

## Form 603

Corporations Act 2001  
Section 671B

## Notice of initial substantial holder

To Company Name/Scheme Resource Generation LimitedACN/ARSN 059 950 337

## 1. Details of substantial holder (1)

Name Integrated Coal Mining Limited and each of its associates listed in Annexure A  
ACN / ARSN (if applicable) N/AThe holder became a substantial holder on 21 / 09 / 2010

## 2. Details of voting power

The total number of votes attached to all the voting shares in the company or voting interests in the scheme that the substantial holder or an associate (2) had a relevant interest (3) in on the date the substantial holder became a substantial holder are as follows:

Class of securities (4)	Number of securities	Persons' votes (5)	Voting power (6)
Ordinary Shares	18,268,053	18,268,053	10%

## 3. Details of relevant interests

The nature of the relevant interest the substantial holder or an associate had in the following voting securities on the date the substantial holder became a substantial holder are as follows:

Holder of relevant interest	Nature of relevant interest (7)	Class and number of securities
Integrated Coal Mining Limited	Registered holder of the securities issued pursuant to the Share Subscription Agreement between Resource Generation Limited and Integrated Coal Mining Limited attached as Annexure B. Taken under section 608(1) to have a relevant interest by reason of being the holder of the securities.	18,268,053 ordinary shares
ICML Holding Companies as identified in Annexure A – Section 1	Taken under section 608(3) of the Corporations Act 2001 (Cth) to have a relevant interest by reason of having voting power of more than 20% in Integrated Coal Mining Limited	18,268,053 ordinary shares
ICML Subsidiaries as identified in Annexure A – Section 2	Taken under section 608(3) of the Corporations Act 2001 (Cth) to have a relevant interest by reason of its association with Integrated Coal Mining Limited	18,268,053 ordinary shares

## 4. Details of present registered holders

The persons registered as holders of the securities referred to in paragraph 3 above are as follows:

Holder of relevant interest	Registered holder of securities	Person entitled to be registered as holder (8)	Class and number of securities
Integrated Coal Mining Limited	Integrated Coal Mining Limited	Integrated Coal Mining Limited	18,268,053 ordinary shares

## 5. Consideration

The consideration paid for each relevant interest referred to in paragraph 3 above, and acquired in the four months prior to the day that the substantial holder became a substantial holder is as follows:

Holder of relevant interest	Date of acquisition	Consideration (9)		Class and number of securities
		Cash	Non-cash	
Integrated Coal Mining Limited	21/09/2010	\$10,504,130.48		18,268,053 ordinary shares
Each of its associates listed in Annexure A	21/09/2010	\$10,504,130.48		18,268,053 ordinary shares

**6. Associates**

The reasons the persons named in paragraph 3 above are associates of the substantial holder are as follows:


Name and ACN/ARSN (if applicable)	Nature of association
Refer to Item 3	Refer to Item 3

**7. Addresses**

The addresses of persons named in this form are as follows:

Name	Address
Integrated Coal Mining Limited	6 Church Lane, 1 <sup>st</sup> Floor, Kolkata 700 001 West Bengal, India
Each of its associates in Annexure A	See Annexure A

