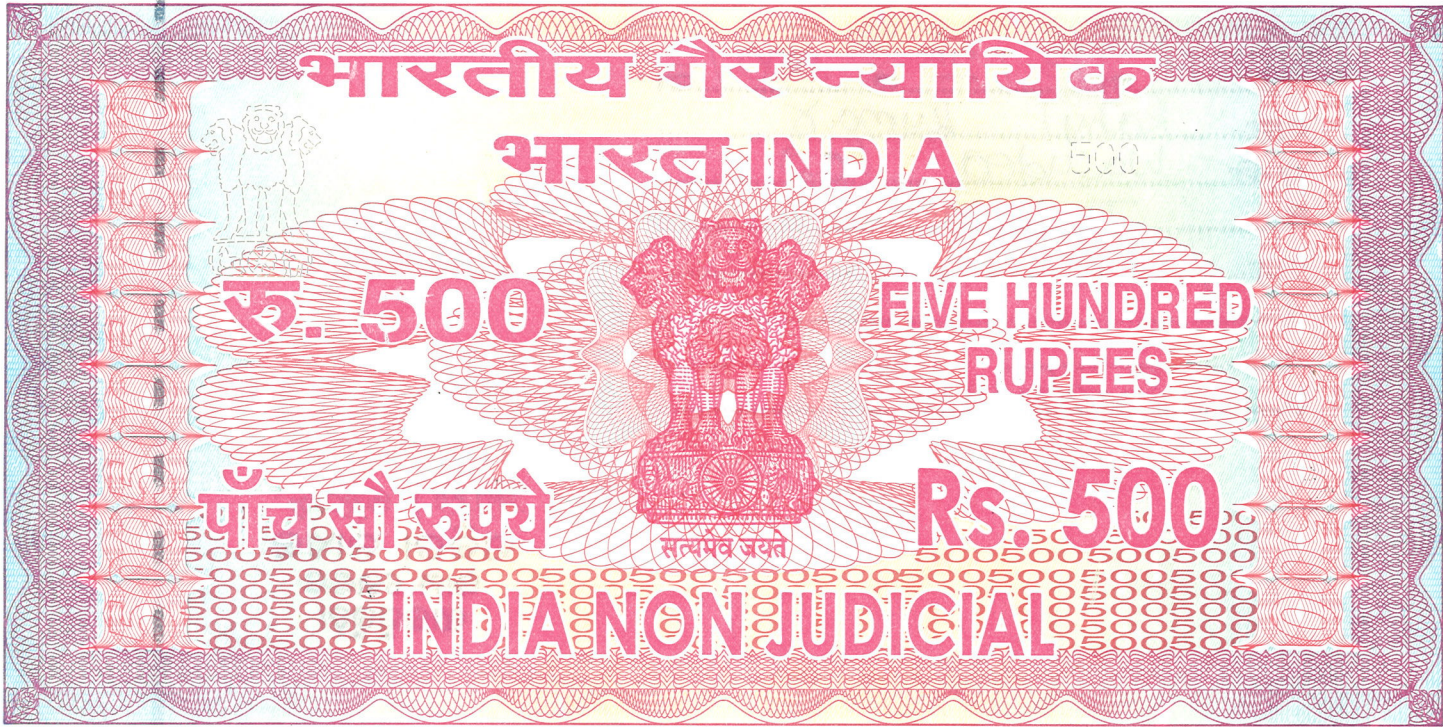


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F 996825

THIS STAMP PAPER FORMS AN INTEGRAL PART
OF THE AGREEMENT EXECUTED BETWEEN
SHIVA CEMENT LIMITED (SCL) AND BHUSHAN
POWER AND STEEL LIMITED (BPSL) ON 22ND JAN. 2015.

S. K. Sharma



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F 996826

THIS STAMP PAPER FORMS AN INTEGRAL PART
OF THE AGREEMENT EXECUTED BETWEEN
SHIVA CEMENT LIMITED (SCL) AND BHUSHAN
POWER AND STEEL LIMITED (BPSL) ON 22ND JAN. 2020

Signature

DATED 22ND JANUARY 2025

AGREEMENT

BY AND BETWEEN

**SHIVA CEMENT LIMITED
("SCL")**

AND

**BHUSHAN POWER AND STEEL LIMITED
("BPSL")**

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AGREEMENT

This Agreement ("**Agreement**") is made at Bhubaneswar, Odisha on 22nd day of January, 2025 ("**Execution Date**"):

BY AND BETWEEN:

1. **SHIVA CEMENT LIMITED**, a company incorporated under the Companies Act 1956, having its registered office at Shiva Cement Limited, Telighana, PO: Birangatoli, Tehsil-Kutra, District-Sundargarh, Odisha – 770018, and having permanent account number AACCS4497A (hereinafter referred to as the "**SCL**", which expression shall, unless inconsistent with the context or meaning thereof, be deemed to mean and include its successors and permitted assigns) of the **FIRST PART**;

AND

2. **BHUSHAN POWER AND STEEL LIMITED**, a company incorporated under the Companies Act 1956, having its registered office at 4th Floor, A-2, NTH Complex Shaheed Jeet Singh Marg USO Road, Qutab Institutional Area, South Delhi, New Delhi, Delhi - 110067 and having permanent account number AAACB9760D (hereinafter referred to as the "**BPSL**", which expression shall, unless inconsistent with the context or meaning thereof, be deemed to mean and include its successors and permitted assigns) of the **SECOND PART**;

SCL and BPSL are hereinafter collectively referred to as the "**Parties**" and individually each as a "**Party**".

WHEREAS:

- (A) SCL is *inter alia* engaged in the business of manufacture and sale of cement and allied products, and BPSL is *inter alia* engaged in the business of manufacture and sale of steel and allied products.
- (B) BPSL is in the process of building, erecting and installing a Grinding Unit (as defined hereinafter) at the Land Parcel situated at Village - Lapanga, Tehsil - Rengali, District - Sambalpur, Odisha 768212;
- (C) SCL is desirous of acquiring the said Grinding Unit (*as defined hereinafter*), and BPSL has agreed transfer and deliver the Grinding Unit to SCL, subject to the Transaction Approvals (*as defined below*) being obtained and in accordance with the relevant terms and conditions mentioned herein.
- (D) The Parties have accordingly entered into this Agreement, to record their understanding in relation to the Transaction (as defined below). In connection with the implementation of the Transaction, the Parties have previously also executed a Memorandum of Understanding dated 04 October 2024 and amendment no. 1 to the Memorandum of Understanding dated 11 December 2024 ("**MoU**") and pursuant thereto, SCL has agreed to remit a sum of INR 50,00,00,000 (Indian Rupees Fifty Crores) to BPSL ("**MoU Amount**").

NOW THEREFORE, IN CONSIDERATION OF THE FOREGOING, AND THE MUTUAL COVENANTS, PROMISES, AGREEMENTS AND PROVISIONS SET FORTH HEREINAFTER, THE PARTIES HEREBY AGREE AS FOLLOWS:



1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement, the following terms, to the extent not inconsistent with the context thereof, shall have the meanings assigned to them herein below:

"Acceptance Notice" has the meaning ascribed to it in Clause 9.3.4(a);

"Act" means the Companies Act 2013 and the rules and regulations prescribed thereunder, as amended from time to time;

"Affiliate" means, (i) with respect to any Person other than a natural individual, any other Person which is a holding company or a Subsidiary of such Person, or any Person which, directly or indirectly, (a) Controls such Person; (b) is Controlled by such Person; or (c) is Controlled by the same Person who, directly or indirectly, Controls such Person; and (ii) with respect to a Person being a natural individual, a Relative of such Person and any entity which is Controlled by (or together with) any one or more members of the Relatives of such Person;

"Agreed Form" means in a form mutually agreed between the Parties in writing;

"Announcement" has the meaning ascribed to it in Clause 14.1.1;

"Applicable Law" means all applicable provisions of all (a) constitutions, treaties, statutes, laws (including the common law), statutes, codes, rules, regulations, acts of Parliament, notifications, ordinances, by-laws, policies, directions, directives, guidelines, circulars or other requirements of any Governmental Authority including applicable general law rules; (b) consents from Governmental Authorities; and (c) orders, decisions, approvals, injunctions, judgments, awards or decrees of or any similar form of decision or determination by or any interpretation or administration of any of the foregoing by any Governmental Authority or agreements with any Governmental Authority, which are applicable to any of the Parties, whether in effect as on the Execution Date or thereafter and in each case, as amended from time to time.

"Arbitration Rules" has the meaning ascribed to it in Clause 11.3;

"Assets" means: (a) the Grinding Unit, and includes any obligations or liabilities incurred by BPSL in relation to the Grinding Unit; and (b) all contracts / arrangements executed / entered into by BPSL in relation to the Grinding Unit, including the Third-Party Arrangements;

"Assets List" has the meaning ascribed to it in Clause 6.3;

"Asset Sale Proceeds" has the meaning ascribed to it in Clause 10.4;

"Business Day" means a day, other than Sunday, on which the principal commercial banks located in Sundargarh and Sambalpur, Odisha, India are open for business during normal banking hours;

"Claim" has the meaning ascribed to it in Clause **Error! Reference source not found.**;

"Claim Notice" has the meaning ascribed to it in Clause **Error! Reference source not found.**;

"Closing" means the completion of the sale and purchase of the Assets in accordance with Clause 7;



"Closing Consideration" has the meaning ascribed to it in Clause 7.2.2;

"Closing Date" has the meaning ascribed to it in Clause 5.2.1;

"Completion Notice" has the meaning ascribed to it in Clause 2.3;

"Completion of Plan" has the meaning ascribed to it in Clause 2.3;

"Conditions Precedent" has the meaning ascribed to it in Clause 5.2.1;

