

**INVITATION OF BIDS UNDER COMPETITIVE BIDDING  
FOR**

**ACQUIRING MAJORITY STAKE (51%) OF  
SRAVANTHI ENERGY PRIVATE LIMITED  
(SEPL) ALONG WITH MANAGEMENT  
CONTROL**

**BID DOCUMENT**

**ISSUED BY:**

**LEAD BANK - IFCI LIMITED**



**JANUARY 2017**

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## DISCLAIMER

*This Request for Proposal (RFP) has been prepared for the purposes of providing certain information to Bidder(s) (as defined hereinafter) who are desirous of participating in the Bid Process (as defined hereinafter) being conducted by the Advisor (as defined hereinafter) on behalf of the Lenders (as defined hereinafter) for selection of a Successful Bidder (as defined hereinafter) for the acquisition of majority equity stake/ Lenders' Equity (as defined hereinafter) in the Company from the Lenders and for infusion of such additional funds in the Company as are required for the business and such other purposes as expressly set out herein and for no other purposes.*

*This RFP is being made available by the Advisor and Lenders to the Bidder(s) on the terms set out in this RFP and is confidential. This RFP has not been filed, registered or approved in any jurisdiction. Its possession or use in any manner contrary to any Applicable Law (as defined hereinafter) is expressly prohibited. Bidders shall inform themselves of any applicable legal requirements in respect of this RFP and shall observe the same.*

*This RFP is neither an agreement nor an offer by the Advisor or Lenders to the prospective Bidder(s) or any other Person (as defined hereinafter) and no agreement or transaction shall be deemed to be entered into, either oral or in writing, till the Share Purchase Agreement (as defined hereinafter) and other relevant documents are executed for the acquisition of Lenders' Equity and management control of the Company.*

*The purpose of this RFP is to provide interested parties with information that may be useful to them in formulation of their Bids (as defined hereinafter) pursuant to this RFP. This RFP, any clarifications, amendments, additional information or addenda issued pursuant hereto are only to provide selective summaries of available information and do not purport to contain all the information that a recipient may require for the purposes of making a decision for participation in this RFP. This RFP is subject to updating, expansion, revision and amendment at the sole discretion of the Advisor/ Lenders, without the requirement of prior notices to the Bidders or any other person. Whilst the information in this RFP has been prepared in good faith, no reliance shall be placed on any information or statements contained herein, and no representation or warranty, expressed or implied, is or will be made in relation to such information and no liability is or will be accepted by the Advisor or the Lenders or their employees, officers, directors, advisors, consultants, contractors and/or its agents in relation to the accuracy, adequacy or completeness of such information or statements made, nor shall it be assumed that such information or statements will remain unchanged. The Advisor and Lenders or their respective employees, officers, directors, agents, representatives, advisors, contractors or consultants undertakes no liability or responsibility to provide any Bidder with access to any additional information, or, to update the information in this RFP or to correct any inaccuracies herein.*

### **Invitation to Bid**

*The Advisor and the Lenders hereby invite the Bidders to submit their Bid (as defined hereinafter) in relation to the acquisition of a majority equity stake (51%) in the*

*Company and for evaluation and selection of the Successful Bidder. The Evaluation Committee (as defined hereinafter) and the Lenders will evaluate the Bids submitted by the Bidders in accordance with the evaluation criteria as provided in this RFP. The Bidders may seek clarifications and obtain further information regarding this RFP in the manner set out in this RFP.*

*The Lenders/Advisor or their respective employees, officers, directors, consultants, contractors, agents and advisors make no representation or warranty and shall have no liability or responsibility to any Person, including any Bidder under any Applicable Laws, statutes, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damage, cost or expense which may arise from or be caused or incurred or suffered on account of anything contained in the Bid Document (as defined hereinafter) or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the Bid Document and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way from participation in this RFP.*

*The Advisor, the Lenders or their respective officers, consultants or representatives, do not accept any liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidder upon the statements contained in this RFP.*

*Nothing in this RFP shall be construed as legal, financial, regulatory or tax advice. The Advisor or the Lender shall not be liable for any costs, expenses or damages howsoever incurred by Bidders in connection with the preparation of Bid in response to this RFP.*

*Each Bidder must conduct its own analysis of the information contained in this RFP and is advised to carry out its own investigation into the proposed opportunity, the regulatory regime which applies thereto, and all matters pertinent to the proposed opportunity and to seek its own professional advice on the legal, financial, regulatory and taxation consequences of entering into any agreement or arrangement relating to the proposed opportunity.*

*Neither anything in this RFP nor any clarifications, amendments, additional information or addenda issued pursuant hereto is, or shall be relied upon, as a promise or representation as to Lender's decision in relation to sale of their equity in the Company or selection of the Successful Bidder. The Lenders proposes to select the Successful Bidder in a transparent manner in accordance with this RFP on the basis of Bids submitted. Bidders shall not, therefore, assume that they will have the opportunity to revise their Bid following submission, except as provided in this RFP.*

*The issue of this RFP does not imply that the Lenders are bound to select a Bidder or to sell their stake to the Successful Bidder. Lenders reserve the right to reject all or any of the Bidders or Bids, without assigning any reason whatsoever.*

*Each Bidder shall bear all costs associated with or relating to the preparation, and submission of its Bid including but not limited to preparation, copying, finalization, submission, postage, delivery fees, expenses associated with any demonstrations or*

*presentations which may be required by the Lenders or the Advisor or any other costs incurred in connection with or relating to its Bid including costs and expenses payable by it to its advisors and consultants in respect to preparing and submission of the Bids. Further the Successful Bidder shall be required to bear all costs associated with or relating to the preparation, finalization and submission of all documents required to be executed by it with the Lenders including but not limited to stamp duty and registration charges, if any, payable in this regard and costs and expenses payable by the Successful Bidder to its advisors and consultants in respect to preparing the Bid.*

*This RFP is not transferable.*

*The Bidders are expected to read the entire Bid Document including all Annexures and Schedules, as may be amended from time to time and carry out their own diligence, surveys and other investigations of the Project (as defined hereinafter) and the Company before submitting their Bids.*

*The Laws of Republic of India are applicable to this RFP. Courts with competent jurisdiction at New Delhi, India shall have exclusive jurisdiction in relation to any disputes arising out of or in relation to this RFP.*

## 1. INTRODUCTION

### 1.1 Background

- 1.1.1 **Sravanthi Energy Private Limited**, a company registered under the Companies Act, 1956 having its registered office at 3<sup>rd</sup> Floor, Rider House, 136 Sector-44, Gurgaon 122002, Haryana, India (hereinafter referred to as the “**Company**”, “**SEPL**”).

The Company, incorporated in 2009, is implementing a 450 MW (2 x 225 MW) gas based Combined Cycle thermal power project (CCPP) in Uddhamsingh Nagar district in Uttarakhand. The Project is being implemented in Phase-I and Phase-II, of 225 MW each. Phase-I commenced operations in Open Cycle mode on August 23, 2016. Subsequently, operations in combined cycle mode commenced on November 20, 2016. It is currently under stabilization. Phase-II has not been commissioned yet.

- 1.1.2 The Company has been facing certain financial and industrial challenges affecting its cash flows impacting debt servicing ability. The Lenders in a Joint Lenders’ Meeting (“**JLM**”) dated September 18, 2015, have invoked the Strategic Debt Restructuring Scheme prescribed under the RBI circular DBR.BP.BC.No.101/21.04.132/2014-15 dated June 08, 2015, (as amended from time to time) (“**SDR**”) for the purpose of effecting a change in the management of the Company. It has been decided by the Lenders and the Joint Lender’s Forum (herein after referred to as “**JLF**”) that the Company is to be taken over by a new promoter by way of acquiring Lenders' Equity in the Company from Lenders along with management control. Such entity acquiring majority equity stake (51%) shall be competent to operate the Company to the satisfaction of the Lenders.
- 1.1.3 SBI Capital Markets Limited (hereinafter referred to as the “**Advisor**” or “**SBICAP**”), whose registered office is at 202, Maker Tower "E", Cuffe Parade, Mumbai 400 005, India, has been appointed by consortium of lenders led by IFCI Limited (herein after referred to as “**IFCI**” or the “**Lead Bank**”) to provide assistance in identification of a strategic investor for the Company on behalf of the JLF/ Lenders.
- 1.1.4 Accordingly, this RFP has been issued by the Lead Bank on behalf of the Lenders, to select a competent, experienced and capable entity who has adequate financial strength and technical expertise and is acceptable to the Lenders to take over the Company. The Bid Document has been additionally uploaded on [www.sbicaps.com](http://www.sbicaps.com).
- 1.1.5 The intent of this RFP is to solicit offers/Bids from Bidders who offer to take over Lenders' Equity in SEPL, in accordance with the terms of the Bid Document.

- 1.1.6 The Advisor/ Lead Bank shall receive Bids pursuant to and in accordance with the terms set forth in the Bid Document and other documents to be provided by the Advisor/Lead Bank pursuant to the Bid Document, and all Bids shall be prepared and submitted in accordance with such terms on or before the Bid Due Date.
- 1.1.7 The Selected Bidder(s) shall be finalised by the Evaluation Committee based on the Bid(s) submitted by the Bidder(s) in terms of this RFP. Further, Lenders will have the right to negotiate better terms with the Selected Bidder(s).
- 1.1.8 Upon selection of the Successful Bidder in accordance with the terms of this RFP, the Successful Bidder shall enter into a Share Purchase Agreement with the Lenders of the Company for taking over Lenders' Equity, in terms of the Bid Document. The price of the acquisition of 51% equity stake in the Company shall be in compliance with Applicable Law.
- 1.1.9 Other details of the process to be followed under this Bid Process and the terms thereof are set out in the Bid Document.

## 1.2 Definitions

Following capitalized terms used in this RFP, shall have the meaning given hereunder:

**“Acceptable Bank”** shall mean any nationalized bank or any other scheduled commercial bank, acceptable to the Lead Bank.

**“Acquisition Proposal”** shall mean detailed proposal submitted by the Bidder for acquiring Lenders’ Equity in the Company.