**Signature**

print name	Swaraj Kumar Pandab	Capacity	Secretary
sign here		Date	22 / 09 / 2010

**DIRECTIONS**

- (1) If there are a number of substantial holders with similar or related relevant interests (eg. a corporation and its related corporations, or the manager and trustee of an equity trust), the names could be included in an annexure to the form. If the relevant interests of a group of persons are essentially similar, they may be referred to throughout the form as a specifically named group if the membership of each group, with the names and addresses of members is clearly set out in paragraph 7 of the form.
- (2) See the definition of "associate" in section 9 of the Corporations Act 2001.
- (3) See the definition of "relevant interest" in sections 608 and 671B(7) of the Corporations A.
- (4) The voting shares of a company constitute one class unless divided into separate classes.
- (5) The total number of votes attached to all the voting shares in the company or voting interests in the scheme (if any) that the person or an associate has a relevant interest in.
- (6) The person's votes divided by the total votes in the body corporate or scheme multiplied by 100.
- (7) Include details of:
  - (a) any relevant agreement or other circumstances by which the relevant interest was acquired. If subsection 671B(4) applies, a copy of any document setting out the terms of any relevant agreement, and a statement by the person giving full and accurate details of any contract, scheme or arrangement, must accompany this form, together with a written statement certifying this contract, scheme or arrangement; and
  - (b) any qualification of the power of a person to exercise, control the exercise of, or influence the exercise of, the voting powers or disposal of the securities to which the relevant interest relates (indicating clearly the particular securities to which the qualification applies).

See the definition of "relevant agreement" in section 9 of the Corporations Act 2001.
- (8) If the substantial holder is unable to determine the identity of the person (eg. if the relevant interest arises because of an option) write "unknown".
- (9) Details of the consideration must include any and all benefits, money and other, that any person from whom a relevant interest was acquired has, or may, become entitled to receive in relation to that acquisition. Details must be included even if the benefit is conditional on the happening or not of a contingency. Details must be included of any benefit paid on behalf of the substantial holder or its associate in relation to the acquisitions, even if they are not paid directly to the person from whom the relevant interest was acquired.

## Annexure A

### Associates of Integrated Coal Mining Limited

This is Annexure A of 1 page referred to in Form 603 Notice of Initial Substantial Holder signed by me and dated 22 September 2010.

ASSOCIATES OF INTEGRATED COAL MINING LIMITED			
Item	Name of Company & Address	Nature of Association	Percentage Holding
<b>Section 1: ICML Holding Companies</b>			
1.	<b>Rainbow Investments Ltd of</b> 436 Dr Annie Besant Road, Worli, Mumbai 400 030	Holding Company	Holds 49.33% in Integrated Coal Mining Limited
2.	<b>CESC Ltd of</b> CESC House, Chowringhee Square, Kolkata 700 001	Holding Company	Holds 26% in Integrated Coal Mining Limited
3.	<b>Adorn Investments Ltd of</b> 31 Netaji Subhas Road, Kolkata 700 001	Holding Company	Holds 22.61% in Integrated Coal Mining Limited
<b>Section 2: ICML Subsidiaries</b>			
4.	<b>RPG Power Trading Company Ltd of</b> 6 Church Lane, 1 <sup>st</sup> Floor, Kolkata 700 001	Subsidiary Company	Integrated Coal Mining Limited holds 100%
5.	<b>Crescent Power Ltd of</b> 6 Church Lane, 1 <sup>st</sup> Floor, Kolkata 700 001	Subsidiary Company	Integrated Coal Mining Limited holds 51%
6.	<b>Shaft Investments Private Ltd of</b> 8A Gariahat Road, Flat No. GD, Ground Floor, Kolkata 700 019	Subsidiary Company	Integrated Coal Mining Limited holds 100%
7.	<b>Noida Power Company Ltd of</b> H - Block, Commercial Complex, Alpha II Sector, Greater Noida, U.P., 201 308	Subsidiary Company	Shaft Investments Private Ltd holds 75%

I certify that the information in this form is true and correct.

Print Name: Swaraj Kumar Pandab

Capacity: Secretary

Sign here:



Date: 22 / 09 / 2010

**Annexure B**  
**Share Subscription Agreement**

This is Annexure B of 14 pages referred to in Form 603 Notice of Initial Substantial Holder signed by me and dated 22 September 2010 being a true and complete copy of the original Share Subscription Agreement dated 14 September 2010 and signed by me on each page.

I certify that the information in this form is true and correct.

