANTIES WITH RESPECT TO COAL QUALITY

18.1 Seller shall supply Coal of a quality in accordance with the provisions of the Contract and represents and warrants that:

(a) Each shipment of Coal will be of good grade meeting the Seller's Specifications, not sticky during unloading and free of impurities such as wood, iron, nonferrous materials, blast materials or other foreign materials, whether emanating from mining operations, storage, handling, loading or otherwise;

(b) No shipment of Coal will contain petroleum coke, pitch, pitch coke, tar sludge, or other by-product-related solids (collectively "Organic Contaminant(s)") as may be determined by the Testing Laboratory in accordance with Section 6.5;

(c) No Organic Contaminant or any other non-coal material has been added to any shipment of Coal with Seller's knowledge or connivance;

(d) No salt has been added to any shipment of Coal, whether for freeze-

proofing, dustproofing or elimination of possibilities of spontaneous combustion or otherwise, and no part of any shipment of Coal has been in contact with sea or salt water prior to completion of loading at the Port of Loading;

(e) Seller has used (or has caused the coal mine owner/operator to use, if Seller is an agent or trading firm) due care in mining the Coal to minimize introduction of stones incidental to the mining process and has taken (or has caused the coal mine owner/operator to take, if Seller is an agent or trading firm) steps to minimize any such introduction, and no stones or other such materials have been introduced into the Coal with Seller's knowledge or connivance;

(f) Each shipment of Coal will be fit to be transported safely by ocean vessel from the Port of Loading to the port at which the Coal is to be unloaded and shall neither cause nor pose any risk of causing any damage or loss to the ocean vessel from spontaneous combustion, explosion, or any other peril attributable, directly or indirectly, to that shipment of Coal.

18.2 Seller shall be liable to Buyer for any and all losses, damages and costs (including, without limitation, third-party claims against Buyer) caused by or related to Seller's failure to perform in accordance with the representations and warranties contained in Section 18.1.

In addition to remedies available to Buyer, Sellers shall pay Buyer liquidated damages for time loss at discharging port caused by sticky coal：

Demurrage Rate as specified in Section 12.7 (for CFR shipment) or in Section 13.8 (for FOBT shipment) × Time Loss × 2

18.3 At Buyer's option, Buyer may appoint an independent survey company to survey the Coal for foreign materials or excessive stones at the port at which the Coal is to be unloaded. All expenses relating to such survey shall be for the account of and paid for by Seller if such survey discloses foreign materials or excessive stones in the Coal. The determination of the independent survey company so appointed shall be final, conclusive and binding on the Parties.

18.4 If the Testing Laboratory determines that Organic Contaminants are present in a shipment of Coal, then, in addition to other remedies available to Buyer, Seller shall pay to Buyer an amount calculated in accordance with the following formula:

Percentage of Organic Contaminants by volume times the Initial Commercial Invoice Price, as adjusted according to the determinations by the Umpire Laboratory, if any, times three.

18.5 In addition to any other remedies available to it under the Contract or applicable laws, Buyer shall hold Seller liable for any and all losses, damages, and costs caused by or related to Seller's default, if:

(a) Any shipment of sticky Coal or Coal contains a significant amount of impurities such as wood, iron, nonferrous materials, blast materials or other foreign materials, whether emanating from mining operations, storage,

handling, loading or otherwise;

(b) The percentage of Organic Contaminants, as determined by the Testing Laboratory, is greater than one and one-half percent (1.5%) by volume for any shipment;

(c) Organic Contaminants or any other non-coal material has been added to the Coal with Seller's knowledge or connivance;

(d) Salt has been added to any shipment of Coal; or any part of any shipment of Coal has come into contact with sea or salt water prior to completion of loading of that shipment at the Port of Loading;

(e) Seller has failed to use (or has failed to cause the coal mine owner/operator to use, if Seller is an agent or trading firm) due care in mining the Coal to minimize introduction of stones incidental to the mining process, or has failed to take (or has failed to cause the coal mine owner/operator to take, if Seller is an agent or trading firm) steps to minimize any such introduction, or stones or other such materials have been introduced into the Coal with Seller's knowledge or connivance;

(f) Any shipment of Coal is not fit to be transported safely by ocean vessel from the Port of Loading to the port at which the Coal is to be unloaded or any shipment of Coal causes or poses a risk of causing damage or loss to the ocean vessel from spontaneous combustion, explosion, or other peril attributable, directly or indirectly, to that shipment of Coal.