"Confidential Information" means all information and other material passed by one Party to another in relation to the Transaction, whether before, on or after the Execution Date, whether in writing, verbally or by any other means and whether directly or indirectly, and includes, but is not limited to trade secrets, specifications, technical information, know-how and all other confidential and proprietary information in relation to SCL, the Assets and BPSL, which is not in the public domain, whether or not specifically designated as such and without prejudice to the generality of the foregoing, including such information which: (i) has been marked as confidential by any of the Parties; (ii) any of the Parties have communicated the confidential nature of; and / or (iii) due to its character or nature a reasonable Person would treat as confidential;

"Control" in relation to a specified Person means the possession by another Person or a group of Persons, acting in concert, of the power, direct or indirect, to direct or cause the direction of the management and policies of such specified Person, whether by contract or otherwise, and in any event, includes ownership, directly or indirectly, in excess of 50% (Fifty Percent) of the voting securities of such specified Person or the ability to appoint the majority of the directors of such specified Person. The words **"Controlled"** and **"Controlling"** have a correlative meaning;

"CP Confirmation Notice" has the meaning ascribed to it in Clause 5.2.1;

"CP Satisfaction Notice" has the meaning ascribed to it in Clause 5.2.1;

"Cure Period" has the meaning ascribed to it in Clause **Error! Reference source not found.**;

"Designated Bank Account" means the following bank account into which SCL shall remit the Purchase Consideration in accordance with the terms hereof:

Account Name : Bhushan Power and Steel Limited

Account No. : 00000040778734653

Bank Name : State Bank of India

IFSC Code : SBIN0001508

Branch : Industrial Estate, Chandigarh (01508)

"Dispute" has the meaning ascribed to it in Clause 11.2;

"Encumbrance" means any mortgage, charge, lien (including a non-disposal undertaking), pledge, restriction, adverse claim, hypothecation, assignment, right of first refusal, right of pre-emption, Third Party right or interest, deed of trust, option, title retention, other



encumbrance or security interest of any kind or nature including without limitation, any restriction on use, enjoyment, voting, transfer, disposal, gift, exchange, receipt of income or exercise of any attributes of ownership or any arrangement to create any of the foregoing or any power of attorney (by whatever name called) for creation of the aforesaid;

"Exclusive Arrangement" has the meaning ascribed to it in Clause 5.4.3;

"Existing IDCO Lease Deed" means: (a) the lease deed no. 11651400894 dated 16 December 2014; (b) lease deed no. 11651400133 dated 04 March 2014, executed by and between BPSL and IDCO;

"Facility Agreement" has the meaning ascribed to it in Clause 14.11.2;

"Government Approval" means any authorisation, consent, approval, clearance, license, lease, ruling, permit, certification, exemption, filing for, or registration required by or with any Governmental Authority;

"Governmental Authority" means any government (foreign, domestic, multinational, federal, territorial, state, municipal or local), or any governmental, legislative, executive, administrative, fiscal, judicial, quasi-judicial, statutory body or regulatory authority, government-owned or government-controlled (in whole or in part) enterprise, public international organisation, ministry, department, commission, court, tribunal, agency, instrumentality or other Person exercising legislative, executive, administrative, fiscal, judicial or regulatory functions (including planning authorities, mediators or arbitrators of competent jurisdiction), having jurisdiction over the matter in question, in any jurisdiction or political sub-division (as the case may be);

"Grinding Unit" means the 1.0 MTPA cement grinding unit (along with rights to use the Land Parcel, and all civil structures, plants and machinery, engineering and development works and other miscellaneous fixed assets as may be required for the operation of the cement grinding unit) to be set up by BPSL on the Land Parcel in the manner as set out in this Agreement;

"IDCO" means the Odisha Industrial Infrastructure Development Corporation;

"Identified Amounts" has the meaning ascribed to it in Clause 4.2.1 (b);

"Identified Plan" has the meaning ascribed to it in Clause 2.1;

"Indemnified Persons" means the BPSL Indemnified Persons or the SCL Indemnified Persons, as the case may be;

"Indemnifying Person" means the BPSL Indemnifying Person or the SCL Indemnifying Person, as the case may be and has the meaning ascribed to it under Clause 9;

"Indemnity Event" has the meaning ascribed to it in Clause 9.8.1;

"INR" means Indian Rupees, the lawful currency of India;

"Insolvency Event" with respect to any Party means (i) the passing of any order that such Party be wound up or a receiver or custodian be appointed in respect of such Party or any of its assets; (ii) admission of proceedings or an application to initiate a corporate insolvency resolution process against such Party under the Insolvency and Bankruptcy Code 2016, or the appointment of a trustee, receiver, liquidator, custodian, or other similar official with respect



to itself or a substantial part of its assets or property, before a competent Governmental Authority under any Applicable Law, and such proceeding or application or appointment has not been withdrawn or dismissed by an order of the relevant court or has been not been stayed by virtue of appeal before a higher court or tribunal or Governmental Authority, in each case, within the earlier of (a) 15 (Fifteen) days from the date such proceedings are filed or within the permitted period for appeal; or (b) 3 (Three) Business Days prior to the Closing Date; (iii) entering into a compromise or arrangement with its creditors; or (iv) passing of a resolution by such Party's shareholders for a voluntary winding up or dissolution of such Party;

"Intervening Period" means the period between the Execution Date and the Closing Date;

"Knowledge" shall mean the actual or constructive knowledge of each director on the board of directors of BPSL, the key management personnel of BPSL or the relevant BPSL employee tasked with the business function in question, in each case assuming due and careful inquiry;

"Land Parcel" means the land underlying the lease deed no. 11651400894 registered on / dated 16 December 2014 admeasuring 64.38 acres, land underlying the lease deed no. 11651400133 dated 04 March 2014 admeasuring 3.07 acres and land underlying the registered sale deed no. 11652301090 dated 31 August 2023 admeasuring 1.89 acres, total land being of 69.34 acres located at Village - Lapanga, Tehsil - Rengali, District - Sambalpur, Odisha 768212;

"Legal Proceedings" means any suit, civil or criminal actions, arbitration or judicial or administrative proceedings, pending before any Governmental Authority or any arbitration panel;

"Losses" means all claims, demands, actions, judgments, awards, fines, penalties, Taxes, damages, losses, reasonable costs (including reasonable legal and other professional costs) and liabilities, but excluding any indirect or consequential losses or any remote or speculative damages including any claims of loss of profit or loss of reputation. ;

"Material Adverse Effect" means:

- (a) any event after the Execution Date that has, or could reasonably be expected to have, individually or in the aggregate, a material adverse impact on the Assets; or
- (b) any change in Applicable Law after the Execution Date, which (a) prohibits any of the Parties from consummating any part of the Transaction; (b) imposes onerous conditions for the consummation of any part of the Transaction; or (c) has a material adverse effect on the legality, validity, binding nature or enforceability of the Transaction Documents;

provided that none of the following shall be deemed to constitute, and none of the following shall be taken into account in determining whether there has been a Material Adverse Effect: any event, circumstance, development, effect and / or change (i) affecting the industry or the markets in which the Assets operate or affecting the economy as a whole unless such changes are substantial in nature; (ii) relating to any change in Applicable Law (other than in point (b) above) or the accounting policies, requirements or principles; and / or (iii) resulting from the taking of any action expressly contemplated or required by or which is authorized, approved or consented to in accordance with this Agreement and / or the Transaction Documents;

"MoU" has the meaning ascribed to it in Recital C;



"MoU Amount" has the meaning ascribed to it in Recital C;

"Mutual Conditions Precedent" has the meaning ascribed to it in Clause 5.1;

"Objection Notice" has the meaning ascribed to it in Clause 9.3.4(b);

"Ordinary Course of Business" means the ordinary course of the Business consistent with past custom and practices of BPSL and to the extent it is in accordance with Applicable Law, and where relevant, includes maintaining the Assets in accordance with normal industry practice as may be necessary, except for normal wear and tear of the relevant assets;

"Payment Request" has the meaning ascribed to it in Clause 4.2.1 (b);

"Pending Payments" has the meaning ascribed to it in Clause 4.2.1 (b);

"Person" means any natural individual, sole proprietorship, partnership, limited liability partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate and a natural person (including in his capacity as trustee, executor, administrator, or other legal representative or any other entity that may be treated as a person under the Applicable Law);

"Purchase Consideration" means the sum of the Total Prepaid Amount and the Closing Consideration;

"SCL Warranties" means the representations and warranties being provided by SCL to BPSL in terms of Clause 8.1 and **Schedule 6** (SCL Warranties), and **"SCL Warranty"** means any of them;

"Rectification Notice" has the meaning ascribed to it in Clause 2.2;

"Relative" has the meaning ascribed to it under the Act;

"Representatives" has the meaning ascribed to it in Clause 14.1.2(b);

"Restricted Action" has the meaning ascribed to it in Clause 6.1.1;

"BPSL Warranties" means the representations and warranties provided by BPSL to SCL in terms of Clause 8.2 and **Schedule 7** (BPSL Warranties), and **"BPSL Warranty"** means any of them;

"BPSL Conditions Precedent" has the meaning ascribed to it in Clause 5.1;

"BPSL Indemnified Persons" has the meaning ascribed to it in Clause 9.2;

"BPSL Indemnifying Person" has the meaning ascribed to it in Clause 9.1;

"Subsidiary" has the meaning ascribed to the term "subsidiary company" under Section 2(87) of the Act;

"Tax" or "Taxes" means all forms of applicable taxes, whether direct or indirect, duties, imposts, levies, withholdings, minimum alternate tax or other like assessment and all charges, costs, interest, penalties, surcharges, cesses, fines, incidental or relating thereto, imposed by any Taxing Authority, and shall include all taxes on income, profits, book profits, transfer, withholding, capital gains, distribution taxes, goods and services taxes ("**GST**"), sales, wealth,



value added taxes, excise, customs duties, stamp duty and property taxes and any liability or obligation for the payment of any amounts of the type described earlier;

"Taxing Authority" means a Governmental Authority responsible for the imposition of any Tax and any liability in respect of Taxes and includes any revenue and fiscal authority;

"Third Party" means any Person not being a Party;

"Third Party Arrangements" has the meaning ascribed to it in Clause 4.2.1 (b);