Print Name: Swaraj Kumar Pandab

Capacity: Secretary

Sign here:



Date: 22 / 09 / 2010

# Share Subscription Agreement

**RESOURCE GENERATION LIMITED**

**AND**

**INTEGRATED COAL MINING LIMITED**

*[Handwritten signature]*  
*h a*

# Share Subscription Agreement


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## Table of Contents

<b>1.</b>	<b>DEFINITIONS AND INTERPRETATION</b>	<b>1</b>
1.1	DEFINITIONS	1
1.2	INTERPRETATION	2
<b>2.</b>	<b>SUBSCRIPTION</b>	<b>3</b>
2.1	SUBSCRIPTION	3
<b>3.</b>	<b>COMPLETION</b>	<b>3</b>
3.1	PLACE FOR COMPLETION	3
3.2	SHARES APPLICATION	3
3.3	APPROVAL OF ISSUE OF SHARES	3
3.4	FURTHER ACTIONS BY COMPANY	3
3.5	FURTHER ACTION BY SUBSCRIBER	4
3.6	INTERDEPENDENCE	4
<b>4.</b>	<b>NOTICE TO COMPLETE</b>	<b>4</b>
4.1	NOTICE BY THE SUBSCRIBER	4
4.2	NOTICE BY THE COMPANY	4
<b>5.</b>	<b>WARRANTIES</b>	<b>4</b>
5.1	WARRANTIES	4
5.2	EFFECTIVE DATES	4
5.3	ACKNOWLEDGMENT	4
5.4	NO RELIANCE	4
5.5	LIMITATION ON LIABILITY	5
<b>6.</b>	<b>UNDERTAKING</b>	<b>5</b>
6.1	ISSUE OF FURTHER SECURITIES TO EXISTING SHAREHOLDERS	5
6.2	OTHER ISSUES OF FURTHER SECURITIES	5
<b>7.</b>	<b>NOTICES</b>	<b>6</b>
<b>8.</b>	<b>ANNOUNCEMENTS</b>	<b>6</b>
<b>9.</b>	<b>FURTHER ASSURANCES</b>	<b>6</b>
<b>10.</b>	<b>ENTIRE AGREEMENT</b>	<b>6</b>
<b>11.</b>	<b>AMENDMENT</b>	<b>7</b>
<b>12.</b>	<b>ASSIGNMENT</b>	<b>7</b>
<b>13.</b>	<b>NO WAIVER</b>	<b>7</b>
<b>14.</b>	<b>NO MERGER</b>	<b>7</b>
<b>15.</b>	<b>STAMP DUTY AND COSTS</b>	<b>7</b>
<b>16.</b>	<b>GOVERNING LAW</b>	<b>7</b>

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# Share Subscription Agreement

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17. NO REVOCATION	7
SCHEDULE 1	9
APPLICATION FOR SHARES	9
SCHEDULE 2	10
WARRANTIES	10

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*h x*  
*[Signature]*

## Share Subscription Agreement

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<b>Date</b>	14 September 2010
<b>Parties</b>	<p>1. <b>RESOURCE GENERATION LIMITED</b> (ACN 059 950 337) of Level 12 Chifley Tower, 2 Chifley Sq, Sydney, NSW 2000 (the <i>Company</i>); and</p> <p>2. <b>INTEGRATED COAL MINING LIMITED</b>, of 6 Church Lane, 1st Floor, Kolkata-700001, West Bengal, India (the <i>Subscriber</i>).</p>
<b>Recitals</b>	<p>A The Subscriber wishes to subscribe for shares in the Company.</p> <p>B The parties wish to provide for the terms on which the Subscriber will subscribe for and the Company will issue the shares.</p>

**IT IS AGREED** as follows.

### 1. Definitions and interpretation

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#### 1.1 Definitions

The following definitions apply unless the context requires otherwise.

*Affiliates* mean any person, which controls, is controlled by, or is under common control with the Subscriber, where control means (i) the ownership of more than 50% (fifty percent) or more of the equity shares or other voting securities of such person; or (ii) the possession of the power to direct the management and policies of such person; or (iii) the power to appoint a majority of the directors, with respect to such person by virtue of ownership of voting securities or management or contract or in any other manner, whether (a) formal or informal; (b) having legal or equitable force or not; (c) whether based on legal or equitable rights; or (d) directly or indirectly, including through one or more other persons; and the term "common control" shall be construed accordingly.