18.6 Without prejudice to the rights of Buyer specified in the preceding paragraphs, if all or any part of a shipment of Coal is sticky or contaminated by any foreign materials or if such shipment contains an excessive number of stones or contains significantly hard or large stones (notwithstanding the fact that such shipment does not exceed the applicable ash or grindability specifications), and Buyer determines that use of the Coal contained in such shipment may be detrimental to Buyer's facilities or may adversely affect the operation of Buyer's generating units, Buyer may, under protest, discharge and/or store such Coal in Buyer's storage yard or any other place, and notify Seller to screen and/or remove, within the time fixed by Buyer, such sticky coal or foreign materials or excessive stones from the Coal at Seller's risk and expense. If Seller fails to do so in the period fixed by Buyer, Buyer shall have the right to screen and/or remove such sticky coal or foreign materials or excessive stones from the Coal at Seller's risk and expense, and Seller shall compensate Buyer for all extra handling costs and all expenses incurred in screening and disposing of the sticky coal or contaminated Coal, foreign materials, or excessive stones.

19. WARRANTIES WITH RESPECT TO ORIGIN OF COAL, CORPORATE AUTHORITY, TITLE

19.1 Seller represents and warrants that:

(a) The Coal to be supplied to Buyer under the Contract shall be exclusively mined from Seller's Mine;

(b) Seller has the corporate authority and governmental authority to enter into and perform its obligations under the Contract; and

(c) The Coal shall be delivered to Buyer free and clear of any liens and encumbrances or other claims of third parties or restrictions regarding its use.

These representations and warranties constitute the basis of the Contract, and, if all or any part of any of them was incorrect when made or becomes incorrect thereafter for any reason, Buyer, in addition to any other remedies available to it, may rescind, cancel, or terminate the Contract without liability, holding Seller liable for any and all resulting losses, damages and costs.

19.2 At any time during the term of the Contract, including without limitation during the pendency of any dispute, Seller shall provide Buyer at the request of Buyer such documentation, including related documentation reasonably requested by Buyer, as establishes that Seller meets the above representations and warranties.

20. WARRANTY AGAINST CONTINGENT FEES AND BENEFITS; PROCUREMENT INTEGRITY

20.1 Seller represents and warrants that no person has been employed or retained to solicit or secure the Contract or one or more shipments of Coal, and that no person will be employed or retained to administer the Contract or one or more shipments of Coal, upon an agreement or understanding for a contingent fee, bribe, commission, proportional payment, brokerage, thank-you payment, kickback, gift, treat or other improper benefits, excepting bona fide full time employees employed by Seller for the purpose of securing or administering business and no such contingent fee, bribe, commission, proportional payment, brokerage, thank-you payment, kickback, gift, treat or other improper benefits has been or will be paid, provided that this warranty shall not be deemed to be breached by the payment of a contingent fee, bribe, commission, proportional payment, brokerage, thank-you payment, kickback, gift, treat or other improper benefits by Owner to Seller in consideration of Seller's performance of its duties as sales agent if Owner, not Seller, owns and/or operates Seller's Mine and Seller is functioning as Owner's sales agent. Upon Seller’s breach of this warranty, Buyer, in addition to any other remedies available to it, may rescind, cancel, or terminate the Contract without liability, holding Seller liable for any and all resulting losses, damages and costs, and may deduct from the contract price, or otherwise recover, the full amount of such contingent fee, bribe, commission, proportional payment, brokerage, thank-you payment, kickback, gift, treat or other improper benefits.

