

DETAILED INVITATION
DATED 10 JULY 2023
FOR
SUBMISSION OF EXPRESSION OF INTEREST
FOR
SALE/ASSIGNMENT OF OUTSTANDING DEBT
OF
VIDARBHA INDUSTRIES POWER LIMITED
UNDER
SWISS CHALLENGE PROCESS

Note: Lenders reserves the right to cancel or modify the process and / or reject any prospective bidder without assigning any reason and without any liability. This is not an offer document or an agreement with prospective bidders or any other person. Prospective bidders should regularly visit the above website to keep themselves updated regarding clarifications/ amendments/ time-extensions, if any. Prospective bidder(s) must specifically note that the Lenders reserve the right to change, update, amend, supplement, modify, add to, delay or otherwise annul or cease the process at any point in time, for any reason determined in their sole discretion.

Vidarbha Industries Power Limited ("**Company**") is in default in repayment of its debt that is owed to a consortium of lenders comprising of Axis Bank Limited, State Bank of India, Punjab National Bank, Bank of Baroda, Canara Bank and Bank of Maharashtra ("**Lenders**"). The Lenders of the Company, with Axis Bank Limited ("**Lead Bank**") acting as the lead bank on behalf of the Lenders, are launching a swiss challenge process to sell/assign the debt of the Company held by the Lenders, in accordance with the Reserve Bank of India (Transfer of Loan Exposures) Directions, 2021 dated 24 September 2021, as amended from time to time ("**Transfer of Loan Exposure Directions**"), and other relevant applicable laws.

The Lenders have received an unsolicited binding offer from an asset reconstruction company ("**Anchor Bidder**") to acquire the outstanding debt of the Company held by the Lenders ("**Base Bid**"). In order to establish the appropriateness of the value of the Base Bid, the Lead Bank on behalf of the Lenders, invites Expressions of Interest ("**EOI**" or "**Expression of Interest**") from eligible bidders as per the Transfer of Loan Exposure Directions to acquire the entire outstanding debt of the Company along with underlying security (including all rights, interests and benefits in respect of or arising out of all the transaction documents), held by (or created in favour of) the Lenders or any security trustee or agent appointed by the Lenders for the said purpose ("**Debt**") only on "cash" basis pursuant to swiss challenge process on "as is where is", "as is what is" basis and "without recourse basis" with the Anchor Bidder being accorded an opportunity to match/better the terms of the highest offer received from an eligible bidder in the swiss challenge process to be undertaken pursuant to receipt of EOI from eligible bidders ("**Bid Process**"). The principal outstanding debt of the Company held by the Lenders as on 6 July 2023 aggregates to INR 2,569 Crores and USD 26.7 Million.

Towards this end, the Lenders, have appointed SBI Capital Markets Limited as the Process Advisor for coordinating this Bid Process ("**Process Advisor**").

The Lenders, *vide* letter dated 7 July 2023, have considered the Base Bid and have granted approval to treat the Base Bid as the base offer for the purpose of launching the swiss challenge process and acceptance of the Base Bid by the Lenders remains subject to outcome of the swiss challenge process and approval by the Lenders.

The Lenders hereby invite EOI for acquiring the Debt of the Company pursuant to the 'swiss challenge' process initiated by the Lenders, from interested and eligible prospective bidders who fulfils such eligibility criteria, as approved by the Lenders, and specified herein.

Eligibility Criteria

The eligibility criteria for prospective bidders, as approved by the Lenders, is as follows:

- (i) Persons eligible as per the Transfer of Loan Exposure Directions are permitted to participate in the Bid Process as prospective bidders. The prospective bidders that are eligible as per the Transfer of Loan Exposure Directions include scheduled commercial banks, All India Financial Institutions (NABARD, NHB, EXIM Bank, and SIDBI), small finance banks, all non-banking finance companies (NBFC) including housing finance companies (HFC) and asset reconstruction companies (ARC).
- (ii) The prospective bidders shall be duly registered under applicable laws and eligible for purchase of Debt of the Company.
- (iii) In case the prospective bidder is an NBFC, it should be eligible for assignment of Debt with valid RBI license.

- (iv) The prospective bidder shall not be disqualified in terms of Section 29A of the Insolvency and Bankruptcy Code 2016 (“**Code**”) as on the date of submission of the EOI, the date of submission of the Offer and the date of implementing the Offer.
- (v) The minimum net worth of the prospective bidder shall be as stated in **Schedule II** (*Net-worth*).

Disqualification Criteria

Without prejudice, a prospective bidder may be disqualified and its EOI and/or Offer may be excluded from further consideration for non-compliance with the terms hereof or for any of the reasons (including without limitation) listed below. The disqualification criteria shall include:

1. Ineligibility in terms of Section 29A of the Insolvency and Bankruptcy Code, 2016;
2. Material misrepresentation or inconsistencies in the EOI and/or Offer or failure to provide complete information required to be provided in accordance with the terms of this detailed invitation or the process memorandum;
3. The Lenders or any of their advisors are of the view that the prospective bidder has not satisfied the approved eligibility criteria. Without prejudice to the generality of the above, the criteria may include among others, the track record (financial, operational strength, turnaround experience or otherwise) of the interested party, its financial strength, etc;
4. EOI or its supporting documents have not been executed by the representative / signatory of the prospective bidder and / or is not stamped in the manner indicated in this invitation;
5. The terms set out in this invitation are not satisfied, either in relation to the prospective bidder (including a consortium), or the EOI, or in relation to the submission of any documents with the EOI;
6. The EOI is not received by the Lenders on or prior to the Due Date (including such extended period as may be permitted by the Lenders); and
7. Any information regarding the prospective bidder which becomes known to the Lenders and is detrimental to the proposed transaction.

Submission of EOI

Any prospective bidder who is eligible in accordance with the eligibility criteria as specified above, may submit EOI in the format as set out in **Annexure I** (*Format of the Expression of Interest*) on or before **17 July 2023 by 5:00 PM IST** or any extended period as may be decided by the Lenders (“**Due Date**”). It may be noted that the EOI shall be unconditional and accompanied with the documents set out in **Schedule III** (*Documents to be submitted along with EOI*) hereto and any other document as required by the Lenders (“**EOI Supporting Documents**”).