*Agreement* means this agreement including its schedules.

*ASX Settlement Operating Rules* means the settlement rules of the ASX Settlement Pty Ltd ABN 49 008 504 532.

*ASX* means Australian Stock Exchange Limited (ACN 008 624 691).

*ASX Listing Rules* means the official listing rules of the ASX, and any other rules of the ASX which are applicable while the Company is listed, each as amended or replaced from time to time except to the extent of any express written waiver by the ASX.

*Business Day* means a day on which trading banks are open in Sydney and Kolkata, India.

*Claims* means claims, demands, actions, proceedings, judgements, liabilities, loss, damages, costs and expenses (including legal costs and disbursements) and in any way arising.

*Completion* means completion of the subscription for the Shares under this Agreement.

## Share Subscription Agreement

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**Completion Date** means the date being the later of seven (7) Business Days after the date of this Agreement or any other date agreed in writing.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Encumbrance** means an interest or power:

- (a) reserved in or over any interest in any asset including, without limitation, any retention of title; or
- (b) created or otherwise arising in or over any interest in any asset under a bill of sale, mortgage, charge, lien, pledge, trust or power, by way of security for the payment of debt or any other monetary obligation or the performance of any other obligation and whether existing or agreed to be granted or created.

**Shares** means 18,268,053 fully paid ordinary shares in the capital of the Company to be issued under this Agreement.

**Subscription Price** means \$0.575 per Share, being a total of \$10,504,130.48 for 18,268,053 Shares.

**Warranties** mean the warranties in Schedule 2.

### 1.2 Interpretation

**Headings** are for convenience only and do not affect interpretation. The following rules of interpretation apply unless the context requires otherwise.

- (a) The *singular* includes the plural and conversely.
- (b) A *gender* includes all genders.
- (c) Where a *word* or *phrase* is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a *person* includes a body corporate, an unincorporated body or other entity and conversely.
- (e) A reference to a *clause* or *schedule* is to a clause of or schedule to this Agreement.
- (f) A reference to any *party* to this Agreement or any other agreement or document includes the party's successors and permitted assigns.
- (g) A reference to any *agreement* or *document* is to that agreement or document as amended, novated, supplemented, varied or replaced from time to time, except to the extent prohibited by this Agreement or that other agreement or document.
- (h) A reference to any *legislation* or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it.
- (i) A reference to *dollars* and *\$* is to Australian currency.
- (j) Each Schedule to this Agreement forms part of this Agreement.
- (k) A reference to *conduct* includes, without limitation, any omission, representation, statement or undertaking, whether or not in writing.
- (l) Unless defined in this Agreement or the context requires otherwise, a word defined in the *Corporations Act* has the same meaning in this Agreement.

## Share Subscription Agreement

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### 2. Subscription

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#### 2.1 Subscription

On Completion:

- (a) The Subscriber by itself or through its Affiliates, will subscribe to the Shares and pay the Subscription Price to the Company; and
- (b) The Company will allot and issue the Shares to the Subscriber free and clear of all Encumbrances.

### 3. Completion

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#### 3.1 Place for Completion

Completion will take place at 10:00 am Sydney time on the Completion Date at the offices of the Company or at any other place and/or time proposed by the Company and agreed to by the Subscriber.

#### 3.2 Shares Application

At Completion the Subscriber shall deliver to the Company;

- (a) an application for the Shares in the form set out in Schedule 1;
- (b) a bank cheque payable to the Company or cleared funds by way of an electronic funds transfer into the Company's nominated bank account for the Subscription Price.