20.2 Seller represents and warrants that no officials or employees of the Government of the Republic of China, including any subdivision or branch thereof, no employees of Buyer and no consultants (or employees of a consultant) retained by Buyer whose services are in any way related to Buyer's selection of coal, coal mines or coal producers have been or will be admitted, directly or indirectly, to any share or part of the Contract or of any one or more shipments of Coal or to any benefit that may arise therefrom. Breach of this warranty will subject Seller to penalties according to the laws of the Republic of China as well as give Buyer the right to rescind, cancel or terminate the Contract without liability, holding Seller liable for any and all resulting losses, damages and costs, and to deduct from the contract price, or otherwise recover, the full amount of consideration or benefit to which any party has been admitted in breach of this warranty.

20.3 Seller represents and warrants that: (a) it has not borrowed or assumed the name or certificate of another in bidding or entering into the Contract; (b) it has not forged documents or altered documents without authorization in bidding or entering into the Contract; (c) the Certificates submitted by Seller in connection with its TECHNICAL AND COMMERCIAL PROPOSAL were true and correct when submitted and has been and will be true and correct at all times from its submittal through the complete performance of the Contract; (d) it has not engaged in any conduct of a type which the Republic of China Procurement and Public Construction Commission has found to be a violation of law or regulation which affects the fairness of the procurement; and (e) it was not, at the time Seller's Technical and Commercial Proposal and Price Proposal were submitted to Buyer or at the time the Contract was awarded, prohibited from bidding on or being awarded any contract pursuant to Article 103 of the Republic of China Government Procurement Act. Breach of this warranty will subject Seller to penalties according to the laws of the Republic of China as well as give Buyer the right to rescind, cancel or terminate the Contract without liability, holding Seller liable for any and all resulting losses, damages and costs.

21. CONTRACT TERMINATION OR RESCISSION DUE TO SELLER'S VIOLATION OF CONTRACT OR CHANGE IN SELLER'S FINANCIAL POSITION

21.1 Contract termination or rescission due to Seller's violation of Contract

(a) In case of any of the following faults or violations of the Contract on the part of the Seller during the Contract performance, Buyer may notify the Seller in writing of a termination or rescission of the Contract. The Contract may be terminated or rescinded in part or in whole.

(i) Occurrence of the circumstance specified in the first half paragraph of Paragraph 2 of Article 50 of Government Procurement Act.

(ii) The Contract may be terminated or rescinded pursuant to Article 59 of Government Procurement Act.

(iii) In violation of the requirements regarding the Contract assignment

as specified in Article 65 of Government Procurement Act.

(iv) The Seller or any of his personnel has committed any of the offenses prescribed in Articles 87 to 92 of Government Procurement Act and has been sentenced by a court with a " guilty " verdict.

(v) The schedule of the Contract performance has been delayed to a serious extent due to a cause for which the Seller is responsible.

(vi) That the Seller has forged or fabricated documents related to the Contract or Contract performance is proved to be true.

(vii) The Seller has reduced work or materials without permission to a serious extent.

(viii) The Seller fails to execute the Contract without any justification.

(ix) The Seller has neither passed the inspection or acceptance test nor performed as required within the designated time limit.

(x) The Seller can not continue to execute the Contract due to his bankruptcy or any other serious event.

(xi) If the Seller has not performed according to the Contract requirements and completed the required correction within ten (10) days after receipt of Buyer's written notice or within any other time limit designated in such notice.

(xii) Any other event specified in the Contract.

(b) The Seller shall continue to execute the Contract in accordance with the Contract requirements in case Buyer have not notified the Seller in writing of a termination or rescission of the Contract.

(c) If the Contract is terminated or rescinded due to a cause for which the Seller is responsible as specified in Article 21.1(a), Buyer may, in a manner they consider appropriate, complete the Contract by hiring another supplier. Any extra charge thus incurred shall be borne by the Seller of the original Contract.

(d) When the Contract is terminated, Buyer will not release the performance bond and will cancel all the payments after the termination. In addition, the Seller shall also indemnify Buyer for any expense or loss thus incurred.