It is hereby clarified that the Offer(s) by prospective bidders shall be submitted on or before the Due Date. The terms and conditions upon which the Offer shall be submitted are stated in the process memorandum which shall be uploaded in the data room set up by the Lenders. The Lenders shall review the EOI and EOI Supporting Documents and shall grant access to the data room to such prospective bidder who qualifies under the eligibility criteria and is declared as the eligible bidder by the Lenders.

The prospective bidder shall submit the EOI along with the EOI Supporting Documents on or before the Due Date, electronically in a password protected file *vide* email to projectvipl@sbicaps.com with all documents (including the EOI and the EOI Supporting Documents) being digitally signed/certified/verified by the authorised representative of the prospective bidder.

It may be noted that any EOI received after the Due Date may be rejected without any prejudice.

Bid Process Participation Fee

As part of the Bid Process, all prospective bidders shall provide a non-refundable, non-returnable bid process participation fee of INR 10,00,000 (Indian Rupees Ten Lakhs only) ("**Bid Process Participation Fees**") while submitting the EOI. The Bid Process Participation Fees shall be transferred in the account of the Lead Bank set out hereunder. Evidence of such transfer of Bid Process Participation Fees shall be submitted as one of the EOI Supporting Documents.

Account No.: 1394010633007

Account Name: SL-FUNDS IN TRANSIT

IFSC code: UTIB0001394

Bank Name and Branch: Axis Bank Ltd, CBB, Nariman Point, Mumbai -21

Evaluation of the EOI and the EOI Supporting Documents

Upon submission of EOI along with the EOI Supporting Documents, the Process Advisor shall evaluate the EOI and EOI Supporting Documents submitted by the prospective bidder to ensure that the prospective bidder meets the eligibility criteria set out in this Detailed Invitation and the list will be presented to the Lenders for declaration of the list of eligible bidders. The Lead Bank/Lenders shall issue letters of confirmation to such prospective bidders, who satisfy the eligibility criteria and the conditions for submission of EOI along with EOI Supporting Documents as set out in this Detailed invitation. All such prospective bidders who receive letters of confirmation shall be treated as eligible bidders and shall be provided access to the Data Room and the process memorandum.

The eligible bidders shall be provided access to the virtual data room established and maintained by the Lenders ("**Data Room**") for the purpose of carrying out an independent due diligence exercise.

The eligible bidders shall be provided with access to the Data Room until the Due Date, subject to the terms and conditions stated in the process memorandum which shall be uploaded in the Data Room. The eligible bidders shall accept the terms and conditions in relation to the terms of use of the information, facilities and documents, including any Confidential Information, provided in the Data Room and described under **Schedule I (Data Room Rules)** ("**Data Room Rules**").

The Lenders have not verified any of the information, data or documents contained in the Data Room and shall not accept any responsibility or liability, whatsoever, in respect of any statements or omissions contained in the Data Room, or the accuracy, correctness, completeness or reliability of information, data or documents contained therein. By having access to the Data Room, the prospective bidders shall be deemed to have full knowledge of the Debt of the Company, relevant documents, information, etc. as contained in the Data Room and is expected to undertake its own independent due diligence on the Debt and satisfy itself of the matters contained therein for participation in the Bid Process.

The Lenders reserve the right to cancel, amend, extend or modify the invitation without assigning any

reason and without incurring any liability of whatsoever nature. Any amendment, extension or modification shall be posted on the website of SBI Capital Markets Limited, www.sbicaps.com. The prospective bidders are requested to regularly visit the website for updates.

The Lenders reserve the right to withdraw the invitation for EOI and also reserve the right to disqualify any prospective bidder, should it be so necessary at any stage.

No oral conversations or agreements with the Lenders, the Company or any official, agent, advisor, or employee of the Lenders or the Company, shall affect or modify any terms of this invitation for EOI.

Neither any prospective bidder nor any of representatives of such prospective bidder shall have any claims whatsoever against the Lenders or any official, agent, advisor, or employee of the Lenders or any of their directors, officials, advisors agents or employees arising out of or relating to this invitation for EOI.

All prospective bidders must read, understand, and comply with all requirements under the Transfer of Loan Exposure Directions, to the extent applicable, or any other applicable regulations that are in force now or that may come into force subsequently, for Offers and all matters thereunder in relation to this invitation.

By submitting an EOI and/or Offer, each prospective bidder shall be deemed to acknowledge that it has carefully read the entire invitation for EOI and has fully informed itself as to all existing conditions and limitations.

For any clarification, please contact the following:

Contact person: Mr. Abhishek Varma

Telephone No.: 022-41968343

Email id: projectvipl@sbicaps.com

SCHEDULE I

DATA ROOM RULES

The rules set forth below regulate the terms of use of the information, facilities and documents available in the Data Room.

1. Confidentiality

- (a) Access to, and review of, the information and documents contained in the Data Room or received in the course of the due diligence process shall be treated as Confidential Information and is entirely subject to the confidentiality cum non-disclosure agreement in the format as provided in **Annexure II** (*Format of Confidentiality cum Non-Disclosure Agreement*) of the Detailed Invitation ("**Confidentiality Agreement**") which shall have been furnished by the eligible bidder in favour of the Lenders.
- (b) The eligible bidder and their respective advisors shall be bound by the terms of the Confidentiality Agreement and will be required to confirm their acceptance to the same prior to accessing the Data Room.

2. Time Frame

- (a) The eligible bidder will be permitted to carry out legal due diligence on the Debt of the Company including the financing documents and security documents until the Due Date, or such other time as may be determined by the Lenders and notified to the prospective bidder.
- (b) No more than 15 (fifteen) representatives of the eligible bidder (or such other number permitted by the Company) each of whose details have been provided by the eligible bidder to the Lenders, shall be provided with a login ID and password for access to the Data Room.