#### 3.3 Approval of Issue of shares

The Company shall cause a meeting of the directors of the Company to be held immediately prior to Completion at which the directors shall resolve, subject to compliance with clause 3.2 by the Subscriber:

- (a) to approve the allotment and issue of the Shares to the Subscriber; and
- (b) to approve the Shares to be registered in the name of the Subscriber in the Register of Members once the proceeds have been received;
- (c) to approve the giving of the cleansing statement referred to in clause 3.6(b).

#### 3.4 Further actions by Company

On Completion the Company must:

- (a) provide the Subscriber with a holding statement for the Shares issued in accordance with the ASX Settlement Operating Rules;
- (b) within the five (5) Business Day period referred to in section 708A(6) of the Corporations Act, give to ASX a cleansing statement pursuant to section 708A(5)(e) of the Corporations Act in respect of the Shares; and
- (c) apply for official quotation of the Shares by lodging in accordance with the ASX Listing Rules a completed Appendix 3B in relation to the Shares, and provide a copy of the Appendix 3B to the Subscriber.

## Share Subscription Agreement

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### 3.5 Further Action by Subscriber

Within two (2) Business Days of the shares, subject to this Agreement, being issued, the Subscriber or its controlling shareholder will lodge a substantial shareholder notice on the Company in accordance with Section 671B of the Corporations Act 2001.

### 3.6 Interdependence

Each of the obligations at Completion set out in this clause 3 are interdependent and Completion will not be deemed to occur until all such obligations are completed.

## 4. Notice to complete

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### 4.1 Notice by the Subscriber

If the Company fails to satisfy its obligations under Clause 3 on Completion, the Subscriber may give the Company a notice requiring it to satisfy those obligations within a period of 5 Business days from the date of receipt of the notice, and declaring time to be of the essence in all respects. If the Company fails to satisfy those obligations on the date specified in the Subscriber's notice, the Subscriber may, without affecting or limiting any other rights it might have, terminate this Agreement.

### 4.2 Notice by the Company

If the Subscriber fails to satisfy its obligations under Clause 3 on Completion, the Company may give the Subscriber a notice requiring it to satisfy those obligations within a period of 5 Business days from the date of receipt of the notice, and declaring time to be of the essence in all respects. If the Subscriber fails to satisfy those obligations on the date specified in the Company's notice, the Company may, without affecting or limiting any other rights it might have, terminate this Agreement.

## 5. Warranties

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### 5.1 Warranties

The Company represents and warrants to the Subscriber in the terms set out in Schedule 2.

### 5.2 Effective dates

The Warranties are given both as at the date of this Agreement and as at the Completion Date, except that where a Warranty is expressed to be made as at a date, the Warranty is given with respect to that date only.

### 5.3 Acknowledgment

The parties acknowledge that the Subscriber is relying on publicly available information concerning the Company and information provided by the Company to the Subscriber in entering into this Agreement

### 5.4 No reliance

The Subscriber acknowledges that:

- (a) at no time has:
  - (i) the Company, or any person on the Company's behalf, made or given; or
  - (ii) the Subscriber relied on,

## Share Subscription Agreement

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any representation, warranty, promise or forecast except those referred to in clause 5.1; and

- (b) no other statements or representations:
  - (i) have induced or influenced the Subscriber to enter into this Agreement or to agree to any or all of its terms;
  - (ii) have been relied on in any way as being accurate by the Subscriber;
  - (iii) have been warranted to the Subscriber as being true; or
  - (iv) have been taken into account by the Subscriber as being important to the Subscriber's decision to enter into this Agreement or agree to any or all of its terms.

### 5.5 Limitation on Liability

Despite any other provision of this Agreement, each of the following applies.

- (a) The maximum aggregate liability of the Company for a breach of the Warranties shall be limited to the Subscription Price paid for the Shares by the Subscriber.
- (b) The Company shall not have any liability in respect of any Claim under the Warranties unless reasonable particulars of the Claim are given to the Company on or before eighteen (18) months after the Completion Date.
- (c) The liability of the Company in respect of any Claim under the Warranties shall be reduced or extinguished (as the case may be) to the extent that the Claim has arisen as a result of any conduct after Completion by the Subscriber.
- (d) The Company shall not have any liability in respect of any proper Claim under the Warranties unless the amount of the loss claimed under any individual Claim is more than \$250,000 and that amount when aggregated with the amount of any other Claims properly made against the Company under this Agreement, exceeds the sum of \$500,000.