21.2 Contract Termination due to change in Seller's financial position

Without prejudice to and in addition to Buyer's right to rescind, cancel or terminate the Contract under other Articles hereof, if any of the following occurs, Buyer shall have the right to rescind, cancel or terminate the Contract without liability, holding Seller liable for any and all resulting losses, damages and costs, by serving on Seller written notice of rescission, cancellation or termination with immediate effect:

(a) If all or a substantial portion of Seller's property is subject to a court order for attachment, provisional attachment, provisional disposal, disposal by public sale, disposal for failure to pay taxes or any other similar disposal by a public authority; or if Seller files a petition or has a petition filed against it by any person for reorganization, bankruptcy, or other similar proceedings for rehabilitation of debtors; or

(b) If Seller undertakes a reduction of capital, a dissolution, a transfer of all or a substantial portion of its business or a material alteration or abandonment

of its business as it is presently conducted; or

(c) If Seller is unable to meet any payment obligation as and when it becomes due; provided that Buyer shall not deliver such notice of rescission, cancellation or termination until it has given Seller an opportunity to demonstrate that such change in financial condition does not and will not affect Seller's ability to perform under the Contract, which demonstration Buyer may accept or not in its sole discretion.

If Seller does not own and/or operate Seller's Mine, the word "Seller" in paragraphs above shall be deemed to mean "Seller or Owner".

22. NO ASSIGNMENT

Except to the extent that Buyer may agree in writing, Seller may not assign any of its rights or delegate any of its duties under the Contract.

23. ARBITRATION, LAWSUIT

Except as to (i) decisions identified in other provisions of the Contract as final, conclusive and binding, which decisions shall not be subject to further review or dispute, and (ii) disputes in connection with which either Party raises a claim or defense involving allegations of fraud, misrepresentation, deceit or similar conduct, any question or dispute of whatever nature arising out of or in connection with, or in any way relating to, the Contract shall be finally settled by arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce. Unless both parties mutually agree in writing to use a different language, proceedings before the arbitral tribunal shall be conducted in Chinese; provided that, in any event, any Request for Arbitration, Answer, or other correspondence, communication, or filing with the International court of Arbitration of the International Chamber of Commerce shall be in English.

Decisions identified herein as "final, conclusive and binding" shall not be subject to challenge for any reason (including, without limitation, claims that a sample was unrepresentative or claims that the Marine Surveyor, Inspection Company, or Umpire Laboratory did not proceed in accordance with ISO or applicable ASTM standards or otherwise proceeded improperly or inappropriately). Notwithstanding the foregoing, however, nothing herein shall preclude a challenge based on an allegation that the challenged decision was compromised by willful misconduct.

The arbitration shall be conducted in Taipei, Taiwan, Republic of China.

Any dispute in connection with which either Party raises a claim or defense involving allegations of fraud, misrepresentation, deceit, or similar conduct shall be resolved solely by recourse to the Taipei District Court of the Republic of China (to the jurisdiction of which court the Parties hereby submit for such purpose).

The decision of the court or arbitral tribunal, as the case may be, shall be final and binding on the Parties, and judgment thereon may be entered or enforced in any court having jurisdiction thereof or having jurisdiction over either of the Parties or their assets.

24. GOVERNING LAW

The Contract shall be governed by and construed in accordance with the laws of the Republic of China (without giving effect to its conflict of law principles).

25. NOTICES

Unless mutually agreed or specifically provided otherwise, all notices given or to be given by a Party shall be in writing and sent to the other Party's address specified below or to such other address as the other Party may specify, and shall be deemed to be properly given: (i) if delivered by hand, upon receipt; (ii) if sent by registered mail (air mail, if international), postage prepaid, upon receipt; and (iii) if given by facsimile or email, on the day (which is a business day at place of addressee) immediately following the date on which the facsimile or email is sent; provided that, in the case of notice by facsimile or email, it was given with confirmed answerback.