3. Location and Access Rights

- (a) The IP address along with the login ID and password for accessing the Data Room shall be provided to the eligible bidder as set out in sub-clause 2(b) (*Time frame*) above upon submission of the Confidentiality Agreement and shall be subject to the terms of the Detailed Invitation and process memorandum.
- (b) The details of the individuals (including name, email ID and contact number) authorized on behalf of the eligible bidder to access the Data Room shall be provided by the respective eligible bidder to the Lenders.
- (c) Without prejudice to the right granted by the Lenders to the eligible bidder to download the documents contained in the Data Room or as obtained during the due diligence process, such documents shall not be copied or reproduced without the prior written permission of the Lenders.
- (d) The eligible bidder shall surrender and return to the Lenders, all Confidential Information in the manner set out in the process memorandum.

4. Data Room Coordinator

- (a) There will be a Data Room in-charge (“**Coordinator**”) whose name and contact details shall be shared with eligible bidder along with sharing of login ID and password.
- (b) The Coordinator shall be responsible for supervising Data Room access and is not authorized to provide any material answers or explanations regarding the contents of the documents contained in the Data Room and all technical queries relating to the Data Room. The Lenders confirm that the name and contact details of any new Coordinator of the Lenders will be shared with the eligible bidder as soon as practicable but in any case, within 1 (one) day of the appointment of the new Coordinator.

5. No Commitment

- (a) Any written or oral information or representation supplied or made in connection with the use of the Data Room, or any investigation or negotiations shall not be considered as constituting any invitation for the sale of any securities or assets and shall not be considered as forming the basis of any future contract / agreement to be entered into with the shareholders, the Lenders.

6. No Representation or Warranty

- (a) Except as otherwise mentioned in the Detailed Invitation or process memorandum, no representation or warranty, expressed or implied, is made as to the accuracy or completeness of the information disclosed or to be disclosed in the Data Room or in any other written or oral communication transmitted or made available by the Lenders;
- (b) Nothing contained in the Data Room is, or shall be relied upon as, a promise or representation, whether as to the past, current or future performance of the Company; and
- (c) The Lenders reserve the right to modify or amend the present procedure and timelines with respect to the use of the Data Room and the contents thereof, at any time and at the sole discretion of the Lenders.

7. Clarification

- (a) It is hereby clarified that the Lenders shall not have any liability whatsoever towards the prospective bidder, relating to or resulting from the use of the information provided in the Data Room or in any of the subsequent Offer clarifications.

8. Modification

- (a) The Lenders reserves the right to modify or amend the present procedures and the timeline at any time at their discretion.

9. Compliance with law

- (a) The documents and the information set out in the Data Room are confidential in nature and contain unpublished price sensitive information (UPSI) in relation to the Company. The eligible bidder shall be in compliance with applicable laws, including

the rules set out under the SEBI (Prohibition of Insider Trading) Regulations, 2015, as amended from time to time ("**Insider Trading Regulations**"), in relation to the use of the documents and information set out in the Data Room and waives any right to claim that there was any involvement of the Lenders in the prospective bidder's compliance or lack thereof with the Insider Trading Regulations.

SCHEDULE II

NET WORTH

The Net Worth of the bidder shall be as under:

The net-worth should be at least INR 200,00,00,000 (Indian Rupees Two Hundred Crores).

The “net-worth” shall consist of ‘paid up equity capital, preference shares which are compulsorily convertible into equity capital, free reserves, balance in share premium account and capital reserves representing surplus arising out of sale proceeds of assets but not reserves created by revaluation of assets’ adjusted for ‘accumulated loss balance, book value of intangible assets and deferred revenue expenditure, if any’. While compulsorily convertible preference shares reckoned for computation of net-worth can be either noncumulative or cumulative, these shall be compulsorily convertible into equity shares and the shareholder agreements shall specifically prohibit any withdrawal of this preference share capital at any time.

SCHEDULE III

DOCUMENTS TO BE SUBMITTED ALONG WITH EOI

[to be executed on the letterhead of the prospective bidder]

To

Axis Bank Limited (as the Lead Bank on behalf of all Lenders)

[insert address]

RE: EOI Supporting Documents

SUB: SALE/ASSIGNMENT OF OUTSTANDING DEBT OF VIDARBHA INDUSTRIES POWER LIMITED UNDER SWISS CHALLENGE PROCESS

We refer to (i) your advertisement dated 10 July 2023 published in Business Standard, in English language and Sakal, in regional language and as uploaded on the website of SBI Capital Markets Limited on the proposed sale/assignment of the outstanding debt of Vidarbha Industries Power Limited ("**Company**") by the consortium of lenders comprising of Axis Bank Limited, State Bank of India, Punjab National Bank, Bank of Baroda, Canara Bank and Bank of Maharashtra ("**Lenders**") under swiss challenge process ("**Advertisement**") and (ii) Detailed Invitation for Expressions of Interest cum submission of Offer for the Debt of the Company under swiss challenge process dated 10 July 2023 ("**Detailed Invitation**"). In connection with the Advertisement and Detailed Invitation, we, the undersigned bidder hereby offer our expression of interest for submission of offer/bid for acquisition of the entire outstanding debt of the Company along with underlying security (including all rights, interests and benefits in respect of or arising out of all the transaction documents), held by (or created in favour of) the Lenders or any security trustee or agent appointed by the Lenders for the said purpose ("**Debt**").

We hereby submit the following information/documents as requested by the Lead Bank in terms of the Detailed Invitation.

