

MoU 1999

## MEMORANDUM OF UNDERSTANDING

### Introduction

1. The scheme to raise ex-servicemen (ESM) coal transportation companies was formulated between the erstwhile Ministry of Energy and Ministry of Defence in 1979 with the aim of having union free captive transport organisations in coal subsidiaries and providing an opportunity to ex-servicemen for resettlement.
2. The scheme has been successful and mutually beneficial to both the parties. Though instructions/guidelines exist on formation of running of ex-servicemen coal transportation companies, based on the experience gained so far, it has become necessary to review and revise certain terms and conditions governing formation and running of these companies. The same has been generally successful and mutually beneficial to both the parties.
3. This MOU supersedes the last MOU signed on 8th April'93.

### Formation of Private Ltd. Co.

4. On a request being received from CIL or anyone of its subsidiaries (hereafter referred to as the coal subsidiary), the DGR will have suitable and eligible ESM selected to form a Private Ltd. Co. (hereafter referred to as the ESM Co.) After a feasibility study by the sponsoring director (s) the Co. will be formed and registered with the Registrar of Companies as a Pvt. Ltd. Co. under Companies Act 1956. The Memorandum and Articles of Association will be approved by the DGR. It will be the responsibility of the DGR to ensure that all individuals forming or participating in the Pvt./ Ltd. Co. are only entitled ESM/widows/dependants and that they are suitable and financially sound.
5. **Eligibility** :Eligibility conditions as approved by the MOD from time to time will apply. These will be intimated to CIL/Coal Subsidiary before implementation. In case of any reservation by CIL/subsidiary companies, the same will be discussed before implementation. Broadly the eligibility conditions effective from the date of signature are as follows :
  - a) **Directors**: Sponsoring and two to four other directors who should have registered with the DGR within two years of release/retirement and be below the age of 57 years at the time of sponsorship. Each ESM Co. will have a minimum of three Officer-director and a maximum of 2 JCO directors. Additional ESM may be co-opted as additional directors / preferential share holders who should not have retired / released more than five years before being co-opted. Directors should have no adverse entries in their record of service and an attested photocopy of record of service and bio-data will have to be submitted along with the application for registration to DGR.



Tipper Owners/Owner Drivers

- ESM should not be above the age of 55 yrs and have retired/released within the last 10 years.
- (ii) Eligible disabled ESM/their widows.
  - (iii) Dependants (unemployed male child below 25 years and unmarried daughters) of service personnel dying while in service due to causes attributable to service.
  - (iv) Widows of service-personnel dying while in service.
- (c) Office/Supervisory Staff: ESM at the time of employment should be below the age of 55 years and retired within the last 10 years.
  - (d) No director should normally be above the age of 62 years at any point of time.
6. **Financing & Share Holding:** Each ESM Co. will start with an initial capital of about Rs.35 lakhs or more shared approx in equal ratio between the directors and the preferential share holders inducted at the time of formation of ESM Co. This may be revised from time to time. All the shares of the Co. will only be held by the directors, the ESM owner/drivers and regular ESM employees of the Co. and the preferential share holders.
7. **Number of ESM Employees :** The ESM Co. will employ a minimum of 75% of total regular employees as ESM or **widows/dependants** within 6 months of commencement of work. Nominal roll of all employees will be submitted on the laid down format along with half yearly and annual returns by ESM Co. The DGR will arrange for random spot checks to ensure compliance. The following categories will be taken into account while calculating the total number of employees for the purpose of working out 75%.
- a] Share holders of the Co.
  - b] Office personnel & Supervisory staff
  - c] Tipper owners /owner drivers.
  - d] Workshop staff, if workshop is established by Co.

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

8. **Fleet Strength and Ownership:** All the tippers & loaders will be owned by the eligible ESM, widows/disabled/dependants of entitled ESM or the ESM Co. Hire purchase is permissible, Hiring of loaders and tippers is not permitted. To tide over peak seasons or temporary additional targets, 25% or a maximum of 5 tippers whichever is less, may be hired with prior permission of DGR for a period not exceeding three months in a cycle of 12 months. The ownership pattern for the fleet will be as follows:

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	1st 10 Tippers & one loader.	2nd 10 Tippers & one loader	Next 10 Tippers & one loader
a) ESM - other drivers	8-2	1 or more	3 or more
b) Former ESM Widow dependents disabled	1-2	2-4	2
c) ESM Directors	-	5 @	2 @
d) ESM Co., if any	-	*	*

- \* Balance if any
  - @ Subject to a maximum of one each per Director
- Note: Pay Loaders will be owned by the ESM Co.

