

WELSPUN



*Annexure #1*



MEMORANDUM OF UNDERSTANDING

BETWEEN

THE DHAMRA PORT COMPANY LIMITED

AND

WELSPUN ENERGY U.P PVT. LIMITED

*For/and*

*[Handwritten signature]*



This Memorandum of Understanding (hereinafter referred to as "MoU") made at Bhubaneswar on this 13<sup>th</sup> day of January, 2012, by and among:

THE DHAMRA PORT COMPANY LIMITED, a company incorporated under the Companies Act, 1956 and having its registered office at Second Floor, Fortune Towers, Chandrasekharpur, Bhubaneswar - 751023, Orissa, hereinafter referred to as "DPCL" (which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and permitted assigns) of the First Part

And

WELSPUN ENERGY U.P PRIVATE LIMITED, a Company incorporated under the Companies Act 1956 and having its registered office Welspun House, 5th Floor, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel, Mumbai - 400 013, hereinafter referred to as "WEUPPL" (which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and permitted assigns) of the Second Part

DPCL and WEUPPL are individually referred to as "Party" and collectively as "Parties".

WHEREAS,

- A. The Dhamra Port Company Limited (DPCL) is a 50:50 joint venture of L&T Infrastructure Development Projects Limited and Tata Steel Limited;
- B. Welspun Energy U.P Pvt Limited (WEUPPL) is Special Purpose Vehicle (SPV) of Welspun Energy Limited for developing a 1320 MW (2 x 660 MW) Thermal Power Plant at Mirzapur, Uttar Pradesh. The land for the project has been acquired and the environment clearance is due soon. This construction of the project is expected to commence in 2014 and it will be operational in 2017.
- C. DPCL has developed an all weather, modern, deep water port in the State of Odisha (hereinafter referred to as the "Port") under a Concession by Government of Odisha (hereinafter referred to as "GOO") on Build, Own, Operate, Share and Transfer (BOOST) basis as per the terms and conditions and covenants contained in the Concession Agreement dated April 2, 1998 (hereinafter referred to as the "Concession Agreement"). The concession is for a period of 34 years including 4 years for construction which can be extended for two additional periods of 10 years each.



- D. Phase-I of the Port development includes 2 berths with mechanized handling facilities for handling dry bulk cargo, 18 km long channel with a designed depth of 17 m and a 67 km rail link from Bhadrak to Dhamra. DPCL has plans to build new infrastructure as part of its expansion plan for handling additional bulk, break-bulk and liquid cargo at Dhamra Port.
- E. WEUPPL intends to use the bulk handling facilities at Dhamra Port to import about 5.5 million MT of Indonesian thermal coal for the proposed thermal power plant from the year 2017 onwards.

The Parties are entering into this MoU to record in writing the broad terms and conditions discussed and agreed upon between them.

NOW THEREFORE, the Parties have agreed as follows:

#### ARTICLE I

#### SCOPE OF COOPERATION

1. DPCL will provide cargo handling facilities to handle proposed WEUPPL cargo from the year 2017 onwards. Such facilities may also include any new import cargo handling infrastructure in addition to the existing import infrastructure at Dhamra Port.
2. The MoU has been signed between the Parties with the specific intention of entering into a binding cargo handling agreement. WEUPPL shall enter into a cargo handling contract with DPCL for handling of the proposed WEUPPL cargo before the expiry of this MoU. However, the cargo handling contract between DPCL and WEUPPL shall be subject to the terms and conditions prevailing at the time of negotiations and neither Party is bound to enter into such contract if mutual agreement regarding the terms and conditions is not reached.
3. WEUPPL shall periodically update DPCL with the progress and status of the thermal power plant.
4. Movement of coal from ports to Integrated Powers Plants is governed by the logistics plan of Indian Railways. WEUPPL will ensure that its proposed thermal power plant is included and linked with Dhamra Port in the Logistics Plan of Indian Railways prevailing at the time of signing the cargo handling contract.
5. Any other activities considered necessary for the operation of this MoU and which are not specifically set out herein but which may be identified at a later date, may be included by mutual discussion and consent.

**ARTICLE II****TERM AND VALIDITY OF THE MoU**

This MoU shall come into force for all purposes and intents, from the date it is executed and shall be valid until 31.03.2016 or such extended period as the Parties may mutually agree. However, this MoU may be terminated earlier by mutual consent of the Parties, or by the execution of a binding cargo handling agreement that will supersede this MoU.