1. **Name and Address:**
 - (a) Name of the Firm/Company/Organization:
 - (b) Address:
 - (c) Telephone No:
 - (d) Fax:
 - (e) Email:
2. Certified true copies of Certificate of Incorporation/ Registration and Constitutional Documents (memorandum of association and articles of association). Certified true copy of PAN card or equivalent documents. Any other document for KYC purpose as may be requested for by the Lenders.
3. **Date of Establishment:**

4. **Prospective Bidder Profile:**

- (a) Profile of bidder (Promoter and Promoters group, Key Managerial Personnel, Shareholders and Shareholding Pattern)
 - (b) RBI registration Certificate/other Regulatory Authorities Certificate as applicable.
 - (c) Certificate of Net-Owned Funds/Net Worth.
 - (d) Financial Profile of the Bidder (Annual Report/Audited Financial Statement for last 3 years, AUM).
5. Board resolution / power of attorney in favour of the authorised representative of the prospective bidder for executing all the necessary documents set out in the Detailed Invitation.
6. Certified true copy of the PAN Card / Aadhar Card of the authorised representative of the prospective bidder. Any other document for KYC purpose as may be requested for by the Lenders.
7. Duly stamped and executed confidentiality cum non-disclosure agreement in the format as provided in **Annexure II** (*Format of Confidentiality cum Non-Disclosure Agreement*) of the Detailed Invitation.
8. Duly stamped and executed undertaking pertaining to the compliance of Section 29A of the Insolvency and Bankruptcy Code, 2016 in the format as provided in **Annexure III** (*Format of Undertaking by Bidder*) of the Detailed Invitation.
9. Net worth of the Bidder as on 31 March 2023 certified by the independent chartered accountant / statutory auditor (on consolidated basis) as stated in **Schedule II** (*Net Worth*) to the Detailed Invitation. The certificate shall be strictly in the format annexed hereto as **Annexure IV** (*Format of the Net Worth Certificate*).
10. Evidence of transfer of Bid Process Participation Fees to the account of the Lead Bank as set out in the Detailed Invitation.
11. Any other document as may be requested for by the Lenders.

Capitalised terms used but not defined herein shall have the meaning ascribed to such terms in the Advertisement and Detailed Invitation.

With regards,

For and on behalf of [●]

[Authorized Signatory]

Encl: As above.

Note:

- a. Board Resolution for submitting an EOI to be submitted.
- b. The person digitally affixing its signature on the EOI and other supporting documents should be an

authorised signatory supported by necessary board resolutions/ power of attorney.

ANNEXURE I

FORMAT OF THE EXPRESSION OF INTEREST

(To be printed on the letterhead of the bidder)

Date: _____

To

Axis Bank Limited (as the Lead Bank on behalf of all Lenders)

[insert address]

E-mail: [●]

Dear Sir/Madam,

SUB: SALE/ASSIGNMENT OF OUTSTANDING DEBT OF VIDARBHA INDUSTRIES POWER LIMITED UNDER SWISS CHALLENGE PROCESS

We refer to (i) your advertisement dated 10 July 2023 published in Business Standard, in English language and Sakal, in regional language and as uploaded on the website of SBI Capital Markets Limited on the proposed sale/assignment of the outstanding debt of Vidarbha Industries Power Limited ("**Company**") by the consortium of lenders comprising of Axis Bank Limited, State Bank of India, Punjab National Bank, Bank of Baroda, Canara Bank and Bank of Maharashtra ("**Lenders**") under swiss challenge process ("**Advertisement**") and (ii) Detailed Invitation for Expressions of Interest cum submission of Offer for the Debt of the Company under swiss challenge process dated 10 July 2023 ("**Detailed Invitation**"). In connection with the Advertisement and Detailed Invitation, we, the undersigned bidder hereby offer our expression of interest for submission of offer/bid for acquisition of the entire outstanding debt of the Company along with underlying security (including all rights, interests and benefits in respect of or arising out of all the transaction documents), held by (or created in favour of) the Lenders or any security trustee or agent appointed by the Lenders for the said purpose ("**Debt**").

We agree, acknowledge and confirm as follows:

- (i) we are eligible and have the capacity to conclude the purchase of Debt in accordance with Master Direction – Reserve Bank of India (Transfer of Loan Exposures) Directions, 2021 dated 24 September 2021, as amended from time to time and all other applicable laws;
- (ii) we have the financial capacity to undertake the purchase of the Debt, should our offer/bid be accepted;
- (iii) we are not disqualified/ineligible in terms of the provisions of Section 29A of the Insolvency and Bankruptcy Code 2016, as amended from time to time ("**Code**"), from submitting a bid to acquire the Debt under the swiss challenge process;
- (iv) the Lenders reserve the right to determine, at their sole discretion, if we are eligible for the submission of the offer/bid to acquire the Debt and may reject the EOI submitted by us without assigning any reason and without any liability whatsoever;

- (v) the Lenders reserve the right to request for additional information or clarification from us for the purposes of the EOI and we shall promptly comply with such requirements. Failure to satisfy the queries of Lender may lead to rejection of our submission pursuant to EOI;

Along with our EOI, we have also enclosed the EOI Supporting Documents as required under **Schedule III** (*Documents to be submitted along with EOI*) of the Detailed Invitation.

We further undertake that the information furnished by us in this EOI and annexures hereto is true, correct, complete, and accurate.

We understand you would require additional information from us to evaluate whether we are qualified as per the eligibility criteria in order to shortlist us as an eligible bidder for submitting offer/bid under the Bid Process. We undertake that we will provide you with all necessary information as may be required by the Lenders.

We would be solely responsible for any errors or omissions in the expression of interest. We, however, understand that Lenders reserve the right to decide whether or not to pre-qualify our proposal without assigning any reason whatsoever and without any liability.

We shall indemnify and hold harmless the Lenders and/or Process Advisor from and against all losses, liabilities, claims, charges, actions, damages, fines, penalties, interest and expenses (including without limitation, reasonable attorney's fees and expenses in accordance with any assessment, action, suit or proceedings), in each such case, that are actually incurred or suffered, but excluding, in each such case, any loss of profits, business, goodwill or any indirect or consequential loss or damage of any kind, which may arise against the Lenders and/or Process Advisor, suffered or incurred in respect of, arising out of, or in any way connected with the Advertisement, the Detailed Invitation, the EOI, the Confidentiality Agreement and/or any other document/undertaking executed by us in relation to the Bid Process or arising out of or pursuant to our obligations therein (including on account of breach of such obligations by us).

Details of our contact person/authorized signatory with address, Contact no. and Email ID.