## 6. Undertaking

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### 6.1 Issue of further securities to existing shareholders

In the event, the Company offers any new shares and/or any other securities of the Company to its existing shareholders the Company shall not exclude the Subscriber from subscription to such shares and/or any other securities of the Company (or a part thereof), for the reason that the Subscriber is not located or domiciled in Australia (or that the Subscriber is located or domiciled in India).

### 6.2 Other issues of further securities

In the event that the Company offers any new shares and/or other securities of the Company by way of placement or otherwise than by way of a pro rata issue to existing shareholders then the Company shall use its best endeavours to ensure that the Company offers such new shares and/or other securities to the Subscriber so as to enable the Subscriber to maintain its percentage equity holding in the Company (expressed as percentage of total issued ordinary voting shares) at the percentage actually held by the Subscriber and its Affiliates prior to the issue of such new shares and/or other securities (but only up to a maximum percentage of ten (10) per cent of such new shares or other securities to be issued) and at the same price and otherwise on the same terms and conditions as such new shares and/or other securities are to be offered to any other persons provided always that:

- (a) If the Company properly determines that it is not in the best interests of the Company for an offer to be made to the Subscriber the Company may by notice to the Subscriber with reasons request that the Subscriber not to subscribe and in that event the Subscriber shall not subscribe;

## Share Subscription Agreement

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- (b) The provisions of this Clause do not apply to the issue of shares under any employee share scheme or upon the exercise of options in existence on the date of this Agreement;
- (c) The Subscriber may nominate any of its Affiliates to accept and take up any offer under this Clause.

### 7. Notices

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Any notice given under this Agreement:

- (a) must be in writing addressed to the intended recipient at the address shown below or the address last notified by the intended recipient to the sender;

**The Company**

Resource Generation Limited  
Level 12 Chifley Tower  
2 Chifley Sq  
Sydney NSW 2000

**Attention:** Company Secretary

**The Subscriber**

Integrated Coal Mining Limited  
6 Church Lane, 1st Floor,  
Kolkata-700001, West Bengal  
India

**Attention** Mr Prabir Neogi

- (b) must be signed by a person duly authorised by the sender; and
- (c) will be taken to have been given or made (in the case of delivery in person or by post or email) when delivered, received or left at the above address,

but if delivery or receipt occurs on a day on which business is not generally carried on in the place to which the communication is sent or is later than 4 pm (local time) it will be conclusively taken to have been duly given or made at the commencement of business on the next day on which business is generally carried on in the place.

### 8. Announcements

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Except as required by applicable law or the requirements of any regulatory body (including any relevant stock exchange), all press releases and other public announcements relating to the transactions dealt with by this Agreement must be in terms mutually agreed by the parties.

### 9. Further assurances

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Each party shall take all steps, execute all documents and do everything reasonably required by any other party to give effect to any of the transactions contemplated by this Agreement.

### 10. Entire agreement

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Subject to the other provisions of this Agreement, this Agreement contains the entire agreement of the parties with respect to its subject matter. It constitutes the only conduct relied on by the parties (and supersedes all earlier conduct by the parties) with respect to its subject matter. However, the Subscriber remains bound by any confidentiality agreement signed by the Subscriber with the

## Share Subscription Agreement

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Company in respect of information of the Company disclosed to the Subscriber pursuant to that agreement.

### 11. Amendment

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This Agreement may be amended only by another agreement executed by the parties in writing.

### 12. Assignment

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The rights and obligations of each party under this Agreement are personal. They cannot be assigned, charged or otherwise dealt with, and neither party shall attempt or purport to do so, without the prior written consent of the other party, provided that, the Subscriber may subscribe to the shares or other securities under clause 6.2 by itself or through one or more of its Affiliates.

