

**BITUMINOUS COAL SALE AND PURCHASE  
CONTRACT**

**(Contract No. KOSEP-Coal-2012-LT10)**

**Seller's References: 605001, 605003**

**BETWEEN**

**KOREA SOUTH-EAST POWER CO. LTD.**

**AND**

**TRAFIGURA PTE LTD**

**BITUMINOUS COAL SALE AND PURCHASE**



## ARTICLE 12 (FOBT)

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### Delivery

12.01 Seller shall arrange Coal to be loaded, stowed and trimmed to the master's satisfaction in respect of sea-worthiness, in free of risk, expense and responsibility to the vessel and Buyer.

12.02 Notice of readiness to load may be tendered by the vessel or vessel's agent after vessel's arrival at the loading port, and when in free pratique, whether in berth or not, at any time including Saturdays (00:00~24:00), Sundays (00:00~24:00), and Holidays (00:00~24:00)

12.03 Laytime at loading port shall commence 12 consecutive hours after Notice of Readiness is tendered, if vessel, whether in berth or not, provided the vessel is in free pratique, is ready in all respects to receive Coal or when loading commences, whichever first occurs.

If the vessel is prevented from entering the commercial limits of loading port because a loading berth or layberth or anchorage is not available under the order of Seller or the port authorities, and the master warrants that the vessel is physically ready in all respects to commence loading, the Notice of Readiness may be tendered by radio and the time lost waiting at a usual waiting place outside the commercial limits of the port or off the port shall be counted as laytime used, regardless of weather, berth, wharf or harbor condition. The time required for shifting from the waiting point to loading berth shall not be counted as laytime used. Time lost by any causes shall be counted as laytime unless such time lost is due to the causes stipulated in Article 14 and Seller notifies Buyer and declares force majeure thereof in accordance with Article 14. However, the time lag between occurrence of force majeure and declaration of force majeure shall be counted as laytime.

Laytime shall end at the point of time when the loading, all trimming work and the draft survey have been completed.

12.04 Seller shall guarantee the following average loading rate aboard the vessel per weather 



working day of twenty four (24) consecutive hours,  
Loading rates shall be 15,000 metric tons per weather working day, Sundays and holidays included (PWWD SHINC).

When loading facilities are improved in the future, the above loading rate shall be improved without delay.

When a vessel is either fully or partly loaded at loading port, vessel size shall determine the loading rate.

12.05 Seller agrees to accept, from time to time, combined cargo which loads two or more different brands of Coal or two or more shippers' Coal on one vessel at loading berth. The normal loading terms and conditions in this Contract shall be applied except as provided for in the following clauses (a) to (c).

(a) Notice of Readiness is to be tendered to major shipper to load, as determined by vessel, and copies of same are to be provided to other shippers.

(b) Determination of total cargo weight shall be by draft survey.

However, weights of individual Coal types shall be determined in proportion of weightometer figures. Should weightometer reading not be available, determination of weight of each coal type shall be by individual draft survey.

(c) When a vessel is fully loaded at the loading port, then vessel size shall determine the agreed loading rate.

When vessel is only partly loaded, the aggregate amount of the two or more different types of Coal loaded shall determine the agreed loading rate.

12.06 In the event of actual laytime overused for loading, Seller shall pay demurrage to Buyer for all time lost. If vessel is once on demurrage at loading port, she shall be deemed to be always on demurrage without exceptions, unless leaving port for bunkering or fumigation or delays due to vessel master or Buyer's requirements.

In the event of actual laytime saved for loading, Buyer shall pay despatch money to Seller the half of the demurrage rate for all laytime saved at the loading port.

Demurrage shall be as per charter party with a maximum of US\$ 12,000 per day or pro rata part thereof.

In case Buyer arranges for a vessel to take a combined cargo, the total demurrage, if



any, is for the account of the shipper whose Coal stock is not available for loading on the vessel thus causing the delay in completing loading resulting in demurrage.

Settlement of demurrage and despatch money shall be made within thirty(30) days between shipping company and Seller after the receipt of invoice for such demurrage and despatch money.

12.07 Overtime at loading port and related extra expense shall be for the account of Seller unless ordered by Buyer. Vessel's officers' and crew's overtime shall always be borne by the vessel owner.

12.08 The vessel shall furnish lighting necessary for night work on board the vessel. Hatchcovers and hatchbeams, if any, shall be removed and replaced at loading port by the vessel owner at his cost.

12.09 If warping or shifting alongside the wharf is necessary after the vessel has berthed thereat, the time required therefore shall be counted as laytime used and all expenses incurred therefore except for vessel's side shall be borne by Seller, unless it is made by vessel's request.

12.10 Seller shall bear the costs of loading of Coal on the vessel hereunder, wharfage, export tax and similar tax, impost or charge imposed by the government or other agency, and other similar costs which normally are considered to be for Seller's account.

All costs of ocean transportation applicable to any cargo after delivery of such cargo aboard vessels at the loading port shall be for the account of and paid by Buyer.

It shall be Buyer's responsibility to assure that the vessels shall pay and bear all port charge, tonnage dues, light dues and other similar charges which are customarily payable on or with respect to the vessels at the loading port.

If there is doubt as to the bearing of any costs or expenses relating to the delivery, the costs or expenses directly relating to the vessel shall be borne by Buyer, and the others by Seller.

12.11 Bill of lading for Coal received on board vessel shall be issued on the basis of official weights at loading port determined by an international independent inspection agency



using standard water displacement methods under Article 5.01.1.

12.12 Seller shall endeavor to improve the aforesaid conditions of delivery in case of the improvement of loading conditions by port authority and the usual practice of the port.

The above delivery conditions shall be, in principle, adjusted thereby without delay. ⚡



## ARTICLE 14

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### **Force Majeure**

- 14.01 Seller shall not be liable to Buyer nor shall Buyer be liable to Seller for any delay, interruption or failure in the performance of obligations hereunder (including delay or loss of or damage to any vessel after notification) if such delay, interruption or failure is due to or results from war (whether declared or undeclared), blockade, revolution, riot, insurrection, mobilization, civil commotion, strike, lockout, act of God, public enemies, acts of the Government in either its sovereign power or governmental restrictions or control on imports, exports or foreign exchange, fire, flood, storm, tempest, embargoes, quarantine restrictions, accident in and to vessel or strikes, break down of loading and unloading facilities, freight embargoes and breakdowns of railroad, or any other cause beyond the control of Seller or Buyer as the case may be.
- 14.02 In the event that any conditions of force majeure occur or are likely to occur, the party directly affected shall promptly notify the other party by telex, facsimile or cable to be followed by a written notice setting forth the particulars of the relevant event with supporting evidence. The party so affected shall take all reasonable steps to remove the conditions of force majeure, with the least possible delay, in compliance with its obligations under this Contract.
- 14.03 If no consultation is made within 7 working days or no agreement is reached between the Parties within 21 days of such request being made, then the performance of this Contract by the party giving the notice shall be suspended for the duration of and insofar as the same affected by disability resulting from such Force Majeure and the party giving the above mentioned notice shall not be liable for delay or failure in performance of the relevant provisions of this Contract for such duration. If any contingency persists as a period 90days or more either party may cancel any fulfilled orders affected by such delay without any liability to Seller/Buyer. 