To Seller: Address specified in the CONTRACT AGREEMENT

To Buyer: Taiwan Power Company
Department of Fuels
9F., No. 242, Roosevelt Road, Section 3, Zhongzheng Dist.,
Taipei City 10016, Taiwan, Republic of China
Facsimile: 886-2-23670597 or 886-2-23678593

26. NO WAIVER; CUMULATIVE REMEDIES

26.1 The failure of either Party to enforce at any time any of the provisions of the Contract, or to require at any time performance by the other Party of any of the provisions thereof, shall in no way be construed to be a waiver of such provision, nor in any way to affect the validity of the Contract, or any part thereof, or the right of either Party thereafter to enforce each and every provision of the Contract.

26.2 All remedies afforded under the Contract shall be taken and construed as cumulative and in addition to every other remedy provided for in the Contract or otherwise available to a Party.

27. ENTIRE AGREEMENT

The Contract constitutes the entire agreement of the Parties with respect to the subject matter thereof and supersedes any prior expression of intent or understanding with respect to the transactions contemplated in the Contract. The Contract may be amended or modified only by a writing signed by the duly authorized representatives of the Parties.

28. SEVERABILITY

If any of the provisions of the Contract shall be held to be illegal or

unenforceable, the validity, legality and enforceability of the remaining provisions of the Contract shall not in any way be affected or impaired thereby.

29. LIABILITY

Neither party shall be liable to the other for consequential damages under or related to the Contract, except that this limitation of liability shall not apply to claims based on (a) Seller's infringement of intellectual property rights, (b) Seller's willful misconduct or gross negligence, (c) Seller's intentional concealment of defects or deficiencies in the Coal, or (d) Seller's wrongful or illegal acts or omissions to the rights or interest of third parties in the course of performance of the Contract. In addition, nothing in this paragraph shall be applicable to Seller's obligations under specific provisions of the Contract (including but not limited to formulas for adjustment of price based on quality as set forth in Article 7 of the General Terms, any stipulations for liquidated damages in accordance with Section 8.3, and Sections 8.2, 9.2, 13.11, 18.5 and 18.6 of the General Terms).

30. SURVIVAL

The provisions of Articles 18 through 20 (Warranties), Article 23 (Arbitration, Lawsuit), and Article 24 (Governing Law), as well as any other provision of the Contract affording either Party a remedy, shall survive the termination, rescission, cancellation, or expiration of the Contract.

Attachment 4

Certificate of Origin

We, the undersigned, do hereby jointly certify to the effect that the information relating to the shipment of coal described below is true and correct and that the shipment of coal was exclusively mined from the coal mine with the name as _____ located in the country of _____ at the address of _____ ____, which is owned/operated by the undersigned Coal Mine Owner/Coal Producer.

Contract Number: _____ Vessel Name: _____

Gross Weight: _____ Sailing Date: _____

Shipped from: _____

Destination: _____

(1). Coal Mine Owner/Coal Producer:

Company Name: _____

(*)

Signed by: _____

(Authorized Signature)

Name: _____

Title: _____

Date: _____

(2). Seller:

Company Name: _____

Signed by: _____

(Authorized Signature)

Name: _____

Title: _____

Date: _____

Note:

If the signature of the authorized officer of the Coal Mine Owner/Coal Producer has not been certified as authentic by a Notary Public, this Certificate of Origin will be unacceptable.