9. **Enhancement of Fleet**

- a) Each ESM Co. may be initially allowed to commence work with a minimum of 1 pay loader and 10 tippers. This fleet shall be enhanced to 2 pay loaders and 20 tippers within 9 months and upto 3 pay loaders and 30 tippers within 18 months of commencement of work subject to availability of commensurate work with concurrence of DGR. In exceptional circumstances, 40 tippers and 4 payloaders may be permitted with the consent of DGR and Coal subsidiaries.
- b) If any ESM Co. fails to enhance fleet within the stipulated time, an additional time of 3 months with penal deductions will be allowed. The rate of penal deductions will be decided by the coal company in consultation with DGR and specified in the Letter of Intent (LOI):
- c) If the ESM Co. still fails to enhance the fleet commensurate with work, a show cause notice would be issued by the coal subsidiary to the ESM Co, under intimation to DGR. Failure to enhance the fleet within three months without plausible reasons will lead to suspension of work/payment under intimation to DGR. DGR shall intimate the Coal subsidiary the action taken in this regard within a period of 3 (three) months of such recommendation.

10. **Period of Contract** - The initial contract will be valid for 5 years from the date of commencement of work. The concerned coal subsidiary and ESM Co. will sign the contract within 3 months of commencement of work. One copy of the same will be forwarded to the DGR for record.

11. **Renewal of Contract** - Renewal of contract for another term of four years may be considered by the Coal Subsidiary and DGR jointly provided the past performance and functioning of the ESM Co. has been satisfactory and employment of ex-servicemen has been as per the laid down policy, for which the coal subsidiary should send the proposal to DGR.

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**Security Deposit** - An ESM Co. will be required to deposit 5% of the annual work order subject to a maximum of Rs.3.00 lakhs as security deposit to the concerned coal subsidiary. This amount will be recovered by Coal subsidiary in monthly instalment at the rate of 3% of each running bill or of Rs. 10,000/- per month whichever is more. However, total security amount will be recovered within maximum of 30 monthly instalments. The first instalment shall begin from fifth month from the commencement of work. However if ESM company desires, it may substitute the amount of three lakhs by a bank guarantee for the balance period. The format of the bank guarantee will be vetted by D(F) of subsidiary company.

13. **Allotment and Distribution of Work** - Coal subsidiaries will ensure that work load is given at each stage and that all ESM Cos. are given equal opportunity and work as far as possible.
14. **Allotment of Work Site** - The Coal Subsidiaries will ensure that as far as possible, ESM Co. are provided work sites separate from those allotted to civilian contractors. The work site will be mentioned in the Letter of Intent and as far as possible will not be changed.
15. **Award of Work**
  - a) Transport contract to be given to ESM Co. by the coal subsidiary shall be strictly confined to DGR sponsored companies only. Under no circumstances the Coal Subsidiary will deal with any ESM Co. not sponsored by DGR.
  - b) It shall be the responsibility of the DGR to inform the Coal subsidiary immediately in case any of the DGR sponsored ESM Co., during the tenure of contract with the coal subsidiary, is de-sponsored by DGR so as to enable the coal subsidiary to stop business with such de-sponsored ESM Co. However, before desponsoring, DGF shall inform the Coal subsidiary. In order to avoid sudden disruption of coal transportation, the coal subsidiary may allow such desponsored ESM Co. to transport coal for a maximum period of 3 months or for a period within which the coal subsidiary makes alternate transport arrangements, whichever period is less.
16. **Prohibition on sub-contracting** - No DGR sponsored ESM Co. shall in any manner or under any circumstances, sub-contract the whole or part of the transport work allotted to them.
17. **Settlement of Bills** - Fortnightly bills for coal transportation/loading shall be submitted to ESM Cos. These bills should normally be cleared in the following fortnight. In case of a problem ESM company may approach the CMD/DGR.
18. **Policy on Fixation of Rates & Revision of Rates.**

Modalities of fixing rates and escalation to be paid yearly will be formulated by Coal India in consultation with DGR.