### 13. No waiver

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No failure to exercise and no delay in exercising any right, power or remedy under this Agreement will operate as a waiver. Nor will any single or partial exercise of any right, power or remedy preclude any other or further exercise of that or any other right, power or remedy.

### 14. No merger

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The rights and obligations of the parties will not merge on completion of any transaction under this Agreement.

### 15. Stamp duty and costs

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Each party shall bear its own costs arising out of the preparation, review and negotiation of this Agreement but the Subscriber shall bear any stamp duty chargeable on this Agreement, on any instruments entered into under this Agreement, and in respect of a transaction evidenced by this Agreement. The Subscriber shall indemnify the Company on demand against any liability for that stamp duty.

### 16. Governing law

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This Agreement is governed by the laws of New South Wales. The parties submit to the non-exclusive jurisdiction of the courts exercising jurisdiction there.

### 17. No revocation

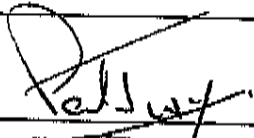
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Each attorney executing this Agreement declares that he has no notice of the revocation or suspension of his power of attorney.

EXECUTED as an agreement.


Executed by RESOURCE GENERATION  
LIMITED in the presence of:


### Share Subscription Agreement

  
 \_\_\_\_\_  
 Director Signature  
 \_\_\_\_\_  
 Paul Suri  
 \_\_\_\_\_  
 Print Name

  
 \_\_\_\_\_  
 Director/Secretary Signature  
 \_\_\_\_\_  
 STEPHEN MATTHEWS  
 \_\_\_\_\_  
 Print Name

Signed on behalf of INTEGRATED COAL MINING LIMITED in the presence of:

  
 \_\_\_\_\_  
 Witness Signature  
 \_\_\_\_\_  
 D. L. FARRUKH  
 \_\_\_\_\_  
 Print Name

  
 \_\_\_\_\_  
 Signature



# Share Subscription Agreement

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## SCHEDULE 1

### Application for shares

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**APPLICATION FOR SHARES  
IN RESOURCE GENERATION LIMITED  
(ACN 059 950 337)**

Name of applicant	Integrated Coal Mining Limited
Applicant's address	6 Church Lane, 1 <sup>st</sup> Floor, Kolkata 700 001, India
No. of shares applied for	18,268,053
Class of shares	Ordinary
Amount to be paid per share	\$0.575
Total subscription price	\$10,504,130.48

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1. The above named applicant (*the Applicant*) applies for and authorises the above Company to enter its name in the register of members in respect of the number of shares in the Company specified in this application.
2. A bank cheque for the subscription moneys for those shares is attached [or the Applicant has arranged for the subscription moneys to be telegraphically transferred to the Company's bank account].
3. The Applicant agrees to be bound by the Constitution of the Company.
4. On allotment of the shares, the Applicant will hold the shares beneficially.
5. Any attorney signing this document states that the attorney has no notice of the revocation of his or her power of attorney.
6. Applicant warrants that the application for the shares will not cause the Company or the Applicant to violate the securities or other laws of India.

Dated:

Executed by Integrated Coal Mining Limited:

\_\_\_\_\_  
Director Signature

\_\_\_\_\_  
Director/Secretary Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

# Share Subscription Agreement

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## SCHEDULE 2

### Warranties

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#### 1. Solvency

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- 1.1 None of the following has occurred and is subsisting, or is threatened, in relation to the Company and its subsidiaries.
- (a) The appointment of an administrator.
  - (b) An application or an order made, proceedings commenced, a resolution passed or proposed in a notice of meeting or other steps taken for:
    - (i) the winding up, dissolution, or administration of the Company and its subsidiaries, except for Comdek Satellite Communications Pty Limited, or
    - (ii) the Company and its subsidiaries entering into an arrangement, compromise or composition with or assignment for the benefit of its creditors or a class of them.
  - (c) The Company and its subsidiaries:
    - (i) being (or taken to be under applicable legislation) unable to pay its debts, other than as the result of a failure to pay a debt or claim the subject of a good faith dispute; or
    - (ii) stopping or suspending, or threatening to stop or suspend, payment of all or a class of its debts.
  - (d) The appointment of a receiver, receiver and manager, administrator or similar officer to any of the assets and undertakings of the Company and its subsidiaries.