**“Advertisement”** shall mean the advertisement displayed on website of the Advisor ([www.sbicans.com](http://www.sbicans.com)) inviting Expression of Interest for taking over majority equity stake (51%) in the Company.

**“Advisor”** shall mean SBI Capital Markets Limited, authorized by the JLF to carry out the Bid Process, including identifying prospective investors to buy out 51% stake in the Company.

**“Applicable Law”** shall mean, in respect of any relevant jurisdiction, any statute, law, regulation, ordinance, rule, judgment, order, decree, clearance, approval, directive, guideline, policy, requirement, or other governmental restriction or any similar form of decision, or determination by, or any interpretation or administration of any of the foregoing by, any Governmental Authority whether in effect as of the date of this RFP or thereafter and in each case as amended or modified.



**“Bid(s)”** shall mean the response submitted by the Bidders comprising of the Technical Proposal, the Financial Proposal and other requisite forms/documents/authorizations, in accordance with the terms and conditions of the Bid Document.

**“Bidder(s)”** shall mean an individual entity or a Consortium of entities, who submitted EOI in reference to the Advertisement.

**“Entity”** shall mean such entities that have submitted a Bid in terms as ascribed in the Bid Document.

**“Bid Document”** shall mean this RFP including the Annexures, exhibits, attachments and any other document issued pursuant hereto including all amendments, clarifications and responses issued by the Advisor/Lenders from time to time.

**“Bid Due Date”** shall have the meaning ascribed to it in clause 2.2 of this RFP.

**“Bid Security”** shall have the meaning ascribed to it in clause 2.3.1.

**“Bid Process”** shall mean the process for selection of Successful Bidder as more particularly set out in this RFP.

**“Bid Value”** shall have the meaning ascribed to it in clause 3.4.2.

**“Company”** or **“SEPL”** shall mean Sravanthi Energy Private Limited, a company registered under the Companies Act, 1956 with CIN no. U40101HR2009PTC038954 having its registered office at 3<sup>rd</sup> Floor, Rider House, 136 Sector-44, Gurgaon 122002, Haryana, India.

**“Companies Act”** shall mean the Companies Act, 1956 or the Companies Act, 2013, as the case may be, including any statutory modification or re-enactment or replacement thereof, for the time being in force as maybe notified or amended from time to time.

**“Conflict of Interest”** means where one or more Bidders in the Bid Process have a relationship with each other or with the SEPL and/or its Group Companies and Affiliates, directly or through a common entity, or by any other means including colluding with other bidders or SEPL and/or its Group Companies and/or Affiliates that puts them in a position to have access to information about or influence the Bid of other Bidder(s).

**“Consortium”** shall mean the entities who jointly Bid in response to this RFP.



**“Debt Refinancing Proposal”** shall mean the proposal for refinancing or rescheduling of the Existing Facilities submitted to the Lenders by the Bidder.

**“Evaluation Committee”** shall mean a committee of Lender representatives as decided by the JLF/ Lenders along with other experts, as deemed appropriate by JLF/ Lenders, constituted for the purpose of evaluating the Bid(s) for selection of Successful Bidder.

**“Existing Facility”** shall mean the facilities availed by the Company from the Lenders the details of which shall be provided with the Information Docket.

**“Expression of Interest”** or **“EOI”** shall mean the expression of interest, as submitted by the Bidder(s) pursuant to the Advertisement, for acquiring a majority equity stake (51%) in the Company.

**“Financial Proposal”** shall mean the detailed proposal submitted by the Bidder including but not limited to: (a) Acquisition Proposal, (b) Debt Refinancing Proposal, and (c) infusion of additional funds/fresh equity.

**“Governmental Authority”** shall mean (i) any nation or government or any province, state or any other political subdivision thereof; (ii) any entity, authority or body exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including any Governmental Authority, agency, department, board, commission or instrumentality; (iii) any Court, Tribunal or arbitrator; or (iv) any securities exchange or body or authority regulating securities exchanges in each case in India.

**“Group Companies and Affiliates”** of any company mean and would include (i) a company which, directly or indirectly, holds twenty six percent (26%) or more of the share capital of the said company or (ii) a company in which the said company, directly or indirectly, holds twenty six percent (26%) or more of the share capital or (iii) a company in which the said company, directly or indirectly, has the power to direct or cause to be directed the management and policies of such company whether through the ownership of securities or agreement or any other arrangement or otherwise or (iv) a company which, directly or indirectly, has the power to direct or cause to be directed the management and policies of the said company whether through the ownership of securities or agreement or any other arrangement or otherwise or (v) a company which is under common control with the said company, and control means ownership of at least twenty six percent (26%) of the share capital of a company or power to direct or cause to be directed the management and policies of such company whether through the ownership of securities or agreement or any other arrangement or otherwise.

**“Information Docket”** shall mean the Bid Document along with its enclosures including copies of Investor Note, third-party due diligence reports on Accounting & Tax, Legal and Technical aspects and a CD containing copies of relevant information / documents.

**“Lead Bank”** shall mean IFCI Limited, IFCI Tower, 61, Nehru Place, New Delhi

**“Lead Member”** shall mean Member of a Consortium who is identified by the other Members, as being the Lead Member of such Consortium.

**“Lenders”** shall mean the banks and financial institutions from whom the Company has availed long term or short-term/ working capital financial assistance.

**“Lenders’ Equity”** is the equity which has been acquired by the Lenders in the Company by way of converting their debt into equity under SDR scheme as per RBI guidelines.

**“Member”** in relation to a Consortium shall mean and refer each entity other than the Lead Member which is a part of such Consortium.

**“Outstanding Debt”** shall mean all the outstanding amounts on the books of the Company, as on September 18, 2015 (date of invocation of SDR) or otherwise specified, in relation to or arising out of the loans availed by the Company from the Lenders, and shall further include all amounts outstanding, including amounts invoked, converted, unpaid interest/ charges if any in respect of such loans as on the Transfer Date.

**“Parent Company”** shall mean a company which holds at least 26% equity stake, either directly or indirectly, in the Bidder.

**“Proposal”** shall mean the Technical Proposal and the Financial Proposal, collectively.

**“Project(s)”** shall mean the 450 MW, gas based, Combined Cycle thermal Power Project (CCPP) in the State of Uttarakhand, India.

**“RFP”** shall mean this request for proposal.

**“Selected Bidder(s)”** shall mean the Bidder(s) finalized by the Evaluation Committee for further negotiations based on the Technical Proposal, Financial Proposal and other requisite documents submitted by the Bidder(s) in terms of this RFP.

**“Share Purchase Agreement”** shall mean the agreement executed between the Successful Bidder, Lenders and the Company for transfer of Lenders'

Equity in the Company and management control by the Lenders to the Successful Bidder.

**“Successful Bidder”** shall mean the Bidder finalized by the Evaluation Committee as per the terms of the Bid Document for acquiring 51% equity shares of the Company and for operating and managing the Project.

**“Technical Proposal”** shall mean the proposal containing all relevant documents/ information not included in the Financial Proposal and set out in Format V.

**“Transfer Date”** shall mean the date on which 51% of the equity shares of the Company are transferred in the name of the Successful Bidder in accordance with the terms of the Bid Document, the Share Purchase Agreement and provisions of Applicable Law.

**“Turnaround Plan”** shall mean the operational/ business plan for revival of the Company over the next five years to the satisfaction of the Lenders.

**“Ultimate Parent”** shall mean a company which owns at least twenty six percent (26%) equity either directly or indirectly in the Parent Company or Affiliate of the Bidder.

## **2. BID PROCESS**

### **2.1 General Conditions**

- 2.1.1 The Bidders will have to submit a duly signed and stamped original copy of the Non-Disclosure Agreement (NDA) as provided in Annexure III to receive the Information Docket, to undertake site visits and to receive any other information that may be provided in relation to the Company.
- 2.1.2 Bidder shall submit their Bids in accordance with the terms specified in this RFP. The Bid shall be valid for a period of 3 (Three) months from the Bid Due Date.
- 2.1.3 The Bidders may independently conduct their own due diligence and verify the information provided by the Company, Lenders and/or Advisor at their own cost and Lenders and/or the Advisor shall not be responsible for the correctness of any information provided.
- 2.1.4 The Bid and all communications in relation to or concerning the Bid Document and the Bid shall be in English language only.
- 2.1.5 The Bidders shall be responsible for all costs associated with the preparation of their Bids and their participation in the Bid Process pursuant to the Bid Document. The Advisor/ Lenders will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bid Process pursuant to the Bid Document.
- 2.1.6 The Bid Document, the Information Docket and all other documents, provided by the Company, Lenders/ Advisor are and shall remain or become the properties of the party to which it originally belongs to and are transmitted to the Bidders solely for the purpose of preparation and the submission of a Bid in accordance herewith. All bid related documents submitted by the Bidders, document or any information provided along therewith shall not be returned by the Lenders/Advisor, other than the Bid Security in accordance with the terms hereof.

### **2.2 Bid Due Date**

- 2.2.1 Bid by the Bidders should be submitted before 1930 hours IST on January 31, 2017 (hereinafter, referred to as the "**Bid Due Date**"), at the address provided in clause 2.9.4 in the manner and form as detailed in this RFP. The Advisor may, at its sole discretion, extend the Bid Due Date, duly informing all the Bidders.

### **2.3 Bid Security**

- 2.3.1 A Bidder is required to deposit, along with its Bid, an unconditional irrevocable, on demand bank guarantee of Rs. 1,00,00,000 (Rupees One

Crore only) ("**Bid Security**") from an Acceptable Bank and in a form set out in Annexure I.