Attachment 5

UMPIRE LABORATORY LIST

1. TLR Technisch Laboratorium Rotterdam BV
   Bankwerkerstraat 16, 3077 MB Rotterdam, The Netherlands 1100
   Tel: 31-10-2823294
   Fax: 31-10-2823282
   TLX 26336
2. SGS/Minerals Services
   1501-A East Patapsco Avenue, Baltimore, MD 21226, U.S.A
   Tel: 1-410-3551958
   Fax: 1-410-3551965
3. SGS/Minerals Services
   107 Pintail Drive, ST. Rose, Louisiana 70087, U.S.A.
   Tel: 1-504-4675522
   Fax: 1-504-4647220
4. SGS
   7 Chain Street, Mackay, QLD 4740, Australia
   Tel: 61-7-49513977
   Fax: 61-7-49511674
5. Bureau Veritas Minerals Pty Ltd
   99 Mitchell Road, Cardiff, NSW 2285, Australia
   Tel: 61-2-49024800
   Fax: 61-2-49024899
6. South Africa Bureau of Standards
   Dr Lategan Road, Groenkloof, Pretoria, South Africa
   Tel: 27-12-4287911
   Fax: 27-12-4287889
   TLX 631228 SA
7. PT. Geoservices
   Jalan Setiabudi 79-81 Bandung, West Java 40153, Indonesia
   Tel: 62-22-2031316/62-22-2038309
   Fax: 62-22-2031198/62-22-2038090
8. PT. Geoservices
   Jalan M. T. Haryono RT. 41 No.161, Balikpapan 76114, East Kalimantan, Indonesia
   Tel: 62-542-872155/62-542-872156/62-542-872157
   Fax: 62-542-872151
9. SGS Australia Pty. Ltd.
   6 Metal Pit Drive, Steel River Industrial Estate, Mayfield West, NSW 2304, Australia
   Tel: 61-2-49607800
   Fax: 61-2-49607844
10. Acirl Quality Testing Services Pty. Ltd. (ACTEST/NC)
    2 Spit Island Close, Mayfield, NSW 2304, Australia
    Tel: 61-2-40142600
    Fax: 61-2-40142699

11. Bureau Veritas Minerals Pty Ltd
    102 Hanson Road, Gladstone, QLD 4680, Australia
    Tel: 61-7-4972-4966
    Fax: 61-7-4972-3469
12. SGS Minerals Services Denver, Colorado
    4665, Paris Street, Suite B-200, Denver, CO 80239, U.S.A.
    Tel: 1-303-373-4772
    Fax: 1-303-373-4791
13. Sucofindo TBCT
    Sucofindo Sangatta PT. Kaltim Prima Coal Mine site JKA Building, Jl Tanjung Barat, Sangatta, Bontang, Kalimantan, Indonesia
    Tel: 62-549-525213/62-549-525217/62-549-525220
    Fax: 62-549-525214
14. Sucofindo/Samarinda
    Jalan Teuku Umar No.65, RT.60 Kelurahan Karang Asam, Samarinda, Kalimantan Timur 75126, Indonesia
    Tel: 62-541-6293771/62-541-6293777
    Fax: 62-541-6293777
15. Nippon Kaiji Kentei Kyokai
    Physical & Chemical Analysis Center, 14-2, 1 Chome, Sachiura, Kanazawa-ward, Yokohama City 236-0003, Japan
    Tel: 81-45-772-1522
    Fax: 81-45-772-153

Attachment 6

SPECIMEN OF PERFORMANCE GUARANTEE BOND form

Irrevocable Standby Letter of Credit (see note 1)	Credit number
Place and date of issue	Date and place of expiry Month Date, 201x at the negotiating bank in Taiwan
Applicant	Beneficiary Taiwan Power Company No. 242, Roosevelt Road, Section 3, Zhongzheng Dist., Taipei City 10016, Taiwan, R.O.C.
Advising Bank	Amount

Gentlemen:
We hereby issue in your favor the Irrevocable Standby Letter of Credit which is available with any bank in Taiwan by negotiation against beneficiary's draft(s) or simple receipt(s) at sight drawn on us accompanied by the following document:
Beneficiary's signed statement certifying that _____(name of the Seller) has deviated from the requirements as specified on the invitation documents under Contract No._____, Invitation to Bid No. TPC10805-LS of Beneficiary.

Special Instructions:
1. Partial drawings are allowed.
2. All charges including confirmation fee, if any, are for applicant's account.

We hereby agree with the drawers, endorsers and bona fide holders of draft drawn and negotiated under and in compliance with the terms of this credit that such draft(s) or simple receipt(s) will be duly honored without recourse upon presentation to the drawee.
This credit is subject to the Uniform Customs and Practice for Documentary Credits (2007 Revision), International Chamber of Commerce, Paris, France, Publication No. 600.

Authorized Signature

_____

Note:
1. The standby letter of credit shall be issued or confirmed by a bank registered in the Republic of China on Taiwan.