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**Lead Space & Accommodation** - Coal subsidiaries will allot suitable site/space for ~~establishment~~ of temporary garages, workshop, site offices and barrack accommodation for the ESM Co. Subject to availability, coal subsidiary to provide upto two-three married ~~accommodation~~ quarters for the directors/regular employees at prevalent rates. Guest house ~~accommodation~~ may also be provided at prevalent rates and norms.

## 20. Compliance of MOU & Termination of Contract

a) ~~In case an ESM Co. is not adhering to the conditions of MOU and/or terms and conditions of work laid down by the DGR/CIL/Coal Subsidiary and/or found indulging in any malpractice, the coal subsidiary may initiate any or all of the following actions.~~

- i. Termination of contract
- ii. Withholding of payment of bills
- iii. Forfeiture of Security Deposit.

b) However, before initiating any of these actions, the coal subsidiary would issue a show cause notice to ESM Co. under intimation to DGR and afford reasonable opportunity to the ESM Co. to initiate corrective/remedial measure.

c) DGR and the CIL/Coal Subsidiaries will fully co-operate and constantly endeavour to devise measures to ensure compliance of various provisions of MOU and other conditions laid down by MOD/CIL from time to time. Further DGR should evolve a system to ensure compliance of MOU provisions regarding deployment of ex-servicemen, their vehicles, their payments and the constitution of board of directors. In case DGR finds anything in variance with the MOU provisions on these, his office will inform the CIL and initiate suitable action.

## 21. Reports & Returns

a) All ESM Cos. will submit a half yearly return as on 30 June & 31st December and an annual report as on 31st Dec. covering the period from 1st Jan. to 31 Dec. so as to reach DGR by 30th July and 30th Jan. respectively, without fail. The proforma of the report will be issued by the DGR.

b) Specific/relevant portions of the reports concerning the Coal Subsidiary will be authenticated by the authorised representative of the Coal Subsidiary.

c) Aim of these reports amongst others is to check deployment of vehicles/equipment, percentage of ESM detect irregularities, if any, and to monitor the progress of ESM Co. by DGR.

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

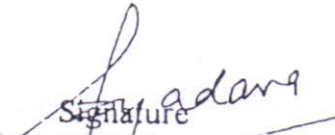
~~Annual Meeting Between~~ **Annual Meeting Between ex-servicemen Directors and Director (Incharge of**  
~~Production) of Coal Subsidiaries.~~

To review the functioning of the ESM Cos. and to resolve any functional problems, quarterly meetings of the Director of the concerned Coal Subsidiary and the representative Directors of the ESM Cos. operating within the jurisdiction of the Coal Subsidiary will be held on following suitable dates:

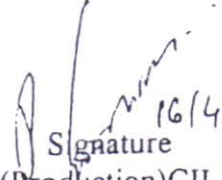
**Annual Meeting of DGR, CIL and CMDs of Coal Subsidiaries**

Annual meeting between the DGR and Chairman CIL/CMDs of Coal subsidiaries (where ESM Cos. are operating) will be held to review the performance of ESM Co. and resolve issues raised by the ex-servicemen and the Coal Subsidiaries.

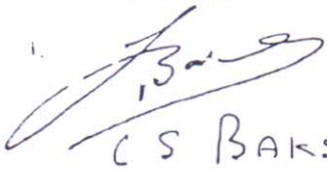
24. This MOU shall come into effect from the date of signature. All the existing/working ESM Cos. shall comply with the provisions of Para 7 of this MOU within a period of six months. Further all the existing/working companies will comply with the provision of para 8 and 9 for all future accretions of tippers and pay loaders.

  
Signature  
DGR/Representative

Mej 4 u 16 Apr, 99

  
Signature  
GM(Production)CIL/Representative  
PKARUNESAN.

Witness

  
C S BAKSHI  
CSI  
Dir (Genl Insp)  
DGR