- 2.3.2 The validity period of the Bid Security shall not be less than 3 (Three) months from the Bid Due Date with a claim period of 30 (thirty) days, and may be extended with mutual agreement between the JLF/Lenders and the Bidder from time to time.
- 2.3.3 Non-submission of Bid Security by the Bidder(s), will lead to rendering of bids by such Bidder(s) being deemed non-responsive and the Advisor/Lenders shall have the right to reject the Bid.
- 2.3.4 The Bid Security of Bidders, which have not been shortlisted as a Selected Bidder by the Evaluation Committee, shall be returned without any interest, within 15 (Fifteen) days after selection of the Selected Bidder(s) and as promptly as possible on acceptance of the Bid(s) of the Selected Bidder or within 15 (Fifteen) days after the Bid Process pursuant to the Bid Document is cancelled by the Lenders/ Advisor.
- 2.3.5 The Bid Security of Selected Bidders, which have not been declared successful by the Evaluation Committee, shall be returned without any interest, within 15 (Fifteen) days after selection of the Successful Bidder or within 15 (Fifteen) days after the Bid Process pursuant to the Bid Document is cancelled by the Lenders/ Advisor.
- 2.3.6 The Bid Security of Successful Bidder shall be released without any interest, within 15 (Fifteen) days from the Transfer Date or within 15 (Fifteen) days after the Bid Process pursuant to the Bid Document is cancelled by the Lenders/ Advisor.

## **2.4 Due diligence**

- 2.4.1 During the Bid Stage, Bidders are advised to examine the Company in greater detail and carry out such studies as may be required by them for submitting their respective Bids at their cost.
- 2.4.2 All Bidders post submission of executed NDA shall be provided with the Information Docket and site visit shall be arranged for undertaking due-diligence in accordance with the terms of the Bid Document.
- 2.4.3 Information contained in the Information Docket is solely based on submission from the Company and the Advisor/ Lenders shall not have any liability in relation to such information including for any misrepresentation/ inaccuracy whatsoever in such information/ documents.
- 2.4.4 Submission of Bid(s) and all obligations pursuant to same shall be the sole responsibility of the Bidder.

2.4.5 The Advisor/Lenders shall not be liable for any loss incurred by the Bidder or in case of Bidder's inability to perform its obligations under the Bid Document/ any other agreement executed pursuant to the Bid Document, for any reason whatsoever, including on account of any ambiguity, inaccuracy or misrepresentation in the information in the Bid Document/ Information Docket.

## **2.5 Site Visit**

2.5.1 The Advisor shall co-ordinate with the Bidder(s) to facilitate site visit. The purpose of the site visit will be to facilitate the Bidder(s) to ascertain the current status of the Project such as the site conditions, location, surroundings, availability of power, water and other utilities for operation, access to site, handling and storage of materials, operational condition and health of the units installed and other matters considered relevant by them.

2.5.2 The Bidder(s) are requested to depute a team comprising of maximum three (3) people for the site visit. Each Bidder is expected to make its own travel and stay arrangements for the site visit. All costs and expenses incurred in relation to site visit shall be borne by the respective Bidder.

2.5.3 Three alternative dates for site visit shall be intimated by the Advisor post execution of NDA. Bidder(s) shall intimate their first, second and third preference out of the chosen dates to the Advisor via email to the following email id-[neha.gupta@sbicaps.com](mailto:neha.gupta@sbicaps.com).

The Bidders shall be allotted their preferred site visit date on a best effort basis. Advisor reserves the right to allot any other date for site visit, in consultation with the Bidder(s).

2.5.4 All other requisite modalities related to the site visit and due diligence will be communicated to the Bidder(s) in due course.

## **2.6 Pre-Bid Queries**

The Bidder(s) are requested to email all the queries pertaining to the Bid Process, the Company, the Project or the Bid Document up to 7 days prior to the Bid Due Date. Each query/clarification should contain complete details of the facts, information and details of the person asking the clarification/query. Lenders/Advisor reserves the right not to answer any query/clarification including those that are anonymous or incomplete.

2.6.1 The Advisor shall promptly attempt to clarify on the required clarifications /queries. The Advisor will forward all the queries and its responses thereto, to all Bidders without identifying the source of queries.

- 2.6.2 The Advisor reserves the right not to respond to any question or provide any clarification, at its sole discretion, and nothing in the Bid Document shall be taken or read as compelling or requiring the Advisor to respond to any question or to provide any clarification.
- 2.6.3 Alternately, the Bidders may be invited to attend a pre-Bid conference. The date and venue of conference, if required, shall be notified by the Advisor via email three (3) days prior to the date of conference.
- 2.6.4 The Advisor may also on its own, if deemed necessary, issue interpretations and clarifications to the Bidders. All clarifications and interpretations issued by the Advisor shall be deemed to be part of the Bidding Document. Verbal clarifications and information given by Advisor or its employees or representatives shall not in any way or manner be binding on the Advisor and shall not be deemed to have amended the Bidding Documents in any manner. However it is expected that the Bidder has undertaken an independent due-diligence for participating in the Bid and does not rely solely on information provided by the Advisor.
- 2.6.5 All clarifications sought should be mailed to the following email id- [neha.gupta@sbicaps.com](mailto:neha.gupta@sbicaps.com). In case of any urgent clarification, please contact the following personnel:

Mr. Mukesh Aggarwal (VP, SBICAP) : +91 11 23485303

Ms. Neha Gupta (AVP, SBICAP) : +91 11 23485313

## 2.7 Schedule of Bid Process

- 2.7.1 The Advisor shall endeavour to adhere to following schedule:

Event Description	Date
Signing of NDA	December 29, 2016 – January 07, 2017
Dispatch of Information Docket	On signing of NDA
Site Visit	January 09, 2017 – January 20, 2017
Bid Due Date	January 31, 2017

- 2.7.2 The Advisor/ Lender may, at its sole discretion, extend/advance any of the timelines as specified in this clause duly informing all the Bidders by email.

## 2.8 Amendment to the Bid Document



- 2.8.1 At any time prior to the Bid Due Date, Advisor may, for any reason, whether at its own initiative or on a request of the Lenders or in response to a clarification requested by a Bidder, issue any clarification and/or modify the Bid Document by an amendment. The clarification/amendment shall be posted on the website of the Advisor and shall be binding on the Bidder. It shall be the obligation of the Bidders to visit the website on a regular basis.
- 2.8.2 In order to afford the Bidders a reasonable time for taking an amendment into account, or for any other reason, the Advisor/Lenders may, at its own discretion, extend the Bid Due Date.

## **2.9 Preparation & Submission of Bid**

- 2.9.1 All Bidders are required to submit information in accordance with this RFP. All requisite forms/documents/authorizations (Formats I to IX) should be duly signed and appropriately stamped. Bidders should provide information sought herein in order to satisfactorily establish their competence and suitability for managing the Company to the satisfaction of the Advisor/Lenders.
- 2.9.2 Strict adherence to the forms/documents/authorizations wherever specified, is required. Wherever, information has been sought in specified forms/ documents/authorizations, the Bidder shall refrain from referring to brochures/ pamphlets. Non-adherence to forms/ documents/authorizations and/or submission of incomplete information may be grounds for declaring the bid non-responsive. Each page of each form/document/ authorization has to be duly signed and appropriately stamped with company seal affixed by the Bidder.
- 2.9.3 The documents are indicative and Lenders reserve the right to consider the modification in the formats depending on applicability on the respective Bidder or in their own discretion.
- 2.9.4 Sealing and Marking of Bid: Bid should be submitted in two closed cover envelope, one containing the Technical Proposal and one containing the Financial Proposal and each containing all requisite forms/ documents/authorizations and transcript, as may be applicable in the following way:

### **(Bid) - "Confidential"**

**Superscript** : "Technical Proposal - Offer for Sravanthi Energy Private Ltd."

Name of the Bidder -

.....

ATTN. OF : Mr. Mukesh Aggarwal  
DESIGNATION : Vice President  
ADDRESS : SBI Capital Markets Limited, Fifth Floor, World Trade Tower, Barakhamba Lane, New Delhi  
"Name of the Bidder : ....."

**(Bid) - "Confidential"**

**Superscript** : "Financial Proposal - Offer for Sravanthi Energy Private Ltd."  
Name of the Bidder -  
.....

ATTN. OF : Mr. Mukesh Aggarwal  
DESIGNATION : Vice President  
ADDRESS : SBI Capital Markets Limited, Fifth Floor, World Trade Tower, Barakhamba Lane, New Delhi  
"Name of the Bidder : ....."

2.9.5 All envelopes for submission and communication should be adequately sealed to prevent any interference/tampering in transit. If the envelopes are not sealed and marked as instructed above, the Advisor assumes no responsibility for the misplacement or premature opening of the contents of the Bid and consequent losses, if any, suffered by the Bidder. Advisor reserves the right to reject the acceptance of any Bid which is not properly sealed. Notwithstanding anything to the foregoing, any risk associated with regard to submission of the Bids being duly sealed and in the manner set out in this RFP shall lie with the Bidders alone and the Advisor shall bear no risk, loss or responsibility in this regard.

**2.10 Representations**

2.10.1 It shall be deemed that by submitting a Bid, the Bidder has:

- (a) made an independent, complete and careful examination of the Bid Document;

- (b) received all relevant information/ clarification in relation to the Bid;
- (c) It has made its own independent appraisal of the Company and the Project and accepted the risk of inadequacy, error or mistake in the information provided in the Bid Document or furnished by or on behalf of the Advisor/Lenders;
- (d) satisfied itself about all matters, things and information necessary and required for submitting an informed Bid, operations of the Company in accordance with the Bid Document and performance of all of its obligations there under;
- (e) acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Bid Document or ignorance of any of the matters referred to in the Bid Document shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from the Advisor/ Lenders, or a ground for termination of the Share Purchase Agreement.
- (f) acknowledged that it does not have a Conflict of Interest, as defined herein and in the SDR scheme;
- (g) agreed to be bound by the undertakings provided by it under and in terms hereof.

2.10.2 The Advisor/ Lenders shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to the Bid Document, including any error or mistake therein or in the Investor Note/ Information Docket provided.

2.10.3 It shall be deemed that by submitting the Bid, the Bidder agrees and releases the Advisor, its employees, agents and advisors, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/or performance of any obligations hereunder and the Bid Document, pursuant hereto, and/or in connection with the Bid Process, to the fullest extent permitted by Applicable Law, and waives any and all rights and/or claims it may have in this respect, whether actual or contingent, whether present or in future.