Name	Designation	Mobile	E-Mail

Capitalised terms used but not defined herein shall have the meaning ascribed to such terms in the Advertisement and Detailed Invitation.

With regards,

For and on behalf of [●]

[Authorized Signatory]

Encl: As above.

Note:

- a. Board Resolution for submitting an EOI to be submitted.*
- b. The person digitally affixing its signature on the EOI and other supporting documents should be an authorised signatory supported by necessary board resolutions/ power of attorney.*

ANNEXURE II

FORMAT OF CONFIDENTIALITY CUM NON-DISCLOSURE AGREEMENT

(To be executed on stamp paper of INR 1000)

This **CONFIDENTIALITY CUM NON-DISCLOSURE AGREEMENT** (this “**Agreement**”) is made and entered into on this _____ day of [●], 2023 at [●]

BY

_____, a company constituted under the law of India and having its registered office situated at [●], India (hereinafter referred to as “**Bidder**” or “**Receiving Party**” which expression unless repugnant to the context or meaning thereof be deemed to include its successors) of the **ONE PART**;

IN FAVOUR OF

AXIS BANK LIMITED, a banking company registered under the Banking Regulation Act, 1949 and having its registered office situated at “Trishul”, 3rd Floor, opposite Samartheshwar Temple, Near Law Garden, Ellisbridge, Ahmedabad -380 006 (hereinafter referred to as “**Lead Bank**” acting on behalf of the Lenders (*as defined below*) which expression unless repugnant to the context or meaning thereof be deemed to include its successors and assigns) of the **OTHER PART**.

The Disclosing Party and Receiving Party are hereinafter collectively referred to as the “**Parties**” and individually as the “**Party**”.

WHEREAS:

- A. Vidarbha Industries Power Limited (“**VIPL**”) had availed credit facilities from the lenders as more particularly set out in **Schedule 1** (“**Lenders**”) led by Axis Bank Limited (“**Lead Bank**”). Due to the failure of VIPL to repay its debts, the Lenders had classified the account of VIPL as a non-performing asset (“**NPA**”).
- B. The Lenders are now desirous of selling/assigning the entire outstanding debt of the Company along with underlying security (including all rights, interests and benefits in respect of or arising out of all the transaction documents), held by (or created in favour of) the Lenders or any security trustee or agent appointed by the Lenders for the said purpose, (“**Debt**”) pursuant to a swiss challenge process to be undertaken by the Lenders in accordance with guidelines issued by Reserve Bank of India and other applicable law.
- C. The Lead Bank (on behalf of the Lenders), *vide* an advertisement dated 10 July 2023 published in Business Standard, in English language and Sakal, in regional language and as uploaded on the website of SBI Capital Markets Limited (“**Advertisement**”), invited Expressions of Interest (“**EOI**”) from all eligible bidders, to acquire the outstanding debt of VIPL owed to the Lenders under swiss challenge process (“**Bid Process**”).
- D. The Bidder is one of the bidders desirous of submitting a bid to acquire the outstanding debt of VIPL owed to the Lenders and has therefore submitted an EOI pursuant to Advertisement.
- E. As a part of the Bid Process, the Receiving Party is desirous of obtaining certain confidential information pertaining to the Company. The Disclosing Party has agreed to provide the

Confidential Information to the Receiving Party as part of the Bid Process (“**Purpose**”) on the terms and conditions stated herein.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH AND IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

1. Definitions

The following words and phrases used in this Agreement and the above Recitals, shall have the meanings set out below unless the context otherwise requires:

- 1.1. **“Confidential Information”** shall mean any material, records, application, or information, in whatever form, mode or media, that is provided or disclosed to the Receiving Party in the course of discussions, negotiations in connection with the Purpose. It shall include any copy, abstract, data, extract, sample, or module thereof. It shall also include the all the material, data in any format, whether secured or not financial and information, matters relating to the operation of the business, forecasts, projections, accounting, finance or tax information, pricing information, and any information relating to the Disclosing Party, even if the same is disclosed orally or not marked specifically as confidential. For avoidance of doubt, confidential information shall include information accessed through the Disclosing Party’s electronic data room set up for the purposes of this Agreement and supersedes any ‘click through’ acknowledgement or agreement associated with any such electronic data room.

Notwithstanding the foregoing, “Confidential Information” shall not include any information which the Receiving Party can show: (a) is now or subsequently becomes legally and publicly available without breach of this Agreement by the Receiving Party, (b) was rightfully in the possession of the Receiving Party without any obligation of confidentiality prior to receiving it from the Disclosing Party, (c) was developed by or for the Receiving Party independently and without reference to any Confidential Information and (d) the Receiving Party rightfully obtains the Confidential Information from a third party who has the right to transfer or disclose it.

- 1.2. **“Person”** means an individual, body corporate, partnership, trust, company, association, joint venture, governmental body, any statutory body or other entity.
- 1.3. **“Representatives”** shall mean, in relation to one Party, its directors, officers, employees, professional advisors (including lawyers, auditors and consultants) or partners.

2. Confidential Information

- 2.1. The Receiving Party will exercise the same degree of care and protection with respect to the Confidential Information that it exercises with respect to its own confidential information of like nature and in any event, at least diligent and prudent care.
- 2.2. The Receiving Party shall use the Confidential Information solely for the purpose of submission of the offer/bid.

3. Non-disclosure

- 3.1. The Receiving Party shall not commercially use or disclose any Confidential Information or any materials derived therefrom to any other person or entity other than to its Representatives for the Purpose. The Receiving Party shall ensure that its employees are bound by a professional, contractual or other obligation of confidentiality with respect to the Confidential

Information disclosed. The Receiving Party shall take appropriate measures, by instruction to its employees, to assure against unauthorized use or disclosure of the Confidential Information. The Receiving Party may disclose information to consultants only if the consultant has executed a non-disclosure agreement with the Receiving Party that contains terms and conditions that are no less restrictive than these. The Receiving Party agrees to notify the Disclosing Party, as soon as reasonably practicable, if it learns of any use or disclosure of the Confidential Information in violation of the terms of this Agreement. Further, any breach of non-disclosure obligations by the Receiving Party and/or its Representatives shall be deemed to be a breach of this Agreement by the Receiving Party and the Receiving Party shall be accordingly liable therefor.

- 3.2. Provided that the Receiving Party may disclose Confidential information to a court or governmental agency pursuant to an order of such court or governmental agency as so required by such order, provided that the Receiving Party shall, unless prohibited by law or regulation, promptly notify the Disclosing Party of such order and afford the Disclosing Party the opportunity to seek appropriate protective order relating to such disclosure.

4. Publications

- 4.1. The Receiving Party shall not make any news releases, public announcements, give interviews, issue or publish advertisements or publicize in any other manner whatsoever in connection with this Agreement, the contents / provisions thereof, other information relating to this Agreement, the Purpose, the Confidential Information or other matter of this Agreement, without the prior written approval of the Disclosing Party.

5. Term

- 5.1. This Agreement shall be effective from the date hereof and shall continue till completion of Purpose and execution of definitive agreements thereof or till expiry of a period of 12 (twelve) months from the date hereof or such extended period as mutually agreed by the Parties, whichever is earlier. Upon expiration or termination as contemplated hereinabove, the Receiving Party shall (i) immediately cease any and all disclosures or uses of Confidential Information and (ii) promptly return or destroy all written, graphic or other tangible forms of the Confidential Information and all copies, abstracts, data, extracts, samples, notes or modules thereof unless statutorily required to retain such Confidential Information.
- 5.2. The obligations of the Receiving Party respecting disclosure and confidentiality shall continue to be binding and applicable without limit in point in time except and until such Confidential Information enters the public domain.

6. Title and Proprietary Rights

- 6.1. Notwithstanding the disclosure of any Confidential Information by the Disclosing Party to the Receiving Party, the Disclosing Party/VIPL shall retain title and all intellectual property and proprietary rights in the Confidential Information. No license under any trademark, patent or copyright, or application for same which are now or thereafter may be obtained by such Party is either granted or implied by the conveying of Confidential Information.
- 6.2. The Receiving Party shall not conceal, alter, obliterate, mutilate, deface or otherwise interfere with any trademark, trademark notice, copyright notice, confidentiality notice or any notice of any other proprietary right of the Disclosing Party/VIPL on any copy of the Confidential Information, and shall reproduce any such mark or notice on all copies of such Confidential

Information. Likewise, the Receiving Party shall not add or emboss its own or any other any mark, symbol or logo on such Confidential Information.

7. Return of Confidential Information

- 7.1. Upon written demand of the Disclosing Party at any time, the Receiving Party shall (i) cease using the Confidential Information, (ii) return the Confidential Information to the extent reasonably practicable to the Disclosing Party within 7 (seven) days after receipt of notice, and (iii) certify in writing that the Receiving Party has complied with the obligations set forth in this paragraph.

8. Entire Agreement, Amendment, Assignment

- 8.1. This Agreement constitutes the entire agreement between the Parties relating to the matters discussed herein and supersedes any and all prior oral discussions and/or written correspondence or agreements between the Parties.
- 8.2. This Agreement may be amended or modified only with the mutual written consent of the Parties.
- 8.3. Neither this Agreement nor any right granted hereunder to the Receiving Party shall be assignable or otherwise transferable by the Receiving Party without the prior written consent of the Disclosing Party.

9. Governing Law and Jurisdiction

- 9.1. This Agreement shall be governed by and construed in accordance with the laws of the India without regard to its choice of law provisions.
- 9.2. The Receiving Party agrees that the courts and tribunals at Mumbai shall have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this Agreement and that accordingly any suit, action or proceedings arising out of or in connection with this Agreement may be brought in such courts or the tribunals and the Receiving Party irrevocably submits to and accepts for itself and in respect of its property, generally and unconditionally, the jurisdiction of those courts or tribunals.

10. General

- 10.1. The Receiving Party shall not reverse-engineer, decompile, disassemble or otherwise interfere with any software disclosed hereunder. In no event shall the Disclosing Party be liable for the inaccuracy or incompleteness of the Confidential Information.
- 10.2. None of the Confidential Information disclosed by the Disclosing Party constitutes any representation, warranty, assurance, guarantee or inducement by either party to the other with respect to the fitness of such Confidential Information for any particular purpose or infringement of trademarks, patents, copyrights or any right of third persons.

11. Remedies

- 11.1. The Receiving Party acknowledges that if the Receiving Party fails to comply with any of its obligations hereunder, the Disclosing Party may suffer immediate irreparable harm for which monetary damages may not be adequate. The Receiving Party agrees, in addition to all other

remedies provided at law or in equity, the Disclosing Party shall be entitled to injunctive relief hereunder.

- 11.2. The Receiving Party shall indemnify and keep indemnified, saved, defended, harmless against any loss, damage, costs, expenses, claims incurred and / or suffered by the Disclosing Party arising out of breach of confidentiality obligations under this Agreement by the Receiving Party, its Representatives or consultants.

SCHEDULE 1
DETAILS OF THE LENDERS

NAME OF THE LENDER	REGISTERED OFFICE ADDRESS	BRANCH ADDRESS AND DETAILS OF CONTACT PERSON
State Bank of India	State Bank of India, 112/115, 1 st Floor, West Wing, Tulsiani Chambers, Free Press Journal Marg, Nariman Point, Mumbai – 400 021	Branch Address: Stressed Asset Resolution Group – Commercial Branch, State Bank of India, 112/115, 1 st Floor, West Wing, Tulsiani Chambers, Free Press Journal Marg, Nariman Point, Mumbai – 400 021 Authorised Representative: Mr. Vasudeva Rao Kantheti Email ID: team1.61341@sbi.co.in
Axis Bank Limited	“Trishul”, 3 rd Floor, Opposite Samartheshwar Temple, Near Law Garden, Ellisbridge, Ahmedabad -380 006	Branch Address: 12 A wing, Mittal Tower, Nariman Point, Mumbai – 400021 Authorised Representative: Mr. Prakash Rao Email ID: Prakash.rao@axisbank.com
Bank of Maharashtra	H.O. Lokmangal, 1501, Shivajinagar Pune – 411005	Branch Address: SAM Branch, Janmangal, 4 th Floor 45/47, Mumbai Samachar Marg Fort, Mumbai-400001 Authorised Representative: Mr. Rahul Joshi, AGM, SAMB Mumbai Email ID: brmgr1447@mahabank.co.in , bom1447@mahabank.co.in
Canara Bank	112, J C Road, Bangalore, 560 002	Branch Address: Stressed Assets Management Branch, Canara Bank Building, B Wing, 8th Floor, C-14, G - Block, Bandra Kurla Complex, Bandra (E), Mumbai 400 051 Authorised Representative: Manoj Kumar Gupta, Chief Manager and Sunil Kumar Shaw, Senior