"Third Party Claim" has the meaning ascribed to it in Clause 9.3.1;

"Total Prepaid Amount" means the sum of each Identified Amounts (paid in accordance with Clause 4.2 hereof) and the MoU Amount;

"Transaction" means the transfer of the Assets by BPSL to SCL on an itemized basis, in the manner and on the terms as set out in this Agreement and such other related matters as may be mutually agreed in writing between the Parties or their Affiliates in this Agreement or otherwise in relation to such transfer;

"Transaction Approvals" shall mean all the Governmental Approvals required to be obtained by BPSL for consummation of the Transaction, which shall include but not be limited to:

- (a) approval of the Ministry of Environment, Forest and Climate Change for splitting and transfer of the 'environmental clearance' obtained by BPSL in relation to the Grinding Unit, in favor of SCL;
- (b) approval of the State Pollution Control Board, Odisha for splitting and transfer of the 'consent to establish' obtained by BPSL for installing the Grinding Unit, in favor of SCL;
- (c) approval of the State Pollution Control Board, Odisha for splitting and transfer of the 'consent to operate' obtained by BPSL for operating the Grinding Unit, in favor of SCL;
- (d) approval of IDCO for grant of rights through a Land Document to SCL to use the Land Parcel on which the Grinding Unit is being installed and operated, and all other waivers, consents or approvals as may be required to be obtained from IDCO in accordance with the Existing IDCO Lease Deed; and
- (e) any other consents, waivers and / or approvals as may be required to fulfil the scope of this Agreement.

"Transaction Documents" means this Agreement, MoU and such other document as may be mutually agreed between the Parties as being necessary in connection with the Transaction (including, novation / assignment agreements for effecting transfer of all contracts / arrangements executed / entered into by BPSL in relation to the installation and / or operation of the Grinding Unit, including the Third Party Arrangements and any other Assets);

"Transfer" means (in either the noun or the verb form and including all conjugations thereof with their correlative meanings) with respect to any ownership interests, the direct or indirect sale, assignment, Encumbrance, transfer or other disposition (whether for or without consideration, whether directly or indirectly, whether voluntary or involuntary or by operation of law) of any such ownership interests or of any direct or indirect beneficial interest therein or the creation of any third party interest in or over such ownership interests, including



by way of creation of a trust to hold the ownership interests or by way of holding the ownership interests in a corporate entity and creating third party interests in such corporate entity; and

"Transfer Taxes" has the meaning ascribed to it in Clause 4.3.

1.2 Interpretation

In this Agreement, unless the context otherwise requires:

- 1.2.1 a reference to an agreement or document (including a reference to this Agreement) is to the agreement or document as amended, supplemented, novated or replaced in the manner as set out in such agreement or document;
- 1.2.2 words of any gender are deemed to include the other genders and words using the singular or plural number also include the plural or singular number, respectively;
- 1.2.3 if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- 1.2.4 the terms "hereof", "herein", "hereby", "hereto" and derivative or similar words refer to this entire Agreement or specified Clauses or Schedules of this Agreement, as the case may be;
- 1.2.5 the terms "Clause" or "sub-clause" mean and refer to the Clause or sub-clause of this Agreement. The terms "Paragraph" or "sub-paragraph" mean and refer to the Paragraph or sub-paragraph of the relevant Schedule to this Agreement;
- 1.2.6 references to any legislation or Applicable Law or to any provision thereof shall include references to any such Applicable Law as it may, after the date hereof, from time to time, be amended, supplemented or re-enacted, or to any legislation or Applicable Law that replaces it and any reference to a statutory provision shall include any subordinate legislation made from time to time under that provision;
- 1.2.7 the Recitals, Annexures and Schedules hereto shall form an integral part of this Agreement;
- 1.2.8 time is of the essence in the performance of the respective obligations of the Parties. If any time period specified herein is extended, such extended time shall also be of the essence;
- 1.2.9 any reference to a "waiver" or "mutually agreed" or "mutual agreement" between the Parties shall mean a waiver in writing or a mutual agreement in writing, as the case may be. A reference to writing includes any method of representing or reproducing words in a visible form;
- 1.2.10 headings, sub-headings and bold or underlined typeface are only for convenience and shall be ignored for the purposes of interpretation;
- 1.2.11 a reference to conduct includes both the performance of an act and refraining from performing an act;



- 1.2.12 a reference to an agreement includes any undertaking, deed, agreement and legally enforceable arrangement, and a reference to a document includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind;
- 1.2.13 unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends;
- 1.2.14 wherever the word "include", "includes," or "including" is used in this Agreement, it shall be deemed to be followed by the words "without limitation";
- 1.2.15 the word "indirectly" as used in the phrase "directly or indirectly" shall mean indirectly through one or more intermediary persons or through contractual or other legal arrangements, and the word "indirect" as used in the phrase "direct or indirect" shall have the correlative meaning;
- 1.2.16 no provisions of this Agreement shall be interpreted in favour of, or against, any Party by reason of the extent to which such Party or its counsel participated in the drafting hereof or by reason of the extent to which any such provision is inconsistent with any prior draft hereof; and
- 1.2.17 any provision of this Agreement which imposes any obligation / responsibility / liability of any nature on any Party shall be deemed to refer to such obligation / responsibility / liability of such Party being performed / enforced in accordance with the provisions of Applicable Law.

2. INSTALLATION AND COMMENCEMENT OF OPERATION OF THE GRINDING UNIT

- 2.1 Subject to compliance of obligations by SCL, BPSL hereby agrees and undertakes to take all such steps and do all such actions as may be required to install (including construct, build and erect) and commence operations of the Grinding Unit, as per inputs as mutually agreed between the Parties, read with BPSL's obligations as set out in **Schedule 1 (Identified Plan Obligations)** unless mutually agreed otherwise between the Parties, (such inputs read with BPSL's obligations as set out in **Schedule 1 (Identified Plan Obligations)**, as updated and mutually agreed from time to time, "**Identified Plan**") by 30th September 2025. Without prejudice to the foregoing, it is expressly clarified that the Parties shall mutually agree on the procedures, obligations and timelines for the commencement of the commercial operation of the Grinding Unit, prior to the Closing.
- 2.2 SCL shall have the right to inspect the status, manner and progress of installation and commencement of operations of the Grinding Unit from time to time. In the event SCL is not satisfied with the status, manner and progress thereof, it shall issue a notice providing details of its non-satisfaction to BPSL along with requests for rectification of the identified non-compliances with the Identified Plan ("**Rectification Notice**"), and BPSL shall take all such steps to address such requests of SCL (to the extent the same are consistent with the Identified Plan) and notify SCL once all such requests have been addressed within a period of 30 (Thirty) days from the issuance of the Rectification Notice by SCL to BPSL, or such other extended time period as mutually agreed between the Parties.
- 2.3 Upon the completion of all actions in relation to the installation and operation of the Grinding Unit by BPSL in accordance with the Identified Plan (including all steps to address the requests

of rectification in a previously issued Rectification Notice), BPSL shall notify SCL by issuance of a notice in writing ("**Completion Notice**"), and in the event no further Rectification Notice has been issued by SCL in relation thereto within a period of 60 (Sixty) days from receipt of the Completion Notice, or if SCL confirms its acceptance (in writing) of the Completion Notice received from BPSL within such time period, the installation and operation of the GU shall be said to have been completed ("**Completion of Plan**").

- 2.4 Notwithstanding the right of SCL to inspect the Grinding Unit as set out in Clause 2.2 above, the Parties agree that SCL shall have the right to deploy its employees at the site of the Grinding Unit and at any related places in respect of the same, for continuous monitoring, observation, inspection and supervision of the installation and operation of the Grinding Unit and utilisation of the MoU Amount and the Identified Amounts remitted by SCL in accordance with the MoU and Clause 4 below respectively, to satisfy itself that such installation/operation of the Grinding Unit, and the utilisation of the MoU Amount and the Identified Amounts by BPSL is in accordance with the Identified Plan. Any reasonable inputs provided by the employees of SCL (the list of which shall be communicated to BPSL by SCL), shall be implemented by BPSL at the cost of SCL, in relation to installation and operation of the Grinding Unit.
- 2.5 Notwithstanding anything, BPSL shall not be responsible for any additional and ancillary costs resulting out of BPSL acting as per the sole instructions/ inputs of SCL under Clause 2.4 or any rectification resulting out of the lack or inaccuracy of the sole instructions by SCL under Clause 2.2 and such costs shall be borne by SCL. SCL shall be responsible to ensure the adequacy, accuracy of all the inputs provided to BPSL. SCL shall also be responsible to provide necessary inputs in a time-bound manner, in the absence of which BPSL shall not be responsible for any delays or cost-overruns, if any.

3. SALE AND PURCHASE OF ASSETS

- 3.1 Subject to the provisions of this Agreement, BPSL agrees to sell, assign, transfer, convey and deliver to SCL, and SCL agrees to purchase and acquire, the Assets and all BPSL's right, title and interest in the Assets, free and clear of all Encumbrances, at Closing.
- 3.2 The Parties also agree that SCL is not purchasing and acquiring from BPSL, and BPSL is not selling and transferring to SCL, any assets or liabilities pertaining to the business of BPSL, other than the Assets.

4. CONSIDERATION

- 4.1 The aggregate consideration payable by SCL to BPSL for the Closing of the Transaction is the Purchase Consideration, which shall be determined in accordance with the provisions of this Agreement (including this Clause 4) and shall under no circumstances, unless otherwise mutually agreed, exceed INR 380,00,00,000 (Indian Rupees Three Hundred Eighty Crores). Notwithstanding anything, it is agreed that SCL shall bear all costs, charges and expenses till the Completion of Plan, including any costs incurred by BPSL to insure the Assets as per Clause 6.1.4, subject to and in accordance with Clause 4.2.4. The Parties may subsequently, in accordance with Clause 5.4.3 of this Agreement, enter into a job work agreement upon mutual agreement between the Parties till the Closing.
- 4.2 The following shall apply in relation to the payment of the said Purchase Consideration:



- 4.2.1 To enable BPSL to work towards Completion of Plan in the manner as set out in Clause 2 above:
- (a) BPSL acknowledges having received the MoU Amount pursuant to the MoU and specifically confirms to SCL that the MoU Amount shall be utilised solely to achieve Completion of Plan;
- 4.2.2 Whenever any payments are required to be made by BPSL to other Persons in relation to work to achieve Completion of Plan (such payments, "**Pending Payments**" and such arrangements of BPSL with other Persons, "**Third Party Arrangements**"), BPSL shall submit to SCL a written request requiring payment from SCL to BPSL in relation to such Pending Payment ("**Payment Request**"), along with all underlying invoices / documents evidencing the requirement of such Pending Amount; BPSL shall also provide to SCL any further documentation / clarifications that SCL may seek in relation to the Pending Payments / Payment Request. Within a period of 15 (Fifteen) days from receipt of the required documentation / clarifications, SCL shall remit the amount so requested under the Payment Request ("**Identified Amounts**"). Due to any delay in payment by SCL, if BPSL pays or is obligated to pay any Interest/any cost to supplier of equipment or service provider then such charges shall be borne and reimbursed by SCL. SCL shall pay the Closing Consideration (as defined below) to BPSL on the Closing Date.
- 4.2.3 SCL shall remit the Purchase Consideration (or any part thereof, as applicable) (net of withholding Taxes, if any), and applicable Transfer Taxes (as defined below), by way of irrevocable wire transfer to the Designated Bank Account in accordance with the terms of this Agreement.
- 4.2.4 It is expressly agreed that, notwithstanding anything to the contrary contained in this Agreement, in case payment of Transfer Taxes and other incidental costs, including cost overruns, price escalations, costs incurred in relation to the transaction approvals along with Purchase Consideration exceeds the amount set out specifically in Clause 4.1 above, then Parties shall further mutually agree on such costs and the payment mechanism, if any.
- 4.3 Notwithstanding anything to the contrary contained in this Agreement and subject to Clause 4.2.4, BPSL expressly agrees that any liability in relation to any indirect Taxes with respect to the Assets for the period prior to the Closing Date, shall be to the account of SCL. However, the Parties expressly agree that all indirect Taxes, stamp duties, and registration charges and payments to statutory and regulatory bodies in relation to obtaining the relevant Transaction Approvals arising from or attributable to the sale and purchase of the Assets from BPSL to SCL, including any GST leviable on the transfer of the Assets by BPSL to SCL and as charged by BPSL, if any (collectively referred to as "**Transfer Taxes**"), shall be borne by the SCL.

5. CONDITIONS PRECEDENT TO CLOSING

- 5.1 The obligation of the Parties to consummate closing of the Transaction shall be conditional upon the satisfaction (or, where permissible under Applicable Law, waiver in writing by the relevant Party in accordance with Clause 5.3) of each of: (a) the conditions precedent set out in **Part A of Schedule 2** by BPSL ("**BPSL Conditions Precedent**"); and (b) the conditions precedent set out in **Part B of Schedule 2** by BPSL and SCL ("**Mutual Conditions Precedent**"). The BPSL Conditions Precedent, and the Mutual Conditions Precedent to be fulfilled under



this Clause 5.1 are set out in **Schedule 2** hereto (and are collectively referred to as the "**Conditions Precedent**").

5.2 **Satisfaction of the Conditions Precedent**

5.2.1 Within 5 (Five) Business Days following the fulfilment of the BPSL Conditions Precedent, BPSL shall issue a notice, in the form set out in **Schedule 3** ("**CP Confirmation Notice**") to SCL, confirming that the BPSL Conditions Precedent have been completed, together with certified true copies of all documents supporting and evidencing the completion of the BPSL Conditions Precedent. Within 5 (Five) Business Days of receipt of the CP Confirmation Notice, SCL shall either, (i) intimate BPSL of the grounds on which SCL believes that the relevant Condition(s) Precedent are not met and where such BPSL Conditions Precedent is capable of being completed, provide BPSL further time to complete the Condition(s) Precedent; or (ii) confirm to BPSL in writing by issuing a notice in the form set out in **Schedule 4** ("**CP Satisfaction Notice**"), that it is satisfied with the fulfilment of the BPSL Conditions Precedent. Further, within 5 (Five) Business Days following the satisfaction of the Mutual Conditions Precedent, the CP Satisfaction Notice in relation to the Mutual Conditions Precedent shall be jointly executed by BPSL and SCL. Closing of the Transaction shall occur: (a) within 5 (Five) Business Days of the receipt of the last CP Satisfaction Notice or Completion of Plan (whichever is later), or (b) such other date as the Parties may agree, or (c) if no further intimation has been received within 5 (five) days of the CP Confirmation Notice, the CP Satisfaction shall be deemed to have occurred and the phrase "**Closing Date**" shall be construed accordingly.

5.2.2 Each Party:

- (a) shall co-operate with the other Party in good faith, and provide all reasonable assistance and information required for fulfilment of all obligations under this Agreement and under Applicable Law, including for the fulfilment of the Conditions Precedent, upon being required to do so by the other Party (including any documents, information or undertakings required by any Governmental Authority), as soon as reasonably practicable; and
- (b) shall: (i) diligently pursue the fulfilment of the relevant Conditions Precedent required to be satisfied by it and keep the other Party reasonably informed about the status of, and any material developments relating to, fulfilment of the Conditions Precedent required to be fulfilled by it, and notify the other Party when such Condition Precedent has, in its view, been fulfilled, waived or deemed incapable of being fulfilled, as applicable; (ii) respond to any notice or other communication from any Third Party (including any Governmental Authority) in relation to the fulfilment of the relevant Conditions Precedent promptly and no later than 15 (Fifteen) days from the date of receipt of such notice or other communication and in any case, prior to the expiry of the time period specified in such notice or other communication (if applicable); and (iii) exercise reasonable endeavours to perform (or procure the performance of) all acts and things as may be required to ensure the fulfilment of the Conditions Precedent as soon as reasonably practicable following the Execution Date.

5.3 **Waiver of Conditions Precedent**



5.3.1 Notwithstanding anything contained elsewhere in this Agreement: (a) SCL may at its sole discretion, at any time by notice in writing to BPSL, waive in whole or in part, the fulfilment of any of the BPSL Conditions Precedent, to the extent such waiver is permitted by Applicable Law; and/or (b) the Parties may mutually agree in writing, to waive, in whole or in part, the fulfilment of any of the Mutual Conditions Precedent, to the extent such waiver is permitted by Applicable Law.

5.3.2 The Parties shall make best efforts to ensure that each of the Conditions Precedent (to the extent not waived in terms of Clause 5.3.1) is fulfilled as soon as practicable.

5.4 **Non-fulfilment of Conditions Precedent**

5.4.1 If any of the BPSL Conditions Precedent are not fulfilled by BPSL to the satisfaction of SCL (either because such BPSL Conditions Precedent is not capable of being satisfied or if such BPSL Conditions Precedent has not been satisfied despite the additional time provided by SCL in accordance with Clause 5.2.1), or to the extent applicable, waived by SCL, SCL may in its sole discretion, elect to not proceed with Closing and terminate this Agreement by written notice to BPSL.

5.4.2 If any of the Mutual Conditions Precedent are not fulfilled by the Parties (as relevant) to the satisfaction of both Parties, or to the extent applicable, waived by the Parties, or if the fulfilment of the Mutual Conditions Precedent has become impossible, Parties will mutually discuss in good faith on the next steps (including proceeding with Closing and / or terminating this Agreement). Notwithstanding anything to the contrary mentioned in this Agreement, it is expressly clarified that in respect of the Mutual Conditions Precedent mentioned in paragraph 2 of Part B of Schedule 2, if the relevant Land Document is not required to be executed by BPSL (but instead needs to only be executed by SCL along with certain other counterparties), then the said Mutual Conditions Precedent will be deemed to have been satisfied for the purposes of this Agreement if SCL determines so and communicates the same in writing to BPSL by way of issuance of a CP Satisfaction Notice in relation to this (satisfaction of BPSL covering this aspect will not be necessary).

5.4.3 The Parties hereby further agree and undertake that in the event all Conditions Precedent have not been satisfied in the manner as set out in Clause 5.2 (and / or waived in accordance with Clause 5.3), but the Completion of Plan has occurred, then at the option of SCL, BPSL shall continue to operate the Grinding Unit exclusively on behalf of SCL on a job-work basis as already stated under clause 4.1 ("**Exclusive Arrangement**"), and BPSL shall not use the Grinding Unit for any other purpose. Parties shall enter into a suitable written agreement in relation to the Exclusive Arrangement no later than 10 (Ten) Business Days after the commissioning of the Grinding Unit has occurred and finalise the commercial aspects including but not limited to the fee payable to BPSL, nature of the Exclusive Arrangement, maintenance of the Asset, insurance of Asset.

5.5 Notwithstanding anything to the contrary mentioned in this Agreement, at any time, SCL shall have a right to terminate this Agreement, and direct BPSL to sell the Asset and provide Asset Sale Proceeds to SCL to enable SCL to clear its dues under the Facility Agreement under clause 14.11.2. This sale shall be undertaken as per clause 10.4.



6. PRE-CLOSING ACTIONS

6.1 During the Intervening Period, BPSL shall ensure that BPSL and any of its authorised representatives (as applicable):

- 6.1.1 do not take, directly or indirectly, any action to initiate or solicit any offer or inquiry from, or enter into or facilitate discussions or negotiations with, any Third Party to (i) undertake a Transfer of all or any part of the Assets ("**Restricted Action**"); (ii) reach any oral or written agreement (whether or not binding) in relation to the Restricted Action; or (iii) furnish or cause to be furnished any information with respect to the Assets to, any Third Party who, BPSL, or its authorised representatives, know or have reason to believe is considering any Restricted Action. Further, BPSL shall give SCL notice of any offer or other communication received by BPSL (or any of its directors or key managerial personnel as defined under the Act) from or an inquiry made by a Third Party for acquisition of the whole or any part of the Assets. BPSL shall respond to such offer (and if such offer or other communication has been received in writing, such response shall also be in writing), indicating that BPSL is restricted from engaging in discussions in relation to such offer or inquiry;
- 6.1.2 shall utilise each Identified Amount solely for the purpose as identified in the relevant Payment Request and for no other purpose (unless otherwise permitted in writing by SCL);
- 6.1.3 shall utilise the MoU Amount (whatever has not been expended already as of the Execution Date) solely for the purpose of Completion of Plan (as per the provisions of this Agreement) and for no other purpose;
- 6.1.4 shall obtain and keep insured the Assets, in a form and manner acceptable to SCL; and
- 6.1.5 other than as (i) required pursuant to the Agreement in accordance with its terms; (ii) requested or required by SCL in writing; or (iii) as otherwise mutually agreed between the Parties, do not take any of the actions set out in **Schedule 5 (Standstill Provisions)**.

6.2 Information Rights and Access

During the Intervening Period:

- 6.2.1 BPSL shall ensure that SCL, and its authorized agents and / or representatives, are given access to the properties forming a part of the Assets and the premises of BPSL on which the Assets are located (including the right to inspect the progress of implementation of the Identified Plan, use of the MoU Amount and the Identified Amount) upon receipt of a prior written notice of 2 (Two) Business Days from SCL.
- 6.2.2 Both Parties shall give to the other Party notice of: (i) the occurrence or non-occurrence of any event which may result in (a) any of the BPSL Conditions Precedent and / or Mutual Conditions Precedent (as applicable) not being satisfied; and (b) the BPSL Warranties provided in Clause 8.2, or the SCL Warranties provided in Clause 8.1 (as applicable) not being true, correct and not misleading; (ii) the occurrence of a Material Adverse Effect; (iii) any material failure or inability on the part of BPSL / SCL to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by it under the Agreement; (iv) any notice or other written communication from any Governmental Authority with respect to all or any part of the Transaction if

it may prejudice the ability of BPSL to comply with its obligations hereunder or may prejudice the rights of SCL at the time of Closing of the Transaction or otherwise; (v) any notice or other written communication from any Person alleging that the consent of such Person is or may be required in connection with all or any part of the Transaction or that the rights of such Person are likely to be prejudiced by all or any part of the Transaction, if such consent or right of the Third Party may prejudice the rights of SCL at the time of Closing; and (vi) any notice, communication, correspondence or Tax Claim from the Taxing Authorities with respect to BPSL, or the Assets insofar as it relates to the occurrence of any such circumstance that may have an impact on the SCL's title to the Asset at Closing being jeopardised. The Parties undertake and agree that for the purpose of this Clause 6.2.2, any such notice shall be provided by such Party to the other Party promptly and in any event within a period of 5 (Five) Business Days from the occurrence of the relevant event.

- 6.3 Not less than 3 (Three) Business Days prior to the Closing Date, BPSL shall deliver to SCL, a list of all items forming a part of the Assets, along with all supporting documents used for the preparation of such list ("**Assets List**"). In the event SCL does not agree with the list of items forming a part of the Assets List, SCL and BPSL shall enter into good-faith discussions in relation to the inclusion / non-inclusion of such items and shall endeavour to arrive at a mutually acceptable Assets List at least 1 (One) Business Day prior to the Closing Date. If the Parties are unable to mutually agree to the items forming a part of the Assets List, the matter shall be referred to dispute resolution in the manner as set out in Clause 11 (*Governing Law and Dispute Resolution*) below.

7. CLOSING

- 7.1 Closing shall occur on the Closing Date.

- 7.2 On the Closing Date:

7.2.1 BPSL shall sell, transfer and deliver to SCL, and SCL shall purchase, acquire and accept from BPSL, all rights, title, interest of BPSL in and to the Assets, by actual and / or constructive delivery of possession (as applicable), and SCL shall assume possession of the Assets and shall take delivery of the same and those that are incapable of being transferred by delivery of possession shall be transferred by BPSL to SCL by way of execution by the Parties of such other documents (in Agreed Form) as may be required; and

7.2.2 Subject to Clause 4.1 and 4.2.3 of this Agreement, SCL shall pay to BPSL an amount equal to 5% (Five Percent) of the Total Prepaid Amount ("**Closing Consideration**") (net of withholding Taxes, if any), and applicable Transfer Taxes (as defined below), by way of irrevocable wire transfer to the Designated Bank Account.

- 7.3 All actions contemplated by this Agreement to be consummated at Closing shall be deemed to occur simultaneously and no action shall be consummated unless all such actions are consummated.

- 7.4 Subsequent to Closing, BPSL and SCL may enter into good-faith discussions to purchase and supply raw materials as may be required by SCL to operate the Assets and enter into mutually agreeable binding agreements in respect of the same.



8. REPRESENTATIONS AND WARRANTIES

8.1 SCL Warranties

SCL represents and warrants to BPSL that the SCL Warranties provided under **Schedule 6 (SCL Warranties)** are true, correct, and not misleading in any respect as of the Execution Date and the Closing Date.

8.2 BPSL Warranties

BPSL represents and warrants to SCL that the BPSL Warranties provided under **Part A of Schedule 7 (BPSL Warranties)** are true, correct, and not misleading in any respect as of the Execution Date and the Closing Date. Additionally, BPSL represents and warrants to SCL that, in addition to the BPSL Warranties provided under **Part A of Schedule 7 (BPSL Warranties)**, the BPSL Warranties provided under **Part B of Schedule 7 (BPSL Warranties)** shall also be true, correct and not misleading in any respect as of the Closing Date.

8.3 BPSL Acknowledgement

BPSL acknowledges and agrees that SCL has executed this Agreement and the Transaction Documents and shall consummate the Transaction, relying on the BPSL Warranties and no argument of knowledge or constructive knowledge of SCL shall be used by BPSL as qualifying in whole or part of any of the BPSL Warranties, nor shall it be used as a defence to any Claim under this Agreement. Provided that, if any BPSL Warranty becomes untrue or incorrect solely resulting from BPSL taking of any action expressly required by or which is authorized, approved or consented to solely by SCL in accordance with this Agreement, then BPSL shall not be liable for any such breach of warranty.

8.4 Except for the BPSL Warranties, the Parties expressly understand, acknowledge and agree that BPSL makes no express or implied representation or warranty including with respect to the Assets or operations or with respect to any other information provided to SCL.

8.5 In the event that any occurrence or circumstance comes to the attention of either Party that renders any of its representations or warranties under this Agreement untrue or incorrect, such Party shall immediately notify the other Party of the same. Such notification shall not have the effect of remedying any breach of the representation or warranty that has been found to be untrue or incorrect nor shall it adversely affect or waive any obligation of either Party under this Agreement.

9. INDEMNIFICATION

9.1 Indemnification by BPSL

Subject to the provisions of this Clause 9, BPSL ("**BPSL Indemnifying Person**"), hereby agrees to indemnify, defend and hold harmless SCL and its directors, officers and employees (collectively, the "**SCL Indemnified Persons**") to the extent of any Losses suffered or incurred by the SCL Indemnified Persons due to a third party claim, as a result of, or arising from, or in connection with, or relating to any matter pertaining to (i) inaccuracy of any of the BPSL Warranties.

9.2 Indemnification by SCL



Subject to the provisions of this Clause 9, the SCL ("**SCL Indemnifying Person**") hereby agrees to indemnify, defend and hold harmless BPSL, its directors, officers and employees (collectively, "**BPSL Indemnified Persons**") to the extent of any Losses suffered or incurred by the BPSL Indemnified Persons due to a third party claim, as a result of, or arising from, or in connection with, or relating to any matter pertaining to: (i) inaccuracy of any of the SCL Warranties.

9.3 Third Party Claims

9.3.1 If any Third Party notifies an Indemnified Person with respect to any matter ("**Third Party Claim**"), in respect of which the Indemnified Person is entitled to make a Claim under Clause 9.1 or Clause 9.2, as the case may be, for indemnification against the Indemnifying Person, then the Indemnified Person shall notify the Indemnifying Person of such Third Party Claim within 15 (Fifteen) calendar days of receipt of notice of such Third Party Claim, by issuing a Claim Notice including (a) notice of the commencement or allegation of any Legal Proceedings relating to such Third Party Claim; (b) the allegation constituting the basis for such Third Party Claim; and (c) the amount of the damages claimed by such Third Party, in each case to the extent known to the Indemnified Person. The Indemnified Person shall also, along with the Claim Notice, share with the Indemnifying Person a copy of all documents and information in relation to the Third Party Claim that is available with and in the possession of the Indemnified Person.

9.3.2 In such event, so long as the Indemnifying Person irrevocably notifies the Indemnified Person of its intention to defend the Third Party Claim within 15 (Fifteen) calendar days after the Indemnifying Person has received notice of the Third Party Claim, the Indemnifying Person shall have the right to take any action and institute any proceedings to dispute, resist, appeal, compromise, defend, remedy or mitigate the Third Party Claim, at its cost or expense, failing which the Indemnified Person shall have the right to defend itself against such Third Party Claim and shall thereafter be indemnified for the reasonable costs and expenses (including legal fees) of such defense and the Third Party Claim. Even where the Indemnifying Person is conducting the defense of the Third Party Claim in accordance with this Clause 9.4.2, the Indemnified Person may retain separate co-counsel at its sole cost and expense and participate in the defense of the Third Party Claim, provided that where the Indemnified Person has opted to conduct the defense of the Third Party Claim in accordance with the above, the Indemnified Person shall not consent to the entry of any judgment or enter into any settlement with respect to the Third Party Claim without the prior written consent of the Indemnifying Person. An Indemnifying Person shall not have any liability with respect to any Third Party Claim wherein a compromise or settlement of, or the entry of any judgment or the admission of any liability regarding any Third Party Claim is effected without the Indemnifying Person's consent.

9.3.3 Whether or not the Indemnifying Person elects to defend any Third Party Claim, the Parties shall cooperate and exercise all reasonable efforts in the defense or prosecution of any such Claim and shall furnish one another with such records, information and testimony, and attend such conferences, proceedings, hearings, trials and appeals as may be reasonably required by the other in connection therewith.

9.4 Notwithstanding anything contained in this Agreement (including the provisions of Clause 9.5), the liability of the Parties shall not be limited or restricted in respect of any Claim as a



result of, arising from or in connection with, or relating to any fraud, gross negligence, wilful misconduct, or corrupt practices by such Party.

- 9.5 If an Indemnifying Person pays to an Indemnified Person any amount in discharge of any Claim and such Indemnified Person subsequently recovers (whether by way of payment, discount, relief, credit or otherwise) from a Third Party, a sum which relates to the subject matter of the Claim, then such Indemnified Person shall pay to the Indemnifying Person, as soon as may be practicable, an amount equal to the sum so received from the Third Party but subject to a maximum of the amount paid by the Indemnifying Person to such Indemnified Person in discharge of the said Claim, net of any expenses and costs associated with receiving such amounts from the Third Party.
- 9.6 If any amount payable by the Indemnifying Person pursuant to this Clause 9 is subject to any Tax or if the Indemnified Persons are required to pay any Tax on the amounts received by them, then such Tax shall be to the account of such Indemnifying Person, and the amount payable by the Indemnifying Person to the Indemnified Person shall be grossed up to the extent of such Tax amount payable.

9.7 **Limitations on indemnity claims**

The Parties expressly understand, acknowledge and agree that the obligation of any Party to indemnify any Person for any indemnity given by it under this Clause 9 is limited or excluded (as the case may be) by the following:

9.7.1 ***Specific Limitations***

An Indemnifying Person is not liable in respect of its indemnity obligation as set out in Clause 9.1 and / or Clause 9.2, as the case may be, (each an "**Indemnity Event**") to the extent that:

- (a) Change in laws: The Indemnity Event arises solely as a result of a change in Applicable Law or in the accounting bases, policies, practices or methods that arises as a result of any change in Applicable Law occurring after the Closing Date with retrospective effect from a date prior to the Closing Date;
- (b) Remedy without liability or compensation received: The Indemnity Event is remedied or rectified without any Loss being suffered or incurred by the Indemnified Person in respect of the Indemnity Event or its rectification or the Indemnified Person has been compensated in full by or on behalf of the Indemnifying Person for the Loss;
- (c) Consequential Loss: The Loss claimed is a special, indirect, remote or punitive Loss or any Loss which is not a reasonably foreseeable consequence arising from a particular breach or occurrence.

9.7.2 ***No Double Recovery***

A Person is not entitled to recover more than once (whether under a Claim or otherwise) in respect of any Indemnity Event giving rise to Loss.

9.7.3 **Contingent Liabilities**

To the extent that a Claim Notice is for Loss which is based upon a contingent liability, while the Claim Notice can be issued, the Indemnifying Person shall not be liable to make a payment to the Indemnified Person in respect of such Loss unless and until such time as the contingent liability becomes actual Loss.

10. **EFFECTIVE DATE AND TERMINATION**

- 10.1 This Agreement shall come into effect immediately on the Execution Date and shall remain valid unless terminated in accordance with the terms hereof.
- 10.2 This Agreement may be terminated prior to Closing as follows:
- 10.2.1 at any time by mutual consent of the Parties;
 - 10.2.2 by SCL, at its option in accordance with Clause 5.4 and / or Clause 5.5;
 - 10.2.3 by either Party, at its option, on the occurrence of an Insolvency Event with respect to the other Party;
 - 10.2.4 by either Party, at its option, with 30 (Thirty) calendar day's prior written notice, if:
 - (a) a Material Adverse Effect in respect of the Assets occurs, or
 - (b) there is a material breach of the Agreement by the other Party, which, if capable of being cured, is not cured to the satisfaction of the non-breaching Party within 30 (Thirty) calendar days of a written notice having been provided to the breaching Party.
- 10.3 Upon termination in accordance with Clause 10.2, each Party's further rights and obligations shall cease immediately on termination, but termination shall not affect a Party's accrued rights and obligations as of the date of termination.
- 10.4 Further, upon termination of this Agreement in accordance with Clause 10.2, the following shall apply: (a) BPSL shall initiate a proper and fair process for a sale of the Assets no later than 30 (Thirty) days of the termination of this Agreement (unless otherwise extended in writing by SCL); (b) BPSL shall make best efforts to receive the maximum possible value of the Assets (including amounts corresponding to any rebates / set-off and related amounts inter-se between BPSL and the third party, the benefit of which is enjoyed by BPSL) ("**Asset Sale Proceeds**"), and to consummate the sale and remit such Asset Sale Proceeds to SCL, after deduction of reasonable costs supported by valid documentary evidence (as submitted by BPSL to SCL) which are incurred in consummating such sale, as per the timelines mutually agreed between the Parties post the termination of the Agreement; and (c) payment of such Asset Sale Proceeds to SCL shall amount to the full and final settlement of all the dues payable and / or the amount paid by SCL to BPSL (or *vice versa*) in accordance with the terms of the Transaction Documents and no further amounts will be due from BPSL to SCL (or *vice versa*).
- 10.5 Notwithstanding anything in this Agreement, the provisions of Clause 1 (*Definitions and Interpretations*), Clause 10 (*Effective Date and Termination*), Clause 11 (*Governing Law and Dispute Resolution*), Clause 12 (*Notices*) and Clause 14 (*Miscellaneous*) and any other provision which by its nature is intended to survive termination, shall survive the termination of this Agreement.



11. GOVERNING LAW AND DISPUTE RESOLUTION

- 11.1 This Agreement shall, in all respects, be governed and interpreted by, and construed in accordance with the laws of India.
- 11.2 Any and all disputes, differences, claims, or controversies arising out of or relating to, or in connection with, this Agreement, including any question regarding its existence, validity or termination, ("**Dispute**"), shall first be attempted to be resolved by the Parties through good faith mutual negotiations and discussions between the Parties, within a period of 60 (Sixty) days from the date that the Dispute has arisen and in respect of which a Party has served a written notice on the other Party.
- 11.3 All disputes that are unresolved pursuant to Clause 11.2 and which a Party wishes to have resolved, shall be referred to and exclusively and finally determined by arbitration conducted in accordance with the 'Arbitration Rules' of the Mumbai Centre for International Arbitration, and the rules framed thereunder ("**Arbitration Rules**"), which Arbitration Rules are deemed to be incorporated by reference to this Clause. Each Party shall co-operate in good faith to expedite, to the maximum extent practicable, the conduct of any arbitral proceeding commenced under this Agreement.
- 11.4 The seat of the arbitration shall be Bhubaneshwar, Odisha, India. The venue of arbitration shall be Bhubaneshwar, Odisha (or any other venue as the Parties may mutually agree for the conduct of the arbitration hearings as per their convenience). The language of the arbitration shall be English.
- 11.5 The arbitration shall be conducted by 3 (Three) arbitrators appointed in the following manner:
- 11.5.1 1 (One) arbitrator shall be appointed by BPSL;
- 11.5.2 1 (One) arbitrator shall be appointed by SCL; and
- 11.5.3 the arbitrators appointed in accordance with sub-clauses 11.5.1 and 11.5.2 above shall jointly appoint the third arbitrator, who shall act as the presiding arbitrator.
- 11.6 The arbitration award shall be final and binding on the Parties.
- 11.7 The arbitrators shall have the power to grant any legal or equitable remedy or relief available under Applicable Law, including injunctive relief (whether interim and / or final) and specific performance. For avoidance of doubt, each party to the Dispute shall be entitled to apply to the appropriate court of competent jurisdiction for interim or interlocutory relief in respect of such arbitration. The governing this arbitration agreement shall be the laws of India.
- 11.8 The Parties agree that the courts at Bhubaneshwar, Odisha, India shall have exclusive jurisdiction to entertain any proceeding under the Arbitration and Conciliation Act 1996, related to this Agreement, whether during its term or after expiration or termination hereof.
- 11.9 Notwithstanding the existence of any Dispute or commencement of any arbitration proceeding in accordance with the provisions of this Clause 11, the rights and obligations of the Parties under this Agreement shall remain in full force and effect pending the award in such arbitration proceeding. The Parties shall continue to perform their respective obligations under this Agreement which are not the subject matter of the Dispute, to the extent reasonably possible.



12. NOTICES

- 12.1 All notices required or permitted to be given hereunder shall be in writing and shall be deemed to be effectively given if (i) delivered personally; (ii) sent by prepaid courier service, registered mail; or (iii) sent by electronic mail or other similar means of electronic communication (with confirmed receipt):

If to BPSL:

Attention : Navin Agarwal
Address : Bhushan Power and Steel Limited,
Sambalpur Works, Thelkoloi,
Teh- Rengali, Dist- Sambalpur,
Odisha-768212.
Email ID : Navin.Agarwal@jsw.in

If to SCL:

Attention : Mr. Prasant Pradhan
Address : Shiva Cement Limited, Telighana,
PO: Birangatoli, Tehsil-Kutra, District-Sundargarh, Sundargarh, Odisha.
Email ID : Prasant.Pradhan@jsw.in

- 12.2 If a notice is delivered by hand it shall be deemed to have been received at the time of delivery if delivered during normal business hours of the intended recipient, otherwise on the next Business Day.
- 12.3 Any notice sent by electronic mail shall be deemed to have been received by the Party to whom it was sent, if delivered during normal business hours of the intended recipient, at the time of delivery or otherwise on the next Business Day.
- 12.4 Any notice required to be made or given hereunder may be signed by an officer, manager or authorised representative of the Party giving or making the same. No recipient shall be required or obliged to inquire as to the authority of the officer, manager or authorised representative so signing.
- 12.5 Any Party may, by notice in writing to the other Parties, change its address or other details set out in Clause 12.1 in the manner aforesaid.

13. FORCE MAJEURE

- 13.1 "Force Majeure" shall mean an event or circumstance or combination of events and circumstances which are beyond the reasonable control of the Parties which could not at the time of conclusion of this Agreement be reasonably foreseen and that prevent either of them from wholly or partially performing any duties or obligations under the Order. "Force Majeure" shall inter alia include the following: act of government, war (whether declared or not), invasion, act of foreign or internal enemies, rebellion terrorism, revolution, insurrection, military, or usurped power, civil war, riot, munitions of war, sabotage, natural catastrophes such as earthquake, hurricane, typhoon, epidemics, pandemics, volcanic activity, adverse severe forces of nature or Acts of God. Provided that, inability to make payment in time shall not be deemed as a Force Majeure Event.
- 13.2 If either Party is prevented from performing any of its obligations by Force Majeure event, such Party shall give to the other Party a written notice within 7 (seven) days of occurrence of



such events describing its effects. On giving such notice, the affected Party shall be wholly or partially excused from the performance of its obligation to the extent it is so prevented by the Force Majeure condition. The Parties shall subsequently evaluate the effects and, if necessary, shall extend the timelines accordingly.

- 13.3 If the period of non-performance or delay exceeds beyond 60 (sixty) days and the performance could not be resumed under any circumstances, then both Parties shall consult and agree on the necessary arrangement for further implementation of the Identified Plan and fulfilment of the conditions precedent, including termination.

14. MISCELLANEOUS

14.1 Announcements and Confidentiality

14.1.1 Subject to the provisions of this Clause 14.1 and save as required by Applicable Law, no announcement, circular or communication (each an "**Announcement**") concerning the existence or content of this Agreement, or concerning the Transaction, shall be made by a Party without the prior written approval of the other Parties.

14.1.2 Without prejudice to the generality of Clause 14.1.1, each Party shall treat as strictly confidential all Confidential Information received or obtained as a result of entering into or performing this Agreement, except to the extent:

- (a) to which the Confidential Information is required to be disclosed pursuant to any Applicable Law, or in connection with any judicial process regarding any legal action, suit or proceeding arising out of or relating to this Agreement, provided that if any disclosure is required to be made to a Governmental Authority or pursuant to a valid legal process, that Party shall notify the other Parties, to the extent practicable, prior to such disclosure;
- (b) disclosure of Confidential Information is made to the Affiliates, employees, professional advisors, auditors and bankers of a Party ("**Representatives**"), in each case to the extent necessary for the purpose of this Agreement, provided such Persons have been informed about the confidentiality requirement of this Clause 14.1 and such Party shall ensure that its Representatives treat such Confidential Information as confidential on the same terms as set out under this Clause 14.1;
- (c) the Confidential Information or materials that were, are or have become available to the public through no fault of any Party;
- (d) to which disclosure of the Confidential Information is specifically permitted by the other Parties in writing; or
- (e) after closing of the Transaction, SCL shall be entitled to use all Confidential Information relating to the Assets, without being subject to any restriction whatsoever under this Agreement, and all such Confidential Information shall (with immediate effect upon closing of the Transaction) be deemed Confidential Information of SCL which BPSL shall treat as strictly confidential in accordance with this Clause 14.1.



14.2 No Partnership

Nothing contained in this Agreement shall constitute or be deemed to constitute a partnership or joint venture between the Parties, and no Party shall hold itself out as an agent for the other Parties, except with the express prior written consent of the other Parties.

14.3 Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument and any Party may execute this Agreement by signing any one or more of such originals or counterparts. The delivery of signed counterparts by facsimile transmission or electronic mail in "portable document format" ("**pdf**") shall be as effective as signing and delivering the counterpart in person.

14.4 Rights Cumulative

14.5 The rights, powers, privileges and remedies provided in this Agreement are cumulative and are not exclusive of any rights, powers, privileges or remedies provided by Applicable Law or otherwise.

14.6 Neither failure to exercise nor any delay in exercising any right, power, privilege or remedy under this Agreement shall in any way impair or affect the exercise thereof or operate as a waiver thereof in whole or in part unless made in writing, referring specifically to the relevant provisions of this Agreement and signed by a duly authorized representative of the relevant Party. Any such waiver shall not affect in any way the validity of this Agreement or the right to enforce such obligation, agreement, undertaking or covenant at any other time.

14.7 No single or partial exercise of any right, power, privilege or remedy under this Agreement shall prevent any further or other exercise thereof or the exercise of any other right, power, privilege or remedy.

14.8 Specific Performance

A Party is entitled to seek any and all remedies available to it in connection with this Agreement, including seeking of injunctive relief and / or damages, provided however that the indemnification provisions contained under Clause 9 of this Agreement shall be the sole monetary remedy in connection with the matters covered under this Agreement.

14.9 Amendments and Waiver

No amendment to this Agreement shall be valid or binding unless set forth in writing and duly executed by each of the Parties to this Agreement. No waiver of any breach of any provision of this Agreement shall be effective or binding unless made in writing and signed by the Party purporting to give the same, and unless otherwise provided in the written waiver, shall be limited to the specific breach waived.

14.10 Rights of Third Parties

Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon or give any Person, other than the Parties hereto and/or as otherwise expressly set out in Clause 9, any rights or remedies under or by reason of this Agreement or any transaction contemplated by this Agreement.



14.11 No Assignment

14.11.1 This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors, legal representatives and permitted assigns.

14.11.2 No rights, liabilities or obligations under this Agreement shall be assigned by any of the Parties without the prior written consent of the other Parties, provided that the SCL may assign its rights under this Agreement to any lender for securing any financial assistance as may be required by the SCL in relation to the Transaction ("**Facility Agreement**"), without the prior written consent of BPSL.

14.12 Severability

If any provision of this Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision or part of such provision and the remaining part of such provision and all other provisions of this Agreement shall continue to remain in full force and effect, without any further action or deed.

14.13 Further Assurances

Each Party shall, in the manner as provided in this Agreement, duly execute and deliver all such further instruments and documents and do or procure to be done all such acts or things, as may be required by Applicable Law or as may be necessary or reasonably required by the other Parties to implement and give effect to the Transaction.

14.14 Entire Agreement

This Agreement constitutes the entire agreement between the Parties with respect to the transfer of the Assets from BPSL to SCL, and supersedes any previous written or oral agreements, understandings, negotiations and discussions between the Parties in relation thereto (including the MoU).

14.15 Costs and Expenses

14.15.1 Except as provided herein, each Party shall pay the fees and costs of any financial or technical advisors, lawyers or accountants engaged by it in relation to the negotiations leading up to the Transaction and to the preparation, execution and carrying into effect of this Agreement.

14.15.2 The stamp duty payable in respect of this Agreement and all other agreements and documents to be executed pursuant to the Transaction, shall be borne and paid by the SCL.

(Signature pages follow)



IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective duly authorised officers as of the date and place first above written.

Signed and delivered for and on behalf of)

SHIVA CEMENT LIMITED)

duly represented)

through its authorised representative)

Name: Mr. Narinder Singh Kahlon)

Designation: Director)



Signed and delivered for and on behalf of)

BHUSHAN POWER AND STEEL LIMITED)

duly represented)

through its authorised representative)

Name: Mr. Nagarajan Jambunathan)

Designation: Chief Financial Officer)



SCHEDULE 1 – IDENTIFIED PLAN OBLIGATIONS

BPSL specifically undertakes to comply with the following:

1. Subject to the terms and conditions of this Agreement, BPSL shall undertake the survey, investigation, design, engineering, procurement, construction and commencement of operations of the Grinding Unit, and observe, fulfil, comply with and perform all its obligations set out in this Agreement or arising hereunder;
2. BPSL shall comply with all Applicable Laws and Governmental Approvals (including renewals as required) in the performance of its obligations under this Agreement;
3. Save and except as otherwise provided in the Agreement or Applicable Laws, as the case may be, BPSL shall, in discharge of all its obligations under this Agreement, conform with and adhere to good industry practices, at all times;
4. BPSL shall maintain the Assets in a state of repair and condition (except normal wear and tear) that complies with all Applicable Laws and in line with good industry practice, and shall remedy any and all loss or damage to the Grinding Unit, at its own cost, save and except to the extent that any such loss or damage shall have arisen from any default of SCL or Force Majeure event;
5. BPSL shall, at all times, be responsible and liable for all its obligations under this Agreement notwithstanding anything contained in the agreements with its sub-contractors or any other agreement that may be entered into by BPSL, and no default under any such agreement shall excuse BPSL from its obligations or liability hereunder;
6. BPSL shall ensure and procure that the personnel engaged by it or by its sub-contractors for performance of its obligations under this Agreement are at all times appropriately qualified, skilled and experienced in their respective functions in conformity with Applicable Laws and good industry practices;
7. BPSL shall be responsible for procuring all power, water and other services that it may require for installation and operation of the Grinding Unit (in accordance with terms of this Agreement), such costs will be reimbursed at actuals by SCL; and
8. BPSL shall apply and obtain the 'consent to operate' in respect of the Grinding Unit with the appropriate Governmental Authority under applicable environmental laws in a timely manner.



SCHEDULE 2 – CONDITIONS PRECEDENT

PART A – BPSL CONDITIONS PRECEDENT

1. The BPSL Warranties being true, correct and not misleading as on the Closing Date.
2. There having occurred no Material Adverse Effect.
3. BPSL having obtained necessary approvals from the its lenders in relation to the consummation of the Transaction contemplated under this Agreement.
4. BPSL agrees that it shall make best efforts to remove any encumbrances on the Land Parcel in a timely manner, as soon as reasonably practicable.
5. BPSL having obtained the Transaction Approvals and any other necessary Governmental Approvals from the relevant Governmental Authority under Applicable Laws, and having made necessary statutory filings with the relevant Governmental Authority (including e-form filings with the Registrar of Companies), as the case may be for the sale / transfer of Assets from BPSL to SCL as contemplated under this Agreement, including the right of SCL to use the underlying Land Parcel on which BPSL shall install and commence operations of the Grinding Unit as contemplated under this Agreement.
6. Completion of Plan has occurred.

PART B – MUTUAL CONDITIONS PRECEDENT

1. SCL and BPSL having executed, and BPSL having caused the relevant Third Party, if any, to execute, the Transaction Documents in Agreed Form.
2. Execution of the relevant agreement / lease / sub-lease deed (as relevant) between the relevant counterparties ("**Land Document**"), for the grant of right of SCL to use the underlying Land Parcel on which BPSL shall install and commence operations of the Grinding Unit (as contemplated under this Agreement).



SCHEDULE 3 – FORMAT OF THE CP CONFIRMATION NOTICE

Date: [●]

To,

Shiva Cement Limited,
Shiva Cement Limited, Telighana,
PO: Birangatoli, Tehsil-Kutra,
District-Sundargarh, Sundargarh, Odisha – 770018.

Dear Ma'am / Sir,

Re: Completion of BPSL Conditions Precedent

We refer to the agreement dated [●] ("**Agreement**") executed between Shiva Cement Limited and Bhushan Power and Steel Limited, as amended from time to time.

All capitalised words and expressions used in this letter but not defined herein shall have the same meaning as assigned to them in the Agreement.

As required under Clause 5.2.1 of the Agreement, we hereby certify, confirm and declare that as of the date hereof we have complied with the BPSL Conditions Precedent specified in Clause 5.1 and **Part A of Schedule 2** of the Agreement.

Without prejudice to the generality of the foregoing, we hereby certify that:

1. The BPSL Warranties are true, correct, and not misleading in any respect as of the Execution Date and as of the date hereof;
2. No Material Adverse Effect has occurred or is reasonably expected to occur as of the Closing Date; and
3. BPSL has complied with all its respective covenants, undertakings and actions under the Agreement in all material respects, and there has been no material breach of any of the provisions of the Agreement by BPSL.

The supporting documents evidencing the compliance with the BPSL Conditions Precedent specified in Clause 5.1 and **Part A of Schedule 2** of the Agreement are enclosed herewith and include the following:

- (a) [●]; and
- (b) [●].

Yours truly,

For and on behalf of **Bhushan Power and Steel Limited**

Authorised Signatory

SCHEDULE 4 – FORMAT OF THE CP SATISFACTION NOTICE

Date: [●]

To,

Bhushan Power and Steel Limited,
4th Floor, A-2, NTH Complex Shaheed Jeet Singh Marg USO Road,
Qutab Institutional Area,
South Delhi, New Delhi, Delhi – 110067.

[Shiva Cement Limited,
Shiva Cement Limited, Telighana,
PO: Birangatoli, Tehsil-Kutra,
District-Sundargarh, Sundargarh, Odisha – 770018.]¹

Dear Ma'am / Sir,

Re: Completion of the [BPSL/Mutual] Conditions Precedent

We refer to the agreement dated [●] ("**Agreement**") executed between Shiva Cement Limited and Bhushan Power and Steel Limited, as amended from time to time.

All capitalised words and expressions used in this letter but not defined herein shall have the same meaning as assigned to them in the Agreement.

[As required under Clause 5.2.1 and **Part A of Schedule 2** of the Agreement, we hereby certify and confirm that all of the BPSL Conditions Precedent, have been fulfilled to the satisfaction of SCL, save and except the BPSL Conditions Precedent listed below that have been waived by SCL:

- (a) [●]; and
- (b) [●].]²

OR

[As required under Clause 5.2.1 and **Part B of Schedule 2** of the Agreement, we hereby certify and confirm that all of the Mutual Conditions Precedent, have been fulfilled to the satisfaction of SCL and BPSL, save and except the Mutual Conditions Precedent listed below that have been waived by SCL and BPSL:

- (a) [●]; and
- (b) [●].]³

¹ **Note to Draft:** To be retained only in the draft of the CP Satisfaction Notice issued in relation to the Mutual Conditions Precedent.

² **Note to Draft:** To be retained only in the draft of the CP Satisfaction Notice issued in relation to the Seller Conditions Precedent.

³ **Note to Draft:** To be retained only in the draft of the CP Satisfaction Notice issued in relation to the Mutual Conditions Precedent.

Yours truly,

For and on behalf of **[Shiva Cement Limited and/or Bhushan Power and Steel Limited]**

Authorised Signatory

SCHEDULE 5 – STANDSTILL PROVISIONS

1. Passage of a resolution for voluntary winding up or liquidation of BPSL or appointment of any liquidator or receiver in respect of the Assets;
2. Transferring (including creating of an Encumbrance on) all or any part of the Assets, or creation of an Encumbrance on the Asset, and / or the Land Parcel on which the Grinding Unit is proposed to be installed by BPSL pursuant to this Agreement;
3. (i) Initiating, settling or compromising any Legal Proceedings (including in relation to Tax) in connection with the Assets, or (ii) settling or compromising any Legal Proceeding which could adversely impact the consummation of the Transaction;
4. Participating or being involved in any scheme of arrangement, merger, demerger, amalgamation, slump sale or other forms of corporate or business reorganization affecting the Assets.



SCHEDULE 6 – SCL WARRANTIES

SCL hereby represents and warrants to BPSL as of each of the Execution Date and the Closing Date as follows:

1. It is duly incorporated and is validly existing under the Applicable Laws of its jurisdiction and has all necessary corporate power, authority and capacity to enter into and perform its obligations under this Agreement and the Transaction Documents. The Person executing this Agreement on behalf of SCL, has full capacity and authority to sign and execute this Agreement on behalf of SCL;
2. The Agreement and the Transaction Documents, when executed, will constitute valid and binding obligations enforceable against it in terms thereof;
3. The execution and performance of this Agreement and the Transaction Documents by it does not contravene, violate or conflict with, or accelerate performance under, any: (i) provisions of its memorandum of association or articles of association or charter documents; (ii) Applicable Laws; (iii) any terms of any Governmental Approvals and consents applicable to it; or (iv) any agreement or instrument to which SCL is a party or by which it is bound;
4. No bankruptcy or insolvency order has been issued against it. It has not received written notice of any steps having been taken to enforce any security over any of its assets and no event has occurred to give the right to enforce such security.
5. There are no actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform any of its obligations under this Agreement;



SCHEDULE 7 – BPSL WARRANTIES

PART A

BPSL hereby represents and warrants to SCL as on the Execution Date as follows:

1. It is duly incorporated and is validly existing under the Applicable Laws of its jurisdiction and has all necessary corporate power, authority and capacity to enter into and perform its obligations under this Agreement and the Transaction Documents. The Person executing this Agreement on behalf of BPSL, has full capacity and authority to sign and execute this Agreement on behalf of BPSL;
2. The execution and performance of this Agreement and under the Transaction Documents by it does not contravene, violate or conflict with, or accelerate performance under, any: (i) provisions of its memorandum of association or articles of association or charter documents; (ii) Applicable Laws;
3. No bankruptcy or insolvency order has been issued against it. It has not received written notice of any steps having been taken to enforce any security over any of its assets and no event has occurred to give the right to enforce such security;
4. There are no actions, suits, proceedings, or investigations pending or, to its Knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform any of its obligations under this Agreement.
5. There are no proceedings or claims relating to Taxes (including under Section 281 of the Income Tax Act, 1961), pending or threatened (in writing) against BPSL, and no circumstances exist, that affect or are likely to affect: (a) the validity and marketability of the title to the Assets;

PART B

BPSL hereby represents and warrants to SCL as on the Closing Date as follows:

1. At Closing, SCL shall become the legal and beneficial owner of the Assets free of all Encumbrances;
2. To the best of BPSL's Knowledge, no event has occurred (including any assertion by any Taxing Authority that any Tax is owed by BPSL), and no condition or circumstance exists, that will or would reasonably be expected to result in the sale of the Assets by BPSL to SCL being declared void or otherwise impeded pursuant to Section 81 of the Central Goods and Services Tax Act 2017;
3. BPSL has at all times been in full and complete compliance with the terms, conditions and covenants as prescribed under the Existing IDCO Lease Deed, and no amounts remain due and payable by BPSL to IDCO, other than in relation to lease payments pending to be made in the Ordinary Course of Business;
4. No representation or warranty by BPSL contained herein or in any other document furnished by BPSL to SCL or to any Governmental Authority in relation to Governmental Approvals contains or will contain any untrue or misleading statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not



misleading;

5. Without prejudice to the foregoing, as on the Closing Date (a) BPSL is not in material breach or default of / has not received any written notice from the relevant counterparty of any default notice for any Third Party Arrangement to which it is a party; (b) each such Third Party Arrangement has been duly authorised, executed and delivered by BPSL; (c) each such Third Party Arrangement is legal, valid, duly authorized, binding, in full force and effect and constitutes a valid and binding obligation of each party thereto, enforceable against each party thereto in accordance with its terms, and on and from the Closing Date, SCL shall have the benefit of these Third Party Arrangement as if it was an original contracting party thereto; (d) to the Knowledge of BPSL, there has been no act or omission by BPSL resulting in any breach of, or any invalidity of, or grounds for determination, rescission, amendment, avoidance or repudiation of any Third Party Arrangement to which BPSL is a party or of any allegation of such kind; and (e) the Third Party Arrangements can be assigned / novated in their entirety and automatically by BPSL in favor of SCL upon Closing, and SCL shall have the right to proceed and / or make any claim against the signatories to such Third Party Arrangements, after Closing has occurred.

7. Compliance

- 7.1. BPSL shall be in material compliance with all Applicable Laws in connection with the installation and operation of the Assets as on the Closing Date.
- 7.2. No Material Adverse Effect has occurred.

8. Status of assets

- 8.1. All Assets are (i) in good operating condition and in a state of good maintenance and repair, ordinary wear and tear excepted; (ii) have been maintained in accordance with normal industry practice; and (iii) are usable in the regular and Ordinary Course of Business.