### **3. BID EVALUATION**

#### **3.1 Eligibility**

3.1.1 To be eligible to participate in the Bid Process pursuant to Bidding Document, the Bidder(s) or in case of a Consortium, the Members must:

- (a) either be a company incorporated under the Companies Act or incorporated as per the Applicable Law of the respective jurisdictions;
- (b) ensure no Conflict of Interest as further provided under the RBI circular DBR.BP.BC.No.101/21.04.132/2014-15 dated June 08, 2015, (as amended from time to time); and
- (c) not be barred by the Central/ State Government, or any entity controlled by it, or any other authorized agency from conducting business in India or acquiring equity stake in Indian companies where the bar subsists as on the date of Bid.

3.1.2 The Bidder or in case of a Consortium, the Lead Member shall submit an undertaking on behalf of the Consortium with respect to its eligibility as provided in Annexure I. Inability to comply with the eligibility conditions or non-submission of undertaking towards same shall render the bid non-responsive.

#### **3.2 Non-Responsiveness**

3.2.1 Bid of the Bidders shall be examined by Evaluation Committee based on the information furnished as per terms detailed in the Bid Document. Any of the following or any other condition as agreed by the JLF/ Lenders may cause the Bid to be considered “non-responsive”, at the discretion of Advisor/Lenders:

- (a) Any inconsistencies/ misrepresentations in the information/ concealment of material information/ misleading statements in the documents submitted by the Bidder, affecting the Bid Process;
- (b) Bids that are incomplete, i.e. not accompanied by any of the applicable forms, authorizations and documents as specified in this RFP;
- (c) Information not submitted in the forms/ documents/ authorizations specified in this RFP.
- (d) Bid Document not signed by authorized signatory of the Bidder or signatory and/or stamped in the manner indicated in this RFP;

- (e) Bid / Bid Security validity being less than that required in this RFP;
- (f) The Bidder does not satisfy criteria and hence are not eligible.
- (g) Bid being conditional in nature,
- (h) Bid not received by the Bid Due Date;
- (i) Bidder delaying in submission of additional information or clarifications sought by Advisor as applicable;
- (j) A Bidder submitting more than One (1) Bid.
- (k) Bidder is or it is discovered later that the Bidder is subject matter of winding up/insolvency proceedings or other proceedings of a similar nature.
- (l) Any information regarding the Bidder which becomes known to Lenders / Advisor which is detrimental to the subject matter of the Bid Document and/or the interests of the Lenders.
- (m) Existence of any legal proceedings, by or against the Bidder in respect of the Company, the Parent Company and/or the Ultimate Parent, which proceeding may be prejudiced by the participation of the Bidder in the selection process.
- (n) Non-fulfilment of any other condition as listed in the Bid Document.

3.2.2 Each Bid document shall be checked for compliance with the submission requirements set forth in this RFP. Format IX in Annexure I of the Bid Document shall be used to check whether each Bidder meets the stipulated requirements.

### **3.3 Right to verify the Bid**

3.3.1 Notwithstanding anything stated in this RFP, the Advisor/Lenders reserves the right to verify the authenticity of all statements, information and documents submitted by the Bidder and may request for any additional information/documents/evidence. The Bidder shall be obliged to produce the additional information/ documents/ evidence as required.

3.3.2 Further the Advisor/Lenders reserves the right at its sole discretion to contact the Bidder's bank, lenders, financing institutions and any other persons as necessary to verify the Bidder's information/documents for the purpose of the Bid Process.

3.3.3 Any such verification or lack of such verification, by the Advisor/Lenders shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Advisor/Lenders thereunder.

### **3.4 Evaluation Criteria**

3.4.1 Evaluation criteria for shortlisting of Selected Bidder(s) from amongst the Bidder(s) shall be as agreed and decided by the JLF/Lenders / Evaluation Committee and may include but shall not be limited to:

- (a) the Acquisition Proposal;
- (b) Infusion of additional funds/fresh equity;
- (c) the Debt Refinancing Proposal;
- (d) the technical and financial strength or credit-worthiness of the Bidder;
- (e) Turnaround Plan; or
- (f) any other criteria at the discretion of Lenders

3.4.2 Evaluation Committee shall endeavour to shortlist Selected Bidder(s), providing a satisfactory combination of (i) Technical/ sector experience and (ii) "**Bid Value**" which shall be a present value of the Financial Proposal submitted by the Bidder(s) based on the formula and other relevant/ qualitative factors decided by the JLF/Lenders.

3.4.3 The Debt Refinancing Proposal submitted by the Lenders shall have a maximum door-to-door tenor of 20 years and maximum average tenor of 15 years and shall be in compliance with Applicable Law, including the relevant guidelines/ regulations issued by the Reserve Bank of India and Securities and Exchange Board of India.

### **3.5 Declaration of Selected Bidder(s) and Successful Bidder(s)**

3.5.1 The Selected Bidder(s) will be determined by the Evaluation Committee. The decision of the Evaluation Committee in this regard shall be final and binding on all Bidders. Further the Lenders will have the right to negotiate better terms with the Selected Bidder(s).

3.5.2 The Evaluation Committee shall have the right to select [2-3] bidders "Selected Bidder(s)" on basis of the Bid(s) submitted by the Bidder(s) in terms of this RFP. In case there is only 1 (one) offer, the Evaluation Committee may accept or reject the same at its own discretion. The decision of the Evaluation Committee shall be final and will be binding on all the Bidders.

- 3.5.3 The Evaluation Committee shall negotiate terms of Proposal submitted by each Selected Bidder(s) to decide on Successful Bidder based on relevant qualitative and financial factors as decided by the JLF/Lenders. The Evaluation Committee may at its discretion call upon further inter-se bidding among two or more of the Selected Bidders for deciding the Successful Bidder.
- 3.5.4 Upon selection of the Successful Bidder in accordance with the terms of the Bid Document, the Successful Bidder shall enter into a Share Purchase Agreement with the Lenders of the Company for taking over majority equity stake (51%) in the Company by Lenders transferring the Lenders' Equity to the Successful Bidder. The Bidders are informed that in the event there are any restrictions on transfer of shares under the agreements entered into by the Company, prior approval/ consent shall be obtained by the Company and/or the Successful Bidder, with assistance from the Company, prior to transfer of Lenders' Equity to the Successful Bidder.
- 3.5.5 In the case of a Consortium, the Selected Bidder shall be required to, prior to execution of the Share Purchase Agreement, incorporate a new company under the provisions of the Companies Act, 2013 (hereinafter referred to as "**Consortium SPV**"). The shareholding of all Members of the Consortium in the Consortium SPV shall be locked-in for a period of two (2) years from the date of selection. The Lead Member shall at all times be the largest shareholder in the Consortium SPV and hold a minimum of 26%. Further, the Consortium SPV shall at all times be controlled by the Members of the Consortium.

For the purposes of this clause 3.5.5 the term "control" shall have the meaning ascribed to the term under the Companies Act, 2013.

- 3.5.6 The Members of the Consortium will also have to provide the original and duly executed joint bidding agreement (along with power of attorney in favour of the Lead Member to act on behalf of the Consortium for the purposes of the Bid) executed among the Members together with their Bid. No change in composition of the Consortium will be permitted after submission of the Bid without the prior consent of the Lenders/ Advisors, failing which the Lenders/ Advisors shall be entitled to disqualify the Bid submitted by the Consortium.

### **3.6 Right to accept or reject any or all Bids**

- 3.6.1 Notwithstanding anything contained in the Bid Document, the Advisor/ Lenders reserve the right to accept or reject any Bid(s) and to annul the Bid Process and reject all Bids, at any time without any liability, obligation or prior notice for such acceptance, rejection or annulment, and without assigning any reasons thereof.



3.6.2 The Bidders should note that:

- (a) If, for any reason, the Bid of any Selected Bidder(s) is rejected or cancelled for any reason, the Advisor/Lenders may:
  - (i) Proceed with the remaining Selected Bidder(s);
  - (ii) Consider the next best offer(s) from Bidder(s) other than the Selected Bidder(s) whose Bids are responsive and valid, including any amendments to the Bid, as may be acceptable to Advisor, Lenders and such Bidder(s); or
  - (iii) Take any such measure as may be deemed fit at the discretion of the Advisor/Lenders including annulling/discussion with other Bidders on the terms for taking over the Company.
- (b) If, for any reason, the Bid of any Successful Bidder(s) is rejected or cancelled for any reason, the Advisor/Lenders may:
  - (i) Consider the next best offer(s) from Selected Bidder(s) other than the Successful Bidder(s) whose Bids are responsive and valid, including any amendments to the Bid, as may be acceptable to Advisor, Lenders and such Selected Bidder(s); or
  - (ii) Annul the Bid Process; or
  - (iii) Take any such measure as may be deemed fit at the discretion of the Lenders including discussion with other Bidders on the terms for taking over the Company.

**3.7 Terms and conditions of acquisition of the Company**

3.7.1 By submitting a Bid in terms of this RFP, the Bidders and in case of a Consortium, the Members of the Consortium agree to the following acknowledgements and representations:

- (a) The Selected Bidder(s) shall acknowledge the Outstanding Debt, and the terms thereof as approved by the Lenders, in their Debt Refinancing Proposal.
- (b) The Bidder represents to the Lenders and the Advisor that it has the necessary financial resources available for acquiring Lenders' Equity in the Company from the Lenders for the consideration stated in the Financial Proposal as approved by the Lenders and for further infusion/contribution for fresh equity/funds into the

Company as indicated in the Financial Proposal in a manner acceptable to Lenders.

- (c) The Bidders shall provide a detailed plan in relation to the source and quantum of available resources from which the consideration for the Lender's Equity shall be acquired [and the infusion of fresh equity/funds shall be made].
- (d) The shares of the Company will be sold by the Lenders to the Successful Bidder in the proportion agreed among themselves to the Successful Bidder on an "as is where is" basis. Further, the Successful Bidder also acknowledges that the Lenders/Advisor do not provide any representation or warranty regarding the shares, the status of business of the Company, the business prospects, assets of the Project or the Company and the Lenders/Advisor assume no liability whatsoever in this respect.
- (e) The Bidder represents to the Lenders that it has adequate experience of operating and managing projects of similar nature. However, if the Bidder does not have requisite experience, it shall submit details of technical partner(s) envisaged to operate and manage facilities. The details of technical partner and nature of arrangement should be submitted along with Financial Proposal.
- (f) The Successful Bidder irrevocably agrees and acknowledges that it shall pay the consideration to the Lenders for acquiring controlling stake (51%) along with management control in the Company as per negotiations between Lenders and the Successful Bidder.