		Manager Email ID: cb15550@canarabank.com
Bank of Baroda	Bank of Baroda, Mandavi Baroda	Branch Address: Bank of Baroda, Stressed Asset Management Branch, 4 th floor, Rajendra Bhawan, Rajendra Place, New Delhi – 110008. Authorised Representative: Brijesh Kumar Pathak, Chief Manager Email ID: samdel@bankofbaroda.co.in
Punjab National Bank	Punjab National Bank, Head Office, Plot No.4, Sector-10, Dwarka, New Delhi – 110075	Branch Address: Punjab National Bank, Zonal SASTRA Centre, No.181-A1, 18 th floor, “E” Wing, Makers Tower, Cuffe Parade, Mumbai – 400 005 Authorised Representative: S. Jegankovilmani, Assistant General Manager Email ID: zs8356@pnb.co.in

IN WITNESS WHEREOF, the Parties hereto have executed these presents the day, month and year first hereinabove written.

For and on behalf of

Name of the Receiving Party

Name: _____

Title: _____

ANNEXURE III

FORMAT OF UNDERTAKING BY BIDDER

(To be executed on stamp paper of INR 1000)

THIS UNDERTAKING is made on this _____ day of [●], 2023 at [●]

BY

_____, a company constituted under the law of India and having its registered office situated at [●], India (hereinafter referred to as **"Bidder"** or **"Executant"** which expression unless repugnant to the context or meaning thereof be deemed to include its successors) of the **ONE PART**;

IN FAVOUR OF

AXIS BANK LIMITED, a banking company registered under the Banking Regulation Act, 1949 and having its registered office situated at "Trishul", 3rd Floor, opposite Samartheshwar Temple, Near Law Garden, Ellisbridge, Ahmedabad -380 006 (hereinafter referred to as **"Lead Bank"** acting on behalf of the Lenders (*as defined below*) which expression unless repugnant to the context or meaning thereof be deemed to include its successors and assigns) of the **OTHER PART**.

WHEREAS:

- A. Vidarbha Industries Power Limited (**"Company"** or **"VIPL"**) had availing credit facilities from a lenders as more particularly set out in **Schedule 1 ("Lenders")** led by the Lead Bank. Due to the failure of VIPL to repay its debts, the Lenders had classified the account of VIPL as a non-performing asset (**"NPA"**).
- B. The Lenders are now desirous of selling/assigning the outstanding debt along with underlying security of VIPL pursuant to a swiss challenge process to be undertaken by the Lenders in accordance with guidelines issued by Reserve Bank of India and other applicable law.
- C. The Lead Bank (on behalf of the Lenders), *vide* an advertisement dated 10 July 2023 published in Business Standard, in English language and Sakal, in regional language and as uploaded on the website of SBI Capital Markets Limited (**"Advertisement"**), invited Expressions of Interest (**"EOI"**) from all eligible bidders, to acquire the outstanding debt of VIPL along with underlying securities owed to the Lenders under swiss challenge process in accordance with the Reserve Bank of India (Transfer of Loan Exposures) Directions, 2021 dated 24 September 2021, as amended from time to time and other relevant applicable laws (**"Bid Process"**). One of the terms on which the Lenders have allowed for submission of bids from eligible bidders, is that the eligible bidders shall submit certain undertakings pertaining to the compliance of Section 29A of the Insolvency and Bankruptcy Code, 2016, as amended from time to time (**"Code"**).
- D. As part of the Bid Process, the Bidder is desirous of acquiring the debt of VIPL and is accordingly, executing this Undertaking in favour of the Lenders on the terms as set out herein.

NOW THIS UNDERTAKING WITNESSETH AS UNDER:

1. The Bidder hereby agrees, confirms and undertakes that:

- (i) the Bidder and any person investing in the Bidder for the purpose of funding the consideration set out in its bid/offer, is not disqualified by section 29A of the Code and rules and regulations framed thereunder from submitting a bid to acquire the debt of VIPL under the swiss challenge process.
 - (ii) The Bidder shall submit the source of funds along with the bid/offer submitted by the Bidder to the Lenders.
2. We hereby state, submit and declare that neither the Bidder nor any other person acting jointly or in concert with us:
- (a) is an undischarged insolvent;
 - (b) is a wilful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 (10 of 1949);
 - (c) at the time of submission of the offer/bid or date of implementation of the bid, has an account, or an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, classified as non-performing asset in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 (10 of 1949) or the guidelines of a financial sector regulator issued under any other law for the time being in force, and at least a period of one year has lapsed from the date of such classification till the date of submission of the bid;
 - (d) has been convicted for any offence punishable with imprisonment:
 - i. for two years or more under any Act specified under the Twelfth Schedule of the Code; or
 - ii. for seven years or more under any law for the time being in force;
 - (e) is disqualified to act as a director under the Companies Act, 2013 (18 of 2013);
 - (f) is prohibited by the Securities and Exchange Board of India from trading in securities or accessing the securities markets;
 - (g) has been a promoter or in the management or control of a corporate debtor in which a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been made by the Adjudicating Authority under the Code;
 - (h) has executed a guarantee in favour of a creditor in respect of a corporate debtor against which an application for insolvency resolution made by such creditor has been admitted under the Code and such guarantee has been invoked by the creditor and remains unpaid in full or part;
 - (i) is subject to any disability, corresponding to clauses (a) to (h) above, under any law in a jurisdiction outside India; or
 - (j) has a connected person not eligible under clauses (a) to (i) above.

A list of all the persons acting jointly or in concert with us and our connected persons and connected persons of the persons acting jointly or in concert with us is enclosed herewith as **Schedule 1** hereto.

We hereby confirm that the aforesaid list of persons enclosed with this undertaking as **Schedule 1** is an exhaustive list in all respects and the names of all the connected persons have been set out thereunder without any omissions or suppressions whatsoever.

Unless a contrary intention appears, the terms used herein shall have the meaning assigned to such terms under the Code.

SCHEDULE 1

LIST OF CONNECTED PERSONS

[To be provided by Bidder]

SCHEDULE 2

DETAILS OF THE LENDERS

NAME OF THE LENDER	REGISTERED OFFICE ADDRESS	BRANCH ADDRESS AND DETAILS OF CONTACT PERSON
State Bank of India	State Bank of India, 112/115, 1 st Floor, West Wing, Tulsiani Chambers, Free Press Journal Marg, Nariman Point, Mumbai – 400 021	Branch Address: Stressed Asset Resolution Group – Commercial Branch, State Bank of India, 112/115, 1 st Floor, West Wing, Tulsiani Chambers, Free Press Journal Marg, Nariman Point, Mumbai – 400 021 Authorised Representative: Mr. Vasudeva Rao Kantheti Email ID: team1.61341@sbi.co.in
Axis Bank Limited	“Trishul”, 3 rd Floor, Opposite Samartheshwar Temple, Near Law Garden, Ellisbridge, Ahmedabad -380 006	Branch Address: 12 A wing, Mittal Tower, Nariman Point, Mumbai – 400021 Authorised Representative: Mr. Prakash Rao Email ID: Prakash.rao@axisbank.com
Bank of Maharashtra	H.O. Lokmangal, 1501, Shivajinagar Pune – 411005	Branch Address: SAM Branch, Janmangal, 4 th Floor 45/47, Mumbai Samachar Marg Fort, Mumbai-400001 Authorised Representative: Mr. Rahul Joshi, AGM, SAMB Mumbai Email ID: brmgr1447@mahabank.co.in ,

		bom1447@mahabank.co.in
Canara Bank	112, J C Road, Bangalore, 560 002	Branch Address: Stressed Assets Management Branch, Canara Bank Building, B Wing, 8th Floor, C-14, G - Block, Bandra Kurla Complex, Bandra (E), Mumbai 400 051 Authorised Representative: Manoj Kumar Gupta, Chief Manager and Sunil Kumar Shaw, Senior Manager Email ID: cb15550@canarabank.com
Bank of Baroda	Bank of Baroda, Mandavi Baroda	Branch Address: Bank of Baroda, Stressed Asset Management Branch, 4 th floor, Rajendra Bhawan, Rajendra Place, New Delhi – 110008. Authorised Representative: Brijesh Kumar Pathak, Chief Manager Email ID: samdel@bankofbaroda.co.in
Punjab National Bank	Punjab National Bank, Head Office, Plot No.4, Sector-10, Dwarka, New Delhi – 110075	Branch Address: Punjab National Bank, Zonal SASTRA Centre, No.181-A1, 18 th floor, “E” Wing, Makers Tower, Cuffe Parade, Mumbai – 400 005 Authorised Representative: S. Jegankovilmani, Assistant General Manager Email ID: zs8356@pnb.co.in

IN WITNESS WHEREOF, the Bidder hereto has executed these presents the day, month and year first hereinabove written.

For and on behalf of (Name of the Bidder)

Name: _____

Title: _____

ANNEXURE IV
FORMAT OF THE NET-WORTH CERTIFICATE
TO WHOMSOEVER IT MAY CONCERN

Date: [●]

Re: Confirmation of net worth of [Insert name of prospective bidder]

Dear Sirs,

We, [insert name of chartered accountants], Chartered Accountants, the independent [chartered accountant / statutory auditors] of [●] (the “**Company**”), have examined and verified the [audited/unaudited] books of accounts and the relevant records and documents of the Company as on 31 March 2023.

We hereby certify that:

- a) The net worth of the Company as derived from the [audited/unaudited] financial statements prepared as per Indian Accounting Standards as at [●], is INR [Insert number] on a consolidated basis; (*applicable in case of a body corporate*); or
- b) The aforementioned financial statements, listed in point (a) have been audited by us.

The supporting calculations, with respect to the aforesaid net worth amounts, are annexed hereto as **Annexure A**.

For [insert name of chartered accountants]

Chartered Accountants

Firm Registration Number: [●]

Name: [First Name Last Name]

Partner

Membership Number: [Insert membership number]

Enclosed: As above

ANNEXURE A-ATTACHMENT TO NET WORTH CERTIFICATE DATED [MONTH DATE, YEAR]

Supporting calculations for the computation of net worth of the Company as at [●]:

Particulars	in INR Million
Paid-up capital	
Equity share capital	[Insert number]

Add:	
- <i>Preference shares compulsorily convertible</i>	[Insert number]
- <i>into Equity capital</i>	[Insert number]
- <i>Free Reserves</i>	[Insert number]
- <i>Share Premium Account</i>	[Insert number]
- <i>Capital Reserves (representing surplus arising out of sale proceeds of assets)</i>	[Insert number]
Less:	[Insert number]
- <i>Revaluation Reserves</i>	[Insert number]
- <i>Accumulated Losses</i>	[Insert number]
- <i>Book Value of Intangible Assets</i>	[Insert number]
- <i>Deferred Revenue Expenditure</i>	[Insert number]
Net worth as at [●] (A)	[Insert number]

For [insert name of accountants]

Chartered Accountants

Firm Registration Number: [●]

Name: [First Name Last Name]

Partner

Membership Number: [Insert membership number]