**ARTICLE III****EXCLUSIVITY**

WEUPPL agrees in good faith that during the term of this MoU it shall not enter into any discussions, negotiations or execute any agreements with any port in West Bengal and Odisha other than Dhamra for handling of this cargo during the term of the MoU.

**ARTICLE IV****GOVERNING LAW**

This MoU shall be governed by and construed in accordance with the laws of India and shall be subject to the exclusive jurisdiction of the courts of Bhubaneswar.

**ARTICLE V****ASSIGNMENT**

This MoU is personal to the 'Parties' and neither the 'MoU' nor any of the rights and obligations arising under it may be assigned or transferred to any third party without the prior written consent of the other parties which may be granted on terms as to novation or otherwise as the consenting party or 'Parties' consider appropriate. Neither party will subcontract or delegate any of its interests or obligations in this MoU.

**ARTICLE VI****PUBLIC ANNOUNCEMENT**

The release of any information and of all public announcements (other than when such disclosure is required under any applicable law) related to the Projects shall be subject to the prior written approval of the other Party.

**ARTICLE VII****NO BINDING OBLIGATIONS**

It is understood and agreed by the Parties that the understandings set out in this MoU embody the declaration of the intentions of the Parties limited to the Scope of Cooperation



mentioned in Article I of this MoU and is not intended to be legally binding commitments of either Party for final assignment of the Projects or rights thereof.

**ARTICLE VIII  
TERMINATION**

This MoU may only be terminated by mutual written agreement of the Parties. Both Parties shall be relieved from liabilities and obligations under this MoU upon such termination, except in relation to such obligations and liabilities that have arisen or accrued prior to termination.

**ARTICLE IX  
NO AGENCY/PARTNERSHIP**

Nothing in this MoU shall constitute either Party as an agent of the other Party, nor shall any provision of this MoU be deemed to constitute a partnership or joint venture between the Parties.

**ARTICLE X  
NOTICES**

Any notice or other communication to be given or served pursuant to this MoU shall be in writing and shall be deemed to be duly and properly served upon the parties hereto if received by post or facsimile transmission to:

**If to DPCL:**

The Dhamra Port Company Limited 2 <sup>nd</sup> Floor, Fortune Towers, Chandrasekharpur, Bhubaneswar - 751023 INDIA	Attn: Mr. Jai Khurana Designation: Vice President (Marketing & Sales) Tel No.: 0674 2303829 Fax No.: 0674 2303828 E-mail: jai.khurana@dhamraport.com
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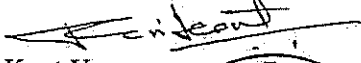
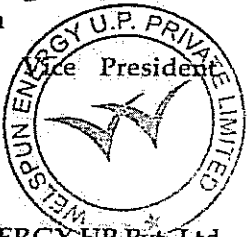
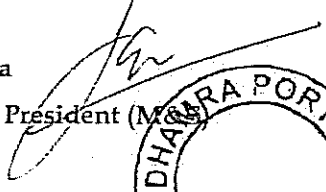
**If to WEUPPL:**

WELSPUN ENERGY U.P Pvt. Limited 3 <sup>rd</sup> floor , PTI Building , 4 , Parliament Street , New Delhi , India -110001	Attn: Mr. Ravi Kant Verma Designation: Assistant Vice President (Corporate Affairs ) Tel No: 011 66034606 Email:ravi_verma@welspun.com
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**ARTICLE XI  
AMENDMENT**

This MoU shall not be amended, modified or supplemented without prior written consent of all the Parties.

IN WITNESS WHEREOF, the Parties by their duly authorized representatives have caused this MoU to be executed as of the day and year first above written.

Signed on Behalf of WEUPPL	Signed on Behalf of DFCL
<p>By: </p> <p>Name: Ravi Kant Verma</p> <p>Designation: Assistant Vice President - Corporate Affairs</p> <p>Witness:</p> <p>Name &amp; Address:</p> <p>WELSPUN ENERGY U.P. PRIVATE LIMITED 3rd floor PTI Building , 4, Parliament Street , New Delhi India -110001</p> 	<p>By: </p> <p>Name: Jai Khurana</p> <p>Designation: Vice President (M&amp;S)</p> <p>Witness:</p> <p>Name &amp; Address:</p> <p>2nd Floor, Fortune Towers, Chandrasekharapur, Bhubaneswar - 751023</p> 