### **3.8 Statutory Compliances**

- 3.8.1 The Bidder represents to the Lenders that it has obtained all requisite corporate permissions and regulatory approvals required for making the Bid, including the approval, if any, required to be obtained from the Competition Commission of India under the Competition Act, 2002 (as amended from time to time), approval from RBI for investment as per FDI policy and FEMA guideline(s), applicable in case of Bidder being a foreign company/ foreign investor, before the Transfer Date, and submit requisite supporting documents in this regard.
- 3.8.2 Bidders must satisfy themselves that they are qualified to bid, in view of mentioned statutory compliances and any other guidelines/ notifications as issued by Securities Exchange Board of India, Reserve Bank of India or any other authorised body, Central or State Governments and should give an undertaking to this effect in the form at Annexure I.

3.8.3 The Successful Bidder shall undertake to ensure compliances of all Applicable Laws pre and post-acquisition and change in management control, including but not limited to complying with provisions of the Companies Act, 2013 and making necessary filings with the relevant Governmental authorities.

#### **4. GENERAL INSTRUCTIONS TO BIDDER**

##### **4.1 General Conditions**

- 4.1.1 The statements and explanations contained in this RFP are intended to provide a better understanding to the Bidders about the subject matter of this RFP and should not be construed or interpreted as limiting in any way or manner the scope of services and obligations of the Advisor/ JLF/Lenders set forth in the Bid Document or the Advisor/ JLF/Lenders' rights to amend, alter, change, supplement or clarify the scope of work thereof or herein contained. Consequently, any omissions, conflicts or contradictions in the Bid Document including this RFP are to be noted, interpreted and applied appropriately to give effect to this intent, and no claims on that account shall be entertained by the Advisor/Lenders.
- 4.1.2 The complete Bid Document including the Information Docket is enclosed for the Bidders. The Investor Note/ other documents prepared by the Advisor/ consultants are also enclosed for guidance purposes only.
- 4.1.3 This RFP is not transferable.
- 4.1.4 No Bidder shall submit more than one Bid in terms of this RFP. A Bidder bidding individually or as a member of a Consortium shall not be entitled to submit another Bid either individually or as a member of any Consortium, as the case may be. Breach of this condition shall make the both Bids submitted as non-responsive, entitling the Lenders to reject the same.
- 4.1.5 The Investor Note/ Information Docket/other documents are being provided only as a preliminary reference document by way of assistance to the Bidders who are expected to carry out their own surveys, investigations and other detailed examination of the Company before submitting their Bids. Nothing contained in the Investor Note/ other documents issued pursuant to the Bid Process shall be binding on the Lenders/ Advisor nor confer any right on the Bidders, and the Lenders shall have no liability whatsoever in relation to or arising out of any or all contents of the Investor Note/ Information Docket.
- 4.1.6 Save and except as provided in this RFP, the Advisor/Lenders shall not entertain any correspondence with any Bidder in relation to acceptance or rejection of any Bid.
- 4.1.7 Notwithstanding anything to the contrary contained in this RFP, the detailed terms specified in the Share Purchase Agreement (and other documents/ agreements) executed among the Lenders, Successful Bidder and the Company shall have overriding effect; provided, however, that any conditions or obligations imposed on the Bidder hereunder shall

continue to have effect in addition to its obligations under the Share Purchase Agreement (and other documents/ agreements) executed between the Lenders, Successful Bidder and the Company.

## **4.2 Power of Attorney**

4.2.1 In case the Bidder is a Consortium, the Members thereof should furnish a Power of Attorney in favour of their Lead Member, in the format at Annexure I.

4.2.2 In the event the Consortium consists of an international Bidder, such Consortium shall ensure that Power of Attorney is legalised/ apostille by appropriate authority not arising in the jurisdiction where the Power of Attorney is being issued and requirement of the Indian Stamp Act, 1899 is duly fulfilled.

## **4.3 Fraudulent Practices**

4.3.1 The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bid Process and subsequent to the execution of Share Purchase Agreement. Notwithstanding anything to the contrary contained herein, the Share Purchase Agreement, or other agreements/ documents pursuant to the Bid Document, the Advisor/Lender may reject a Bid, or terminate the Bid Document, Share Purchase Agreement, as the case may be, without being liable in any manner whatsoever to the Bidder or Company, as the case may be, if it determines that the Bidder or the Company, as the case may be, has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bid Process. In such an event, the Advisor/Lender shall be entitled to forfeit and appropriate the Bid Security, as damages, without prejudice to any other right or remedy that may be available to the Advisor/Lender under the Bid Document, Share Purchase Agreement, or otherwise.

4.3.2 Without prejudice to the rights of the Advisor herein above and the rights and remedies which the Advisor may have under the Bid Document, Share Purchase Agreement, or otherwise if a Bidder is found by the Advisor to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bid Process, or after the execution of Share Purchase Agreement, such Bidder shall not be eligible to participate in the Bid Process from the date such Bidder is found by the Advisor to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.

4.3.3 For the purposes of this Clause 4.3, the following terms shall have the meaning hereinafter respectively assigned to them:

- (a) **“corrupt practice”** means
  - i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bid Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Advisor who is or has been associated in any manner, directly or indirectly, with the Bid Process or Share Purchase Agreement or arising therefrom, before or after the execution thereof, at any time prior to the expiry of [1 (one) year] from the date such official resigns or retires from or otherwise ceases to be in the service of the Advisor/Lender, shall be deemed to constitute influencing the actions of a person connected with the Bid Process); or
- (b) **“fraudulent practice”** means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bid Process;
- (c) **“coercive practice”** means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Bid Process;
- (d) **“undesirable practice”** means (i) establishing contact with any person connected with or employed or engaged by the Advisor with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bid Process; or (ii) having a Conflict of Interest; and
- (e) **“restrictive practice”** means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bid Process.

4.3.4 It shall be deemed that by submitting the Bid, the Bidder agrees and releases the Advisor and the Lenders, and their respective employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder, pursuant hereto and/ or in connection with the Bid Process and waives, to the fullest extent permitted by Applicable Laws, any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or in future.

#### **4.4 Governing Law and Jurisdiction**

4.4.1 This RFP, the Bidding Process and the other documents pursuant to the Bid Document shall be governed by the laws of India and any dispute arising out of or in relation to the Bid, Bid Document or the Bid Process shall be subject to the exclusive jurisdiction of courts at New Delhi, India.

#### **4.5 Confidentiality**

4.5.1 Information relating to the examination, evaluation, and recommendation of the Bidders shall not be disclosed to any person who is not officially concerned with the Bid Process or is not a retained professional advisor advising the Advisor/Lenders in relation to, or matters arising out of, or concerning the Bid Process. The Advisor will treat all information, submitted as part of Bid, in confidence and will require all those who have access to such material to treat the same in confidence. The Advisor may not divulge any such information unless (i) it is directed to do so by any regulatory, administrative or statutory authority or (ii) required by Applicable Law or in connection with any legal process; or (iii) the information is already in public domain or in possession of the Advisor/Lenders.

#### **4.6 Miscellaneous**

4.6.1 Terms of this RFP and any Bids made hereunder shall be non-binding on the Lenders and the Advisor.

4.6.2 The Lenders shall be entitled to forfeit and appropriate the Bid Security as damages inter alia in any of the events specified in Clauses 3.1, herein above or any other event of default as decided by the Evaluation Committee/ JLF/Lenders. The Bidder, by submitting its Bid pursuant to this RFP, shall be deemed to have acknowledged and confirmed that the Lenders will suffer irreparable loss and damage on account of withdrawal of its Bid or for any other default by the Bidder during the period of Bid validity as specified in this RFP. No relaxation of any kind on Bid Security shall be given to any Bidder.

4.6.3 The Advisor/Lenders, in their sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;

- (a) suspend and/or cancel the Bid Process and/or amend and/or supplement the Bid Process or modify the dates or other terms and conditions relating thereto;
- (b) consult with any Bidder in order to receive clarification or further information which may be considered necessary without any liability to the Lenders/Advisor;



- (c) retain any information and/or evidence submitted to the Advisor by, on behalf of, and/or in relation to any Bidder; and/or
  - (d) Independently verify, disqualify, reject and/or accept any and all submissions or other information and/or evidence submitted by or on behalf of any Bidder.
- 4.6.4 It shall be deemed that by submitting the Bid, the Bidder agrees and releases the Advisor, its employees, agents and advisors, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/or performance of any obligations hereunder and the Bid Document, pursuant hereto, and/or in connection with the Bid Process, to the fullest extent permitted by Applicable Law, and waives any and all rights and/or claims it may have in this respect, whether actual or contingent, whether present or in future.

**ANNEXURE I - FORMS/DOCUMENTS/AUTHORIZATIONS FOR  
SUBMITTING THE BID**

The following forms/ documents/authorizations are required to be submitted as part of the Bid by the Bidders by the Bid Due Date. These forms/ documents/ authorizations are designed to demonstrate the Bidder's compliance with requirement of this RFP.

Format - I - Covering Letter

Format - II - Power of Attorney

Format - III - Bidder's Composition and Ownership Structure

Format - IV - Authorization

Format - V - Financial Proposal and Technical Proposal

Format - VI - Undertaking by Bidder

Format - VII - Board Resolutions

Format - VIII - Bid Security

Format - IX - Checklist for submission of Bid Document

A Bidder may use additional sheets to submit the information for its detailed response.

All clarifications by the Bidders shall be as per **Format X** of this RFP.

**FORMAT I: COVERING LETTER**

(On the Letter Head of the Bidder/ Lead Member, in case of a Consortium)

To,  
**Mr. Mukesh Aggarwal,**  
Vice President  
SBI Capital Markets Limited,  
5<sup>th</sup> Floor, World Trade Tower,  
Barakhamba lane,  
New Delhi 110001

**Sub: - Offer for taking over majority equity stake (51%) in Sravanthi Energy Private Limited**

**Ref: - Bid Document dated ....., 2017**

Dear Sir,

We, the undersigned Bidder having read and examined in detail the Bid Document for taking over majority equity stake (51%) in Sravanthi Energy Private Limited.