#### 2. Material Contracts

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The Company and its subsidiaries are not in material default under any material contract to which they are a party.

#### 3. Absence of Litigation

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- 3.1 (Disputes) The Company and its subsidiaries are not engaged in any prosecution, litigation, arbitration proceedings or administrative or governmental investigation or challenge as plaintiff, defendant, third party or in any other capacity which will have a material adverse impact on the Company and its subsidiaries. There are no such matters pending or threatened in respect of which written communication has been given or received by or against the Company and its subsidiaries.

#### 4. Authority, power and compliance with law

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- 4.1 The Company has the power and authority to enter into and perform its obligations under this Agreement.
- 4.2 The execution, delivery and performance of this Agreement by the Company will constitute legal, valid and binding obligations of it, enforceable in accordance with its terms.

## Share Subscription Agreement

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- 4.3 The execution, delivery and performance of this Agreement will not violate:
- (a) any legislation or rule of law or regulation, authorisation, consent or any order or decree of any governmental authority; or
  - (b) the Company's constitution or any rules or other document constituting that party or governing its activities; or
  - (c) any instrument to which it is a party or which is binding on it or any of its assets or the assets of any of its Related Bodies Corporate,
- 4.4 The Company is in compliance with the ASX Listing Rules, including without limitation, ASX Listing Rule 3.1 and no matter has been withheld from disclosure by reason of Listing Rule 3.1A.

### 5. Share Capital

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- 5.1 Immediately prior to Completion, the issued share capital of the Company consists of 164,412,477 ordinary shares.
- 5.2 The Shares will be issued as fully paid, will be free of Encumbrances, and will rank equally in all respects with the other shares in the Company on issue immediately prior to Completion.
- 5.3 The Shares to be issued to the Subscriber comprise ten (10) per cent of the issued capital of the Company post the issue to the Subscriber.
- 5.4 Following the giving to the ASX of a cleansing notice as contemplated by this agreement, the Shares may be offered for sale on the financial market operated by the ASX without disclosure to investors under Part 6D.2 of the Corporations Act.
- 5.5 In the last 12 month period prior to the date of this Agreement, the Company has issued 10,124,245 ordinary fully paid shares in the number and the dates set out below:
- (a) 5,000,000 ordinary fully paid shares issued on 25 June 2010 to satisfy the requirements of the JSE for a secondary listing of the Company's shares;
  - (b) 35,827 ordinary fully paid shares issued on 24 December 2009 upon the exercise of 35,827 unquoted options;
  - (c) 278,971 ordinary fully paid shares issued on 9 December 2009 upon the exercise of 278,971 unquoted options;
  - (d) 159,987 ordinary fully paid shares issued on 3 December 2009 upon the exercise of 159,987 unquoted options;
  - (e) 4,500,000 ordinary fully paid shares issued on 1 December 2009 to two directors under the Employee Share Plan of the Company approved by its shareholders at a general meeting on 23 January 2009, upon achievement of performance hurdles; and
  - (f) 150,000 ordinary fully paid shares issued on 1 December 2009 to an employee of the Target under the Plan approved by shareholders at a general meeting on 23 January 2009 upon achievement of performance hurdles.
- 5.6 The issue of Shares to the Subscriber does not require approval of the shareholders of the Company and as on the Completion Date, the Company shall issue 18,268,053 shares of the Company to the Subscriber comprising 10% of the share capital of the Company post the issue to the Subscriber, without obtaining shareholders approval.