We are enclosing herewith the Technical Proposal and the Financial Proposal with duly signed forms/ documents/ authorizations as desired by you in the Bid Document for your consideration.

We understand that the Lenders have further right to renegotiate the terms of the Proposal and the decision of the Advisor and/or the Lenders in selection of the Selected Bidder and/or the Successful Bidder shall be final and binding on us.

We have submitted all the requisite documents as per the prescribed forms/ documents/ authorizations of the Bid Document, without any deviations, conditions and without mentioning any assumptions or notes.

Bid Security:

We have enclosed a bank Guarantee of ₹..... Crore (Rupees ..... Crores only), in the form of bank guarantee no..... dated ..... as per Format VIII given in the Bid Document from ..... and valid up to.....in terms of Clause 2.3 of the Bid Document.

**Acceptance**

We hereby unconditionally and irrevocably agree and accept the terms of the Bid Document and that the decision made by the Advisors/Lenders in respect of any matter regarding or arising out of the Bid Document shall be binding on us. We hereby expressly waive any and all claims in respect of Bid Process.

We confirm that there are no litigations or disputes against us, which materially affect our ability to fulfill our obligations under the Bid Document. We also confirm that we have no Conflict of Interest.

### **Familiarity with Relevant Indian Laws & Regulations**

We confirm that we have studied the provisions of the relevant and applicable Indian laws and regulations as required to enable us to submit our Bid along with required documents and execute the other required documents in the event of our selection as Successful Bidder.

We have obtained the necessary corporate and regulatory approvals required to participate in the Bid.

### **Contact person**

Details of contact person for the purpose of this Bid are furnished as under:

Name: [•]

Designation: [•]

Company Address: [•]

Phone Nos.: [•]

Fax Nos.: [•]

E-mail address: [•]

We are enclosing herewith the Bid containing duly signed forms/documents/authorizations, each one duly closed separately, in one (1) original as desired by you in the Bid Document for your consideration.

It is confirmed that our Bid is consistent with all the requirements of submission as stated in the Bid Document and subsequent communications/amendments from the Advisor/ Lenders.

We undertake that we shall promptly inform the Lenders/ Advisors of any change in our shareholding post submission of our Bid and hereby confirm that our failure to do shall disqualify us from the Bid Process. We further agree and acknowledge that we shall not object or contest to our disqualification in the event of our failure to provide our updated shareholding to the Advisor/ Lenders, as required to be submitted in terms of the RFP.

The information submitted by us is correct and complete, strictly as per the requirements stipulated in the Bid Document. We would be solely responsible for any errors or omissions in our Bid.

We confirm that we have not taken any deviation so as to be deemed non-responsive with respect to the provisions stipulated in the Bid Document. Capitalized terms shall have the meaning given to them in the Bid Document.

Thanking you,

Yours faithfully,  
(Signature)

Name and address of Authorised Signatory  
(Authorised by Board/ Respective Authority)

**Notes:**

*Along with other documents to be submitted, enclose copy of the board resolution and power of attorney (in case the Bidder is a Consortium) in favour of the person executing this covering letter.*

**FORMAT II: POWER OF ATTORNEY<sup>1</sup>**

(To be on non-judicial stamp paper of appropriate value as per Stamp Act relevant to place of execution. Foreign companies submitting Bids are required to follow the applicable law in their country)

Know all men by these presents, We .....(name and address of the registered office of each Member of the Consortium) do hereby constitute, appoint and authorize Mr./Ms. ....(name and residential address of the authorized signatory of the Lead Member) who is presently holding the position of ..... In [●] as our true and lawful attorney (**Attorney**), to do in our name and on our behalf, all such acts, deeds and things necessary in connection with or incidental to submission of our Bid/any other document under the Bid Document dated ....., 2017 issued by IFCI Limited, including signing and submission of Bid and all other documents related to the Bid, including but not limited to undertakings, letters, certificates, acceptances, clarifications, guarantees or any other document which the Advisor/Lenders may require us to submit. The aforesaid Attorney is further authorized for making representations and providing information/responses to Advisor/ Lenders, representing us in all matters before Advisor/ Lenders, and generally dealing with Advisor/Lenders in all matters in connection with our Bid till the completion of the Bid Process as per the terms of the Bid Document.

We hereby ratify all acts, deeds and things done by our said Attorney pursuant to this Power of Attorney and that all acts, deeds and things done by our aforesaid Attorney shall be binding on us and shall always be deemed to have been done by us.

All the terms used herein but not defined shall have the meaning ascribed to such terms under the Bid Document.

Signed by the within named  
.....[Insert the name of the executant company]

Through the hand of  
Mr. ....

Duly authorized by the Board to issue such Power of Attorney

Dated this ..... day of .....

---

<sup>1</sup> To be provided by a bidder only if such bidder is a Consortium. If the bidder is an incorporated entity (in India or outside India), a resolution provided in the format set out in this RFP would suffice.

Accepted

.....

Signature of Attorney  
(Name, designation and address of the Attorney)

Attested

.....

(Signature of the executant)  
  
(Name, designation and address of the executant)

.....

Signature and stamp of Notary of the place of execution

Common seal of ..... has been affixed in my/our presence pursuant to Board of Director's Resolution dated.....

WITNESS

1. ....

(Signature)

Name .....

Designation.....

2. ....

(Signature)

Name .....

Designation.....

**Notes:**

- (1) The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the Applicable Law and the charter documents of the executant(s) and the same should be under common seal of the executant affixed in accordance with the applicable***



*procedure. Further, the person whose signatures are to be provided on the Power of Attorney shall be duly authorized by the executant(s) in this regard.*

- (2) The authorized person of the Lead Member under this Power of Attorney, in the case of the Lead Member being a public company, or a private company which is a subsidiary of a public company, in terms of the Companies Act, 2013, with a paid up share capital of more than Rupees Five Crore, should be the Managing Director/whole time Director/manager appointed under section 203 of the Companies Act, 2013. In all other cases, the authorized person of the Lead Member should be a director.*
- (3) In case of the Lead Member being a foreign company, the same shall be signed by a person of equivalent position.*
- (4) In the event, Power of Attorney has been executed outside India, the same needs to be duly notarized by a notary public of the jurisdiction where it is executed or should be apostilled.*
- (5) Also, wherever required, the executant(s) should submit for verification the extract of the charter documents and documents such as a Board resolution/Power of Attorney, in favour of the person executing this power of attorney for delegation of power hereunder on behalf of the executant(s).*

**FORMAT III: BIDDER'S/ [MEMBER'S] COMPOSITION AND OWNERSHIP STRUCTURE**

(On the Letter Head of the Bidder/ Member)

**Corporate Details:**

Please provide the following information for the Bidder.

- (i) Company's Name, Address, Nationality details:

Name	
Registered Office	
Website Address	
Corporate Identification Number, if any:	
Country of Origin:	
Address for Correspondence:	
Year and Date of Incorporation	
Company's Business Activities:	
Name of the authorized representative	
Telephone Number	
Email Address	
Fax No	

- (ii) Please provide the following documents:

- (a) Copy of the Memorandum and Articles of Association and Certificate of Incorporation or other equivalent organizational document (as applicable in the case of a foreign company), including their amendments, certified by the company secretary or a director of the Bidder (as an attachment to this Format)
- (b) Authority letter in favor of Advisor from the Bidder (as per Format IV) authorizing Advisor/Lenders to seek reference from their respective bankers, lenders, auditors, financing institutions.

- (iii) Details of Ownership Structure:

Shareholding pattern and details of persons owning 10% or more of the total paid up equity of the Bidder.

Name of the Bidder .....

Status of equity holding as on .....

Name of Equity Holder	Type and Number of Shares owned	% of Equity Holding	Extent of Voting Control (%)
1.			
2.			
3.			
....			

Note:

Status of equity holding should be provided not earlier than thirty (30) days prior to the Bid Due Date.

[Details of Parent Company, Ultimate Parent and/or the Group Companies and Affiliates and their business activity shall be provided. The determination of the relationship of the Parent Company, The Ultimate Parent and/or the Group Companies and Affiliates with the Bidder shall not be thirty (30) days prior to the Bid Due Date. Documentary evidence in the form of a certificate from the Company Secretary or Statutory Auditor to establish such relationship shall be furnished by the Bidder along-with the Bid.]

For and on behalf of Bidder

M/s.....

.....

(Signature of authorized representative)

(Not less than a Director)

Name:.....

Designation:.....

Stamp:.....

Date:.....

Place: .....

**FORMAT IV: AUTHORIZATION**

(On Non - judicial stamp paper duly attested by Notary Public)

We have submitted a Bid for acquisition of equity stake from Lenders in Sravanthi Energy Private Limited under the Bid Document dated ....., 2017 issued by IFCI Limited.

The undersigned hereby authorize(s) and request(s) all our bankers, a list of which is attached herewith as Form A hereto, including its subsidiaries and branches, the auditors and other [person, firm, corporation or authority] to furnish all information requested by Advisor/ Lenders to verify the authenticity of the documents/information submitted by us in respect of our Bid and/or regarding our financial standing and general reputation.

For and on behalf of M/s.....

Signature and Name of the authorized representative of the Company

Company rubber stamp/seal

.....

(Signature of Notary Public)

**Notes:**

***Enclose certified true copy of board resolution authorizing the person executing this authorization.***

**Form A**

**List of Bankers**

<b>Bank/Financial Institution</b>	<b>Address of the Branch</b>	<b>Name of the Contact Person / email-id</b>	<b>Designation</b>	<b>Number of the Contact Person</b>

## FORMAT V: PROPOSAL

**The Financial Proposal** shall be detailed and cover the following:

- 1) *Acquisition Proposal*
  - (a) *For acquisition of majority equity stake (51%) in SEPL*
  - (b) *Payment mechanism*
- 2) *Infusion of additional funds/fresh equity*
- 3) *Debt Refinancing Proposal – Proposal for Outstanding Debt (Refinancing/ conversion into instruments like NCDs/ OCCDs/ CRPS/ CCPS/WCTL/FITL)*

**The Technical Proposal** shall be detailed and cover the following:

- (a) *Covering Letter of the Bid Proposal;*
- (b) *Power of Attorney;*
- (c) *Bidder's Composition and Ownership Structure;*
- (d) *Memorandum & Articles of Association;*
- (e) *Certificate of Incorporation;*
- (f) *Authorization to Advisor;*
- (g) *Bid Security, Authorizations;*
- (h) *Undertaking by the Bidder;*
- (i) *Singed copy of CVs of KMP;*
- (j) *Copy of Board Resolution /or similar document;*
- (k) *Turnaround Plan for revival of the Company, including operational plan for the Project for the next 5 years; and*
- (l) *Any document other than specified in the RFP.*

*Further, financial investors please provide the following details along with the documentary proof including annual reports, audited financials for last financial year and unaudited financials until [●]:*

- (a) *Asset under management & Man year experience of the investor.*

- (b) *Credentials of proposed technical partner (Operational experience in India to be specifically elaborated)*
- (c) *Tenure of the O&M contract/arrangement (existing/proposed)*
- (d) *Any other additional information may be provided*
- (e) *Details as below:*

<b>Parameters</b>	
Total Man Years of Experience	
Assets under Management	
Firm Experience in Power Industry	
Funds tie-up/ Commitment	
Turnaround Experience	

*For strategic investors, please provide the following details along with the documentary proof including annual reports, audited financials for last financial year and unaudited financials until [●]:*

- (a) *Year of experience and the industry of operation with details (Capacity, primary fuel, location, Commercial Operation Date, ownership of the Bidder (%))*
- (b) *Details as below:*

<b>Parameters</b>	
Industry	
Installed Capacity	
Sales (Last 3 Yrs Avg)	
Net Worth (Last 3 Yrs Avg)	



## FORMAT VI: UNDERTAKING BY BIDDER

[On the Letter Head of the Bidder]

To,  
**Mr. Mukesh Aggarwal,**  
Vice President  
SBI Capital Markets Limited,  
5<sup>th</sup> Floor, World Trade Tower,  
Barakhamba lane,  
New Delhi 110001

Dear Sir,

**Sub:** Bidders' Undertakings for the Bid in response to the Bid Document dated ....., 2017, issued by IFCI Limited.

1. We give our unconditional acceptance to the Bid Document dated ....., 2017 issued by IFCI Limited, and as amended from time to time. We undertake to execute any documents required on the completion of the Bid Process.
2. We have submitted our Bid and other requisite documents strictly as per forms/documents/authorizations, and on the terms and conditions, prescribed in the Bid Document, without any deviations, conditions and without mentioning any assumptions or notes for the Financial Proposal in the said format.
3. Our Bid is valid up to the period required under clause 2.1.2 of the Bid Document.
4. Our Bid has been duly signed by authorized signatory and closed in the manner and to the extent indicated in the Bid Document. The Power of Attorney (**Format II**, in case the Bidder is a Consortium) and Board Resolution (**Format VII**) of the Bid Document has been enclosed in original with this undertaking.
5. We undertake that, if we are selected as the Successful Bidder, we will pay the consideration to the Lenders as set out in the Financial Proposal as approved by the Lenders and at terms mutually agreeable to Lenders as per the Bid Document.
6. If required, we undertake to execute definitive agreement(s) with technical partner to the satisfaction of the Lenders before the Transfer Date.
7. We undertake that our Bid conforms to the requirements of the Bid Document as on the date of submission of this Undertaking including:

- (a) The Bidder has non-default external rating
  - (b) None of the Group Companies and Affiliates or any of their promoters/directors figure in the defaulters list of RBI/CIBIL.
  - (c) There has been no penalty/fine imposed by SEBI against the Bidder/its promoters.
  - (d) There are no criminal cases decreed against the Bidder and/or its promoters.
  - (e) There has been no action by a regulatory/government body against the Bidder and/or its Promoters.
8. The Financial Proposal is in the prescribed Format V and is submitted duly signed by the authorized signatory.
9. The Financial Proposal is unconditional and irrevocable. However we understand that the Lenders have the right to negotiate better terms with the Selected Bidder(s) and decision taken by the Lenders in this regard shall be final and binding on all parties.
10. We confirm that there is no Conflict of Interest as per the RBI circular DBR.BP.BC.No.101/21.04.132/2014-15, dated June 8, 2015 (as amended from time to time).
11. We undertake that, if we are selected as the Successful Bidder, in the event there are any restrictions on transfer of shares under the agreements entered into by the Company, prior approval/ consent shall be obtained by us, with assistance from the Company, prior to entering into Share Purchase Agreement.
12. We have neither made any statement nor provided any information during this Bid Process, which to the best of our knowledge is materially inaccurate or misleading. Further, all the confirmations, declarations and representations made in our Bid are true and accurate and valid till date of this undertaking. In case this is found to be incorrect after our selection as Successful Bidder, we agree that the Advisor shall be free to cancel our Bid and invoke the Bid Security at its discretion.

.....  
Signature and name of Authorised signatory in whose name [Power of Attorney/  
Board Resolution] is issued

## FORMAT VII : BOARD RESOLUTIONS

(On the letterhead of the Bidder)

(A) Format for the Board resolution to be passed by Bidder.

The Board, after discussion, at the duly convened Meeting on .....  
(Insert date), with the consent of all the Directors present and in compliance of the provisions of the Companies Act, 2013, passed the following Resolution:

1. RESOLVED THAT pursuant to the provisions of the Companies Act, 2013 and compliance thereof and as permitted under the Memorandum and Articles of Association of the company, approval of the Board be and is hereby accorded for issuing an Undertaking to the Advisor/Lenders, in the format specified in the Bid Document, draft of which is attached hereto and initialled by the Chairman/Managing Director whereby the company undertakes to provide the 100% percent of the Bid Security, as per the terms and conditions of the Bid Document, representing the total amount of Bid Security required to be provided by the ..... (Insert the name of the Bidder).
2. FURTHER RESOLVED THAT pursuant to the provisions of the Companies Act, 2013 and compliance thereof and as permitted under the Memorandum and Articles of Association of the company, approval of the Board be and is hereby accorded for issuing an undertaking to the Advisor/ Lenders in relation to Bid Document dated ....., 2017 whereby the company undertakes to:
  - (a) Acquire controlling stake (i.e. majority [51%] equity stake) in Sravanthi Energy Private Limited a Company having its registered office at 3<sup>rd</sup> Floor, Rider House, 136 Sector-44, Gurgaon 122002, Haryana, India, on selection as Successful Bidder;
  - (b) Pay the consideration to the Lenders as set-out in the Financial Proposal submitted by..... (Insert the name of the Bidder), to the extent of ₹..... Crore (Rupees..... Crore) or as may be mutually agreed between the Lenders and the \_\_\_\_\_ (Insert name of Bidder);
  - (c) Infuse additional funds/fresh equity as detailed in the Financial Proposal submitted and approved by the Lenders; and
  - (d) Implement the terms of the Financial Proposal as approved by the Lenders.
3. FURTHER RESOLVED THAT Mr./Ms....., director of the company be and is hereby authorized to take all the steps required to be

taken by the company for submission of Bid, including in particular, signing the Bid, making changes thereto and submitting amended Bid, all the documents related to the Bid, certified copy of this Board resolution or letter or undertakings etc., required to be submitted to the Advisor as part of the Bid or such other documents as may be necessary in this regard.

4. RESOLVED FURTHER THAT the common seal of the Company be affixed on such documents as may be required to be submitted by or on behalf of the Company, as required under Applicable Laws or in terms of the RFP by Mr./Ms..... in the presence of Mr./Ms..... and Mr./Ms.....

Certified True Copy

Signature and stamp of Company Secretary/Managing Director of the Bidder

**Notes:**

- 1) *The contents of the format may be suitably re-worded indicating the identity of the entity passing the resolution.*
- 2) *In case of the Board resolution being provided by a company incorporated in India, the Board resolution needs to be notarized by a notified notary. In the event the Board resolution is from a company incorporated outside India, the same needs to be duly notarized in its jurisdiction.*
- 3) *This format may be modified only to the limited extent required to comply with the local regulations and laws applicable to a foreign entity submitting this resolution. For example, reference to Companies Act 2013 may be suitably modified to refer to the law applicable to the entity submitting the resolution. However, in such case, the foreign entity shall submit an unqualified opinion issued by the legal counsel of such foreign entity, stating that the Board resolutions are in compliance with the applicable laws of the respective jurisdictions of the issuing company and the authorizations granted therein are true and valid.*

### FORMAT VIII: BID SECURITY

(To be on non-judicial stamp paper of appropriate value as per Stamp Act relevant to place of execution)

In consideration of the Lenders agreeing to receive the Bid of the [insert Bidder details] under Bid Document dated ....., 2017, issued by IFCI Limited and any other required documents, the ..... [Insert name and address of the bank issuing the guarantee and address of the head office] (hereinafter referred to as "**Guarantor Bank**") hereby agrees unequivocally, irrevocably and unconditionally to pay to the IFCI Limited forthwith on demand in writing from the IFCI Limited *or* any officer authorized by it in this behalf, any amount up to and not exceeding ₹..... Crore (Rupees ..... Crore only) on behalf of M/s. .... [Insert name of the Bidder].

This guarantee shall be valid and binding on the Guarantor Bank up to and including .....[Insert date of validity of Bid Security] and shall in no event be terminable by notice or any change in the constitution of the Guarantor Bank or by any other reasons whatsoever and our liability hereunder shall not be impaired or discharged by any extension of time or variations or alternations made, given, or agreed with or without our knowledge or consent, by or between parties including any extension of time period or variation of terms of the Bid. The Guarantor Bank shall not be released from its obligations hereunder and shall remain liable as a principal debtor even if the guaranteed obligations are found to be unenforceable and notwithstanding any forbearance, act or omission on part of the Lenders or Advisor.

The Guarantor Bank's liability under this Guarantee is restricted to ₹..... Crore only (Rupees ..... Crore only). IFCI Limited shall be entitled to invoke this Guarantee up to thirty (30) days from the last date of the validity of this Guarantee by issuance of a written demand to invoke this Guarantee.

The Guarantor Bank hereby expressly agrees that it shall not require any proof in addition to the written demand from IFCI Limited, New Delhi, stating that the Bidder has defaulted in its obligations under the Bid Document, raised at the above mentioned address of the Guarantor Bank and marked to the attention of [insert designation of person and contact details], in order to make the said payment to IFCI Limited. Any such demand shall be final conclusive and binding on the Guarantor Bank.

The Guarantor Bank shall make payment hereunder on first written demand without demur, protest, delay, cavil, restriction or conditions, without reference to, and notwithstanding any objection/dispute by, ..... [Insert name of the Bidder] and/or any other person. The Guarantor Bank shall not require IFCI Limited to justify the invocation of this BANK GUARANTEE, nor shall the Guarantor Bank have any recourse against the Advisor/ Lender in respect of any payment made hereunder.

This BANK GUARANTEE shall be interpreted in accordance with the laws of India and the courts at New Delhi shall have exclusive jurisdiction. The Guarantor Bank represents that this BANK GUARANTEE has been established in such form and with such content that it is fully enforceable in accordance with its terms as against the Guarantor Bank in the manner provided herein.

This BANK GUARANTEE shall not be affected in any manner by reason of merger, amalgamation, restructuring, liquidation, winding up, dissolution or any other change in the constitution of the Guarantor Bank or the Bidder.

IFCI Limited shall not be obliged before enforcing this BANK GUARANTEE to take any action in any court or arbitral proceedings against the Bidder, to make any claim against or any demand on the Bidder or to give any notice to the Bidder or to exercise, levy or enforce any distress, execution or other process against the Bidder.

The Guarantor Bank hereby agrees and acknowledges that IFCI Limited shall have a right to invoke this Bank Guarantee either in part or in full, as it may deem fit.

Notwithstanding anything contained hereinabove, the Guarantor Bank's liability under this Guarantee is restricted to ₹.... Crore (Rupees .....Crore only) and it shall remain in force until .....[Date to be inserted as per clause 2.3], with an additional claim period of thirty (30) days thereafter. This BANK GUARANTEE shall be extended automatically from time to time for such period for which the Bid is extended and/or as may be desired by ..... [Insert name of the Bidder]. The Guarantor Bank is liable to pay the guaranteed amount under this Bank Guarantee only if IFCI Limited serves upon us a written claim or demand.

In witness whereof the Bank, through its authorized officer, has set its hand and stamp on this ..... day of ..... at .....

Witness:

1. .... Signature

Name and Address. Name:

2. .... Designation with Bank Stamp

Name and Address

Attorney as per power of attorney .....

For:

..... [Insert Name of the Bank]

Banker's Stamp and Full Address:

Dated this ..... day of ..... 20.....

**Notes:**

- *The Stamp paper should be in the name of the Executing Bank.*



**FORMAT IX: CHECKLIST FOR SUBMISSION OF BID**

(On the Letterhead of Bidder)

S.N	Format No.	Submission of Bid Requirements	Response (Y/N)
1	I	Covering Letter	
2	II	Power of Attorney	
3	III	Bidder's Composition and Ownership Structure	
4		Memorandum & Articles of Association	
5		Certificate of Incorporation	
6	IV	Authorization to Advisor	
7		Annexure A providing the List of Bankers	
8	V	Financial Proposal	
9	VI	Undertaking by Bidder	
10	VII	Board Resolution	
11	VIII	Bid Security	

**FORMAT X: FORMAT FOR SEEKING CLARIFICATION**

<b>S. No.</b>	<b>Clause No. and Existing provision</b>	<b>Clarification required</b>

Signature \_\_\_\_\_  
For

\_\_\_\_\_  
Bidder's Rubber Stamp and Full Address.

**ANNEXURE II - NON-DISCLOSURE AGREEMENT**

*(Already provided separately)*

## ANNEXURE III - FORMAT OF JOINT BIDDING AGREEMENT

*(To be executed on Stamp paper of appropriate value)*

### JOINT BIDDING AGREEMENT

This joint bidding agreement ("**Agreement**") is entered into on this on this [•] day of [•] 2016 at [•]

#### BY AND BETWEEN

[•], a company organized under the laws of [•] having its registered office at [•] (hereinafter referred to as "**Lead Member**", which expression shall, unless it be repugnant to the context or meaning thereof, include its successors and permitted assigns) of the FIRST PART;

#### AND

[[•], a [company] organized under the laws of [•] having its registered office at [•] (hereinafter referred to as "**Member**", which expression shall, unless it be repugnant to the context or meaning thereof, include its successors and permitted assigns) of the SECOND PART.]<sup>2</sup>

(Lead Member and Member(s) are collectively referred to as the "**Parties**" and individually as "**Party**").

#### WHEREAS:

- (A) [•] has invited Bids by its RFP dated [•] (the "**RFP**" as duly modified, altered, revised, amended and clarified from time to time) for prequalification and short-listing of Bidders for [•].
- (B) The Parties are interested in jointly bidding for [•] as members of a Consortium with [•] as the Lead Member and in accordance with the terms and conditions of the RFP in respect of the Project; and
- (C) It is a necessary condition under the RFP that the members of the Consortium shall enter into a joint bidding agreement and furnish a copy thereof with the Bid.

#### NOW IT IS HEREBY AGREED as follows:

---

<sup>2</sup> In case the consortium has more than one member (other than the lead member), then the same can be added as parties to this agreement.

## 1. Definitions and Interpretations

In this Agreement, the capitalised terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the RFP.

## 2. Consortium

2.1 The Parties do hereby irrevocably constitute a consortium (the "**Consortium**") for the purposes of jointly participating in the Bidding Process for the Project.

2.2 The Parties hereby undertake to participate in the Bidding Process only through this Consortium and not individually and/ or through any other consortium constituted for this Project, either directly or indirectly or through any of their Affiliates.

2.3 The Parties hereby approve the submission of the Bid for the Consortium, in response to the RFP. The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of the Advisor and Lenders. Further, no modifications shall be made to their Bid without the prior written approval of each of the Parties and in contravention to the provisions of the RFP.

## 3. Role of the Parties

3.1 The Parties hereby undertake to perform the roles and responsibilities as described below:

(a) Party of the First Part shall be the Lead Member of the Consortium and the authorized signatory (being a person not less than a director of the Lead Member) shall have the power of attorney from the other Members for conducting all business for and on behalf of the Consortium during the Bidding Process and until the transfer of Lenders' Equity to the Consortium;

(b) Party of the Second Part shall be the other Member of the Consortium.

3.2 The Parties agree to co-operate with each other in the preparation and submission of the Bid.

## 4. Joint and Several Liability

The Parties do hereby undertake to be jointly and severally responsible and liable for all obligations and liabilities arising out of or relating to the RFP and the Company.

## 5. Shareholding in the Consortium

5.1 The Parties agree that the proportion of shareholding among the Parties in the Consortium shall be as follows:

First Party: [•]%

Second Party: [•]%

[Third Party: [•]%]

5.2 The Parties agree, acknowledge and undertake that any change in shareholding of the Consortium shall require the prior [consent/intimation] to the Advisor and the Lenders.

5.3 The Consortium shall, in the event selected as the Successful Bidder for the Project, incorporate a new company under the provisions of the Companies Act, 2013 (hereinafter referred to as "**Consortium SPV**") prior to execution of the Share Purchase Agreement. The shareholding of all Members of the Consortium in the Consortium SPV shall be the same as set out in Clause 5.1 above and shall remain locked-in for a period of two (2) years from the date of their selection as Successful Bidder. The Lead Member shall at all times be the largest shareholder in the Consortium SPV and hold a minimum of 26%. Further, the Consortium SPV shall at all times be controlled by the Members of the Consortium. For the purposes of this clause, the term "control" shall have the meaning ascribed to the term under the Companies Act, 2013.

## 6. Representation of the Parties

6.1 Each Party represents to the other Parties as of the date of this Agreement that:

(a) Such Party is duly organised, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;

(b) The execution, delivery and performance by such Party of this Agreement has been authorised by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/ power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Consortium Member is annexed to this Agreement, and will not:

- (i) require any consent or approval not already obtained;
  - (ii) violate any Applicable Law presently in effect and having applicability to it;
  - (iii) violate the memorandum and articles of association, by-laws or other applicable organizational documents thereof;
  - (iv) violate any clearance, permit, concession, grant, license or other governmental authorization, approval, judgement, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or
  - (v) create or impose any liens, mortgages, pledges, claims, security interests, charges or Encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;
- (c) this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and
- (d) there is no litigation pending or threatened to which it or any of its Affiliates is a party that presently affects or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfilment of its obligations under this Agreement.

## **7. Termination**

- 7.1 This Agreement shall be effective from the date hereof and shall continue in full force and effect until the incorporation of the Consortium SPV, if the Consortium is declared as the Successful Bidder. However, in case the Consortium is not the Successful Bidder, the Agreement will stand terminated upon return of the Bid Security to the Bidder.
- 7.2 However, obligations and rights of the Parties that were incurred or accrued prior to such termination shall survive termination.

## **8. Miscellaneous**

- 8.1 This Agreement shall be governed by, and construed in accordance with the laws of India without regard to the conflict of laws rules thereof that would require the application of the laws of another jurisdiction.
- 8.2 Any dispute arising out of or in connection with the provisions of this Agreement, including any question regarding its validity, existence or termination, shall be decided by the courts and tribunals at New Delhi.

**IN WITNESS WHEREOF THE PARTIES ABOVE NAMED HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.**

SIGNED AND DELIVERED  
For and on behalf of [•]

SIGNED AND DELIVERED  
For and on behalf of [•]

(Signature)

(Signature)

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Designation: \_\_\_\_\_

Designation: \_\_\_\_\_

Address: : \_\_\_\_\_

Address: : \_\_\_\_\_

In the presence of:  
Witness No. 1

Witness No. 2

Name:  
Date:  
Address:

Name:  
Date:  
Address: