

No. 13016/26/2004-CA-I (Vol-VII)/CA-III
GOVERNMENT OF INDIA
MINISTRY OF COAL

....

New Delhi, the 9th January, 2014

Subject: Allocation of area containing coal through Auction by Competitive Bidding – Request for Proposal (RFP)

Under Rule 3 of the Auction by Competitive Bidding of Coal Mines Rules, 2012, the Government proposes to allocate area containing coal (Coal Blocks) through Auction by Competitive Bidding. The comments / suggestions are invited from stakeholders on the draft Request for Proposal (RFP) (copy enclosed for ready reference) and also uploaded on the website of this Ministry (<http://coal.nic.in>). The Comments / suggestions may be sent to the undersigned latest by **20th January, 2014**.



(Anurag Kapil)

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To

1. President, FICCI, Federation House, Tansen Marg, New Delhi – 110001
2. President, Confederation of Indian Industry – CII, 23, Vardman Marg, Institutional Area, Lodi Colony, New Delhi – 110003
3. Chairman, Sponge Iron Manufacturers Association, 1501, Hemkunt Tower, 98, Nehru Place, New Delhi – 110019
4. President, Federation of Indian Mineral Industries, FIMI House, B-311, Okhla Industrial Area, Phase-I, New Delhi-110 020
5. President, Cement Manufacturer's' Association, CMA Tower, A-2E, Sector 24, Noida - 201 301 (U.P.)
6. President Associated Chambers of Commerce and Industry of India, 5, Sardar Patel Marg, Chanakyapuri, New Delhi – 110021.

Copy also to:

- i. Secretary, Department of Economic Affairs, Ministry of Finance.
- ii. Secretary, Ministry of Power
- iii. Secretary, Planning Commission
- iv. Secretary, Ministry of Steel
- v. Secretary, Deptt. of Industrial Policy & Promotion, M/o Heavy Industries.
- vi. Secretary, Ministry of Law & Justice.
- vii. TD, NIC, Ministry of Coal with the request to upload the same on the web-site of Ministry of Coal.

**[NAME AND ADDRESS OF THE AUTHORITY]
LETTER OF INVITATION**

Dated

To,

M/s. _____

Sub: RFP for [] Coal Block

Dear Sir,

We acknowledge your remittance of INR 200,000/- (Indian Rupees Two Lakhs) as the cost of procuring the RFP documents, which are enclosed. You are requested to participate in the Bidding Process and submit your Bid for the Coal Block in accordance with the RFP, complete in all respects.

Please note that the Authority reserves the right to accept or reject all or any of the Bids without assigning any reason whatsoever.

Thanking you,

Yours faithfully,

(Signature, name and designation of the Signatory)

[Model]
Request for Proposal (RFP)

For
Development of [name of Coal block]

Ministry of Coal
Government of India
New Delhi

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DISCLAIMER

- 1) The information contained in this Request for Proposal document (“RFP”) or subsequently provided to Bidder(s), whether verbally or in documentary or any other form by or on behalf of the Authority or any of its employees or advisors, is provided to Bidder(s) on the terms and conditions set out in this RFP.
- 2) This RFP is not an agreement and is neither an offer nor invitation by the Authority to the prospective Bidders or any other Person. The purpose of this RFP is to provide interested parties with information that may be useful to them in making their Bids pursuant to this RFP. This RFP includes statements which reflect various assumptions and assessments arrived at by the Authority in relation to the Coal Block. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This RFP may not be appropriate for all Persons, and it is not possible for the Authority, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in the Bidding Documents, including specifically the Information Docket, may not be complete, accurate, adequate or correct. Each Bidder should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this RFP and obtain independent advice from appropriate sources.
- 3) Information provided in this RFP to the Bidder(s) is on a wide range of matters, some of which may depend upon interpretation of Applicable Law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The Authority accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.
- 4) The Authority, its employees and advisors make no representation or warranty and shall have no liability to any Person, including any Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the RFP 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 Bidding Process.
- 5) The Authority also accepts no 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.
- 6) The Authority may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this RFP.
- 7) The issue of this RFP does not imply that the Authority is bound to select a Bidder or to appoint the Preferred Bidder as Mine Allocatee for the Coal Block and the Authority reserves the right to reject all or any of the Bidders or Bids without assigning any reason whatsoever.

- 8) Each Bidder shall bear all its costs associated with or relating to the preparation and submission of its Bid including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Authority or any other costs incurred in connection with or relating to its Bid. All such costs and expenses will remain with the Bidder and the Authority shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a Bidder in preparation or submission of the Bid, regardless of the conduct or outcome of the Bidding Process.

General Notes

1. This RFP document is not transferable.
2. Though adequate care has been taken while preparing the RFP document, the Bidder shall satisfy itself that the document is complete in all respects. Intimation of any discrepancy shall be given to the Authority immediately. If no intimation is received from any Bidder within [15 (fifteen)] days from the date of issue of the RFP, it shall be considered that the issued document complete in all respects, has been received by the Bidder
3. While this RFP has been prepared in good faith, neither the Authority nor its employees or advisors make any representation or warranty, express or implied, or accept any responsibility or liability, whatsoever, in respect of any statements or omissions herein, or the accuracy, completeness or reliability of information, and shall incur no liability under any Applicable Law as to the accuracy, reliability or completeness of this RFP, even if any loss or damage is caused by any act or omission on their part.

1. Definitions

In this RFP unless the context otherwise requires, the following words and phrases shall have the meaning assigned to them hereunder:

“Acceptable Bank” means a nationalized bank or a bank listed in the Second schedule of the Reserve Bank of India Act, 1934, having a net worth of INR 10,000,000,000 (Indian Rupees One Thousand Crore).

“Applicable Law” means all applicable laws, by-laws, rules, regulations, orders, ordinances, protocols, codes, guidelines, policies, notices, directions, judgments, decrees or other requirements or official directive of any governmental authority or court or other law, rule or regulation making entity exercising jurisdiction on the subject matter hereof.

“Associates” or **“Affiliates”** with respect to any Person shall mean any other Person which, directly or indirectly: (1) Controls such Person; or (2) is Controlled by such Person; or (3) is Controlled by the same Person who, directly or indirectly, Controls such Person.

“Authorised Signatory” means the individual representing a Bidder (in case Bidder is a single entity) or a Lead Member (in case the Bidder is a Consortium) who has been duly authorised on behalf of such Bidder or Lead Member (as the case may be) to execute and submit the Bid in accordance with the terms hereof.

“Authority” means the Ministry of Coal, Government of India.

“Bid Due Date” shall have the meaning ascribed thereto in Clause 4.2.

“Bid” shall mean the binding Techno-Commercial Offer and Price Offer submitted by the Bidders in accordance with the Bidding Documents.

“Bidder” means each interested party/ consortium that has been issued this RFP and that submits a Bid for the Coal Block in accordance with the provisions of this RFP.

“Bidding Documents” mean this RFP including its annexures including specifically the Coal Mine Development and Production Agreement, and the Information Docket and any addenda issued to this RFP pursuant hereto.

“Bidding Process” means the single stage, 2 (two) envelope process for selection of Preferred Bidder.

“Bid Security” shall have the meaning ascribed to it in Clause 6.18.

“Coal Block” shall have the meaning ascribed thereto in Clause 3 hereof.

“Coal Mine Development and Production Agreement” means the agreement to be entered into between the Mine Allocatee and the Authority substantially in the form annexed hereto as part of Annexure 11.

“Consortium Member” means each entity constituting the Consortium and **Consortium Members** shall be construed accordingly.

“Consortium” means a Bidder who is not a single entity but a group of entities.

“Control” has the meaning ascribed thereto in the Coal Mine Development and Production Agreement.

“End Use Plant(s)” means the [steel, sponge iron, cement or surface gasification] plant of the Bidder.¹

“Financial Closure” means the fulfillment of all conditions precedent to the initial availability of funds under the Financing Agreements.

“Financing Agreements” means the agreements executed by the Mine Allocatee in respect of financial assistance to be provided by the Senior Lenders by way of loans, guarantees, subscription to non-convertible debentures and other debt instruments including loan agreements, guarantees, notes, debentures, bonds and other debt instruments, security agreements and other documents relating to the financing (including refinancing) of the Coal Block development costs.

“Floor Price Rs/ tonne” shall have the meaning ascribed thereto in Clause 4.4 hereof.

“Geological Report” means, in relation to the Coal Block, the formal document used to report geological coal reserves. It provides details of the exploration work undertaken in the block, seam details and information on partings and dirt bands intersected and considered during resource estimation, assumptions made for structural and quality modeling along with a detailed account of the resource estimation process followed. The Geological Report contains a description of and all basic data generated during detailed exploration operations and processed and interpreted data and plans.

“Information Docket” means the following information:

1. Geological Report prepared by Central Mine Planning & Design Institute Limited (“CMPDI”),
2. [Any other data/ information]

“Joint Bidding Agreement” is the joint bidding agreement to be entered into between members of a Consortium in the form annexed hereto in Annexure 6.

“Lead Member” of a Consortium shall mean the Consortium Member who has been nominated as the lead member by each other member of the Consortium and who shall have at least 26% (twenty six percent) economic interest and associated obligations in the Mine Allocatee.

“Mine Allocatee” shall mean the Preferred Bidder if the Preferred Bidder is a single entity or the special purpose vehicle incorporated by the Preferred Bidder if the Bidder is a Consortium and which entity enters into the Coal Mine Development and Production Agreement with the Authority.

“Mining Operations” shall have the meaning assign thereto in the Coal Mine Development And Production Agreement.

“Networth” shall have the meaning ascribed to it in Clause 5.1.8.

“Payment to the Government” shall have the meaning ascribed thereto in the Coal Mine Development and Production Agreement.

“Performance Security” has the meaning ascribed thereto in the Coal Mine Development and Production Agreement.

“Person” means any natural person, limited or unlimited liability company, corporation, partnership (whether limited or unlimited), proprietorship, Hindu undivided family, trust, union, association, government or any agency or political subdivision thereof or any other entity that may be treated as a person under Applicable Law.

¹ For Consortium, means End Use Plants of all Consortium Members

“Preferred Bidder” shall mean the Bidder selected to develop the Coal Block through the Mine Allocatee as per the terms of the Coal Mine Development And Production Agreement. hereof.

“Price Offer” means an amount expressed in Rupees Per Tonne (“ **Rs/ Tonne**”) submitted by the Bidders as part of their Bid in accordance with Clause 6.10.4 hereof.

“Promoter” of a Bidder or any Consortium Member means an entity that Controls such Bidder or Consortium Member, as the case may be.

“Qualified Bidders” mean the Bidders who have satisfied the Qualifying Requirements.

“Qualifying Requirements” are the requirements set forth in Clause 5 hereof.

“Senior Lenders” means the financial institutions, banks, multilateral lending agencies, trusts, funds, and agents or trustees of debenture holders, including their successors and assignees, who agree to guarantee or provide finance to the Mine Allocatee under any of the Financing Agreements for meeting all or any part of the Coal Block development cost.

“Techno-Commercial Offer” means the documents and information submitted by Bidders as part of their Bids pursuant to Clause 6.10.3 hereof.

“Upfront Payment” shall have the meaning ascribed to it in Clause 4.3

2. Introduction

2.1 Background

- 2.1.1 The Authority, in an endeavour to improve the long term coal availability in India, wishes to select entities engaged in permitted end use(s) i.e. steel, cement, sponge iron and surface gasification under the Coal Mine (Nationalization) Act, 1973 for allocation of the Coal Block through auction by competitive bidding pursuant to the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 (No. 67 of 1957)(the “Act”) including specifically Section 11A of the Act.

2.2 Scope of Work

- 2.2.1 The scope of work for the Mine Allocatee will be to undertake Mining Operations as per the terms and conditions of this RFP and the Coal Mine Development and Production Agreement.

3. Coal Block

3.1 Summary of the Coal Block

The coal bearing area further described below is the subject of this RFP for which Bids are invited from Bidders (the “**Coal Block**”)

[Provide a summary of the block to be auctioned with the following details]

1. Name of the Coal Block
2. Location with a map of the Coal Block (coordinates)
3. Area
4. Coal reserves and estimated peak production
5. Quality of coal
6. Evacuation Infrastructure

The coal produced from the Coal Block shall only be used for captive consumption in the approved End Use Plant(s). The selection as Preferred Bidder does not automatically grant any licenses or clearances required for the mining of coal from the Coal Block. The Preferred Bidder is required to take necessary clearances and approvals from the concerned government departments as per the timelines mentioned in the Coal Mine Development and Production Agreement.

3.2 Bidding Documents

It is mandatory for a Bidder (and in the case of a Consortium, one Consortium Member) to purchase the Bidding Documents. The cost of the Bidding Documents is INR 2,00,000/- (Indian Rupees Two Lakhs) and the same may be purchased from the address mentioned in Clause 6.10.10.

A copy of the receipt of the purchase of the Bidding Documents must be submitted by Bidders as a part of the documents to be submitted in the Bid. In case a Bidder has not purchased the Bidding Documents, its Bid will be rejected summarily.

4. Bidding Process

4.1 Brief Description of the Bidding process

4.1.1 The Authority has adopted a single-stage, two envelope process, for selection of the Preferred Bidder for allocation of the Coal Block. The Bidder is required to submit its Bid in 2 (two) parts viz., Techno-Commercial Offer and Price Offer in accordance with the provisions of this RFP.

4.1.2 The following is a brief description of the anticipated Bidding Process:

1. This RFP has been given to Bidders to submit their Bids.
2. A pre-Bid conference will be organized to clarify the queries of prospective Bidders.
3. Bidders will be required to submit their fully compliant Bids by the Bid Due Date.
4. The Bids will first be evaluated for responsiveness – to ensure all required documents have been submitted.
5. The Bidders that meet the responsiveness check will further be evaluated for meeting the Qualifying Requirements as specified in this RFP
6. The Price Offer of only the Qualified Bidders will be opened. The Price Offer will be in the form of a Rs/ Tonne to be quoted by the Bidder
7. The Qualified Bidder that has quoted the highest Rs/ Tonne will be the Preferred Bidder.
8. The Preferred Bidder will be issued a Letter of Award (“LoA”) by the Authority.
9. The Preferred Bidder will be required to sign the Coal Mine Development and Production Agreement within [45 (forty five)] days of the issuance of the LoA through the Mine Allocatee.

4.1.3 The Bid shall be valid for a period of not less than [180(one hundred eighty)] days from the Bid Due Date.

4.1.4 A Bidder is required to deposit, along with its Bid, a Bid Security as per Clause 6.18. The Bid shall be summarily rejected if it is not accompanied by the Bid Security.

4.1.5 During the Bidding Process, Bidders are invited to examine the Coal Block in greater detail, and to carry out, at their cost, such studies as may be required for submitting their respective Bids. This RFP does not however give the right to the Bidders to prospect for coal in the Coal Block or carry out any drilling in the Coal Block.

4.1.6 Generally, the highest Bidder shall be the Preferred Bidder. The remaining Bidders shall be kept in reserve and may, in accordance with the process specified in Clause 7.3 of this RFP, be invited to match the Bid submitted by the highest Bidder in case such highest Bidder withdraws or is not selected for any reason. In the event that none of the other Bidders match the Bid of the highest Bidder, the Authority may, in its discretion, either invite fresh Bids from the remaining Bidders or annul the Bidding Process.

- 4.1.7 Further and other details of the process to be followed during the Bidding Process and the terms thereof are spelt out in this RFP.
- 4.1.8 Any queries or request for additional information concerning this RFP shall be submitted in writing or by fax and e-mail to the officer designated in Clause 6.10.10. The envelopes/ communication shall clearly bear the following identification/ title:
 “Queries/Request for Additional Information: RFP for [insert name of the coal block] Coal Block”.

4.2 Schedule of the Bidding Process

The schedule of the Bidding Process shall be as per the table below:

Event Description	Date
1. Sale of RFP	[To be specified]
2. Last date for receiving queries	[25 (twenty five) days from the date of sale of RFP]
3. Pre-Bid meeting	[30 (thirty) days from the date of sale of RFP]
4. Authority response to queries latest by	[15 (fifteen) days from the date of Pre-Bid meeting]
5. Bid Due Date	[90 (ninety)days from the sale of RFP]
6. Opening of Techno Commercial Offer	On Bid Due Date
7. Announcement of the shortlisted bidders based on the Qualifying Requirements	[45 (forty five)days from the Bid Due Date]
8. Price Offer opening on	[To be specified]
9. Letter of Award (LoA)	To be issued within [30 (thirty)] days of announcement of the Preferred Bidder
10. Validity of Bids	[180 (one hundred eighty) days] from Bid Due Date
11. Signing of Coal Mine Development and Production Agreement	Within [45 (forty five)days] of issue of LOA
12. Payment of the Upfront Payment	As per the Coal Mine Development and Production Agreement

If any of the dates is a public holiday, the deadline will fall on the next working day. Any change in the timeline will be communicated through an addendum to the RFP.

4.3 Upfront Payment

The Upfront Payment for the Coal Block shall be INR [XXX] (Indian Rupees ([in words])) as defined in the Coal Mine Development and Production Agreement.

4.4 Floor Price - Rs/ Tonne - multiple for auction

The Floor Price-Rs/ Tonne- multiple is the minimum Rs/ Tonne Payment to the Government, as defined in the Coal Mine Development and Production Agreement.² The Bidders are required to quote a Rs/ Tonne multiple as their Price Offer for the Coal Block which is above the Floor Price - Rs/ Tonne - multiple. The Rs/ Tonne multiple quoted by the Preferred Bidder as its Price Offer will be used for calculation of the Payment to the Government under the terms of the Coal Mine Development and Production Agreement.

The Floor Price Rs/ Tonne multiple set for the Coal Block is INR [XXX] (Indian Rupees ([in words])).

² Floor Price is determined on the basis of the assessed potentiality of the block (quality of coal, quantity of reserves, expected production, mining method, capital and operating costs during development and production stages, geo mining complexities, etc.).

5. Qualifying Requirements

5.1 For a single entity bidding individually

Any entity being a company registered under the Companies Act, 2013 (“**Companies Act**”) and engaged in the business of making [steel, sponge iron, cement or surface gasification] may Bid for allocation of Coal Block through this RFP process, provided that it meets the Qualifying Requirements as stated herein below;

Qualifying Requirements

For existing and operational End Use Plant(s):

- 5.1.1 The Bidder has operational End Use Plant(s) which has/ have an unmet coal requirement above and beyond the sum of linkage provided by Coal India Limited and production capacity from any captive blocks already allotted to the specific End Use Plant(s). The Bidder will be required to submit all requisite documents to prove that it has an unmet coal requirement. The unmet requirement of coal shall be computed as total requirement of coal at 80% (eighty percent) capacity utilisation of the End Use Plant(s) minus the sum of the peak production from any captive Coal Block allocated previously and the linkage of coal from Coal India Limited or any of its subsidiaries.
- 5.1.2 The Bidder may only Bid for such Coal Blocks that have an estimated peak production capacity³ such that the peak production from this new block when added to the Bidder’s domestic coal availability through the earlier allocation of captive block and linkage does not exceed 80% (eighty percent) of the Bidder’s requirement for the identified End Use Plant(s).
- 5.1.3 The Bidder should have a minimum Networth⁴ of INR [XXX] (Indian Rupees [in words])

For new End Use Plant(s) not yet commissioned and for expansion of existing End Use Plant(s):

- 5.1.4 A detailed project report (“**DPR**”) has been prepared by the Bidder for the End Use Plant(s). Such DPR should not be more than 1 (one) year old from the Bid Due Date.
- 5.1.5 Bidder should have a valid environment clearance from Ministry of Environment and Forests for its new End Use Plant(s) or expansion of its existing End Use Plant(s) (not required for surface gasification End Use Plant(s)).
- 5.1.6 For an integrated steel project, sponge iron project and for a cement project, the Bidder should have completed the Financial Closure of the new End Use Plant(s) or for expansion of existing End Use Plant(s) (For surface gasification project, the Bidder should have completed the technology tie-up).

³ The peak production to be estimated by CMPDI for the block and provided to the Bidders as part of the data package

⁴ May be kept equal to the sum of the Upfront Payment + anticipated cost of developing (including construction costs) the mine until start of production

5.1.7 For an integrated steel project, the Bidder may only Bid for the Coal Block if the Coal Block has a peak production capacity which does not exceed 80% (eighty percent) of the Bidder's coal requirement for the identified End Use Plant(s). For a sponge iron or a cement project, the Bidder may only Bid for the Coal Block if the Coal Block has a peak production capacity which does not exceed 80% (eighty percent) of the Bidder's coal requirement for the identified End Use Plant(s) and the captive power plant required for the identified End Use Plant(s).

5.1.8 The Bidder should have a minimum Networth⁵ of INR [XXX] (Indian Rupees [in words])
Networth will be the tangible networth and will be the average of the last 3 (three) financial years and shall be calculated as per the following formula:

Tangible Networth = paid up equity + reserve and surplus - intangible assets - revaluation reserve - miscellaneous expenditure to the extent not written off and carry forward losses

The Bidder must provide its last 3 (three) years audited accounts along with the calculation of its average Tangible Networth as per the above formula certified by its statutory auditors.

5.2 For entities bidding in a Consortium

Any entity being a company registered under the Companies Act and engaged in the business of making [steel, sponge iron, cement or surface gasification] may Bid for allocation of Coal Block through this RFP process as part of a Consortium, provided that the Consortium meets the conditions stated herein below:

1. The Consortium should be limited to a maximum number of 4 (four) entities.
2. Each Consortium should identify a Lead Member. The Lead Member of the Consortium is not allowed to be changed during the Bidding Process.
3. Each Consortium Member should have a minimum of 20% (twenty percent) share in the Consortium and the Lead Member should have minimum of 26% (twenty six percent) share. This shall coincide with the proposed shareholding of each Consortium Member in the Mine Allocatee.
4. Each entity in the Consortium will be required to meet each of the Qualifying Requirements stated in Clause 5.1 above individually, prorated to its share in the Consortium.

The following table illustrates a sample Consortium with a total requirement of 10 (ten) Metric Tonne ("MT") applying for a mine of 8 (eight) MT.

⁵ *May be kept equal to the sum of the equity portion of the capital cost of the End Use Plant + Upfront Payment + anticipated cost of developing the mine (including construction costs) until start of production*

Member	Share in Consortium	Annual coal requirement in Mt	Pro-rata Networth to be met
Member 1	26% (twenty six percent)	2.6	26% (twenty six percent) of (Upfront Payment + anticipated cost of development(including construction)) + equity portion of the capital cost of its respective End Use Plant(s).
Member 2	25% (twenty five percent)	2.5	25% (twenty five percent) of (Upfront Payment + anticipated cost of development(including construction)) + equity portion of the capital cost of its respective End Use Plant(s).
Member 3	25% (twenty five percent)	2.5	25% (twenty five percent) of (Upfront Payment + anticipated cost of development (including construction)) + equity portion of the capital cost of its respective End Use Plant(s).
Member 4	24% (twenty four percent)	2.4	24% (twenty four percent) of (Upfront Payment + anticipated cost of development (including construction)) + equity portion of the capital cost of its respective End Use Plant(s).

Members of the Consortium shall enter into a binding Joint Bidding Agreement, in the form specified at Annexure 6 for the purpose of bid submission. The Joint Bidding Agreement, to be submitted along with the Bid, shall inter alia:

- a. Clearly outline the proposed roles and responsibilities of each Consortium Member
- b. Each Consortium Member shall duly sign the Joint Bidding Agreement. In absence of such an agreement, the Bid would not be considered for evaluation.
- c. This Joint Bidding Agreement cannot be changed/ modified/ updated during the Bidding Process.
- d. In case the Consortium is the Preferred Bidder, the Joint Bidding Agreement will terminate automatically when the Coal Mine Development and Production Agreement is signed.

5.3 Financial Strength of Promoter

1. The Bidder/ Consortium Member may use the financial strength of its Promoter for meeting the Networth criteria.
2. In case a Bidder/ member of Consortium uses the financial strength of its Promoter, the Promoter would be required to provide a parent company guarantee as per the format in Coal Mine Development and Production Agreement.
3. For the purposes of financial criteria only, unconsolidated audited annual accounts shall be used. However, audited consolidated annual accounts of the Bidder may be

used for the purpose of financial criteria provided the Bidder has at least [50% (fifty percent)] equity in each company whose accounts are merged in the audited consolidated accounts. Bidders shall furnish documentary evidence duly certified by the statutory auditor in support of their qualification under the Networth criteria.

6. Detailed Description of the Bidding Process

6.1 General Terms of Bidding

- 6.1.1 No Bidder (including its Affiliates and Promoters) shall submit more than 1 (one) Bid for the Coal Block. A Bidder (including its Affiliates and Promoters) 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 other Consortium, for the same End Use Plant(s).
- 6.1.2 Where this RFP for the Coal Block is issued simultaneously with tender documents relating to other coal blocks pursuant to a Bidding Process adopted by the Authority, then the Bidder may not Bid for more than 1 (one) coal block for the same End Use Plant(s) as part of 2 (two) different Bidder consortia.
- 6.1.3 Notwithstanding anything to the contrary contained in this RFP, the detailed terms specified in the Coal Mine Development and Production Agreement 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 Coal Mine Development and Production Agreement.
- 6.1.4 The Price Offer should be furnished in the format at Annexure -7: Price Offer, clearly indicating the bid amount in Rs/ tonne in both figures and words, and signed by the Bidder's Authorised Signatory. In the event of any difference between figures and words, the amount indicated in words shall be taken into account.
- 6.1.5 The Bidder shall deposit a Bid Security as per Clause 4.1.4 in accordance with the provisions of this RFP.
- 6.1.6 The Bidder/ Lead Member in case of a Consortium shall submit a power of attorney as per the format at Annexure 4, authorising the signatory of the Bid to commit itself.
- 6.1.7 In case the Bidder is a Consortium, the Consortium Members thereof should furnish a power of attorney in favour of the Lead Member in the format at Annexure 5.
- 6.1.8 Any condition or qualification or any other stipulation contained in the Bid shall render the Bid liable to rejection as a non-responsive Bid.
- 6.1.9 The Bid and all communications in relation to or concerning the Bidding Documents and the Bid shall be in English language.
- 6.1.10 This RFP is and shall remain or shall become the property of the Authority and is transmitted to the Bidders solely for the purpose of preparation and the submission of a Bid in accordance herewith. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bids. The provisions of this Clause shall also apply *mutatis mutandis* to Bids and all other documents submitted by the Bidders, and the Authority will not return to the Bidders any Bid, document or any information provided therewith.

6.1.11 A Bidder shall not have a conflict of interest (the “**Conflict of Interest**”) that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the Authority shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Authority and not by way of penalty for, inter alia, the time, cost and effort of the Authority, including consideration of such Bidder’s proposal (the “**Damages**”), without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/ or the Coal Mine Development and Production Agreement or otherwise. Without limiting the generality of the above, a Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:

1. the Bidder, its Consortium Member or Associate (or any constituent thereof) and any other Bidder, its Consortium Member or any Associate thereof (or any constituent thereof) have common Controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of a Bidder, its Consortium Member or an Associate thereof (or any shareholder thereof having a shareholding of more than 5% (five per cent) of the paid up and subscribed share capital of such Bidder, Member or Associate, as the case may be) in the other Bidder, its Consortium Member or Associate, is less than 5% (five per cent) of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in Section 4A of the Companies Act. For the purposes of this Clause, indirect shareholding held through 1 (one) or more intermediate Persons shall be computed as follows: (aa) where any intermediary is Controlled by a Person through management Control or otherwise, the entire shareholding held by such Controlled intermediary in any other Person (the “**Subject Person**”) shall be taken into account for computing the shareholding of such Controlling Person in the Subject Person; and (bb) subject always to sub-clause (aa) above, where a Person does not exercise Control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such Person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-clause (bb) if the shareholding of such Person in the intermediary is less than 26% (twenty six percent) of the subscribed and paid up equity shareholding of such intermediary; or
2. a constituent of such Bidder is also a constituent of another Bidder; or
3. such Bidder, its Consortium Member or any Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder, its Consortium Member or Associate, or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its Consortium Member or any Associate thereof; or

4. such Bidder has the same legal representative for purposes of this Bid as any other Bidder; or
5. such Bidder, or any Associate thereof, has a relationship with another Bidder, or any Associate thereof, directly or through common third party/ parties, that puts either or both of them in a position to have access to each other's information about, or to influence the Bid of either or each other; or
6. such Bidder or any Associate thereof has participated as a consultant to the Authority in the preparation of any documents, design or technical specifications of the Coal Block.

Explanation:

In case a Bidder is a Consortium, then the term Bidder as used in this Clause, shall include each Consortium Member of such Consortium.

6.2 Change in Control during the Bidding Process

- 6.2.1 By submitting the Bid, the Bidder acknowledges and agrees that in the event of a change in Control of a Bidder or a Consortium Member or a Promoter whose financial capacity would be taken into consideration for the purposes of this RFP, at any time until execution of the Coal Mine Development and Production Agreement, the Bidder deems to have knowledge of the same and shall be required to inform the Authority forthwith along with all relevant particulars about the same and the Authority may, in its sole discretion, disqualify the Bidder or withdraw the LoA from the Preferred Bidder, as the case may be.
- 6.2.2 Approval for change in Control shall be at the sole discretion of the Authority and must be approved by the Authority in writing. The Bidder must submit application for change in Control no later than 15 (fifteen) days prior to the date of its actual effect.

6.3 Change in Composition of the Consortium

- 6.3.1 A change in the composition of a Consortium will not be permitted by the Authority.

6.4 Cost of Bidding

- 6.4.1 The Bidders shall be responsible for all of the costs associated with the preparation of their Bids and their participation in the Bidding Process. The Authority will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

6.5 Verification of information

6.5.1 Bidders are encouraged to submit their respective Bids after visiting the Coal Block site and ascertaining for themselves the site conditions, infrastructure availability, availability of power, water and other utilities, Applicable Laws and regulations, and any other matter considered relevant by them.

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

1. made a complete and careful examination of the Bidding Documents;
2. received all relevant information requested from the Authority;
3. accepted the risk of inadequacy, error or mistake in the information provided in the Bidding Documents or furnished by or on behalf of the Authority relating to any of the matters referred to in Clause 6.5.1 above;
4. satisfied itself about all matters, things and information including matters referred to in Clause 6.5.1 hereinabove necessary and required for submitting an informed Bid for the Coal Block in accordance with the Bidding Documents and performance of all of its obligations thereunder;
5. acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Bidding Documents or ignorance of any of the matters referred to in Clause 6.5.1 hereinabove 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 Authority, or a ground for termination of the Coal Mine Development and Production Agreement by the Mine Allocatee;
6. acknowledged that it does not have a Conflict of Interest; and
7. agreed to be bound by the undertakings provided by it under and in terms hereof.

6.5.3 The potential Bidders who wish to visit the Coal Block may arrange a site visit at their own cost and risk.

6.6 Verification and Disqualification

6.6.1 The Authority reserves the right to verify all statements, information and documents submitted by the Bidder in response to the RFP and the Bidder shall, when so required by the Authority, make available all such information, evidence and documents as may be necessary for such verification. Any such verification, or lack of such verification, by the Authority shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Authority thereunder.

6.6.2 The Authority reserves the right to reject any Bid and appropriate the Bid Security if:

1. at any time, a material misrepresentation is made or uncovered, or
2. the Bidder does not provide, within the time specified by the Authority, the supplemental information sought by the Authority for evaluation of the Bid.

- 6.6.3 Such misrepresentation/ improper response shall lead to the disqualification of the Bidder. If the Bidder is a Consortium, then the entire Consortium and each Consortium Member may be disqualified/ rejected. If such disqualification / rejection occurs after the Bids have been opened and the Preferred Bidder gets disqualified / rejected, then the Authority reserves the right to:
1. invite the remaining Bidders to match their Bids with the Preferred Bidder in accordance with Clause 7.3; or
 2. take any such measure as may be deemed fit in the sole discretion of the Authority, including annulment of the Bidding Process.
- 6.6.4 In case it is found that 1 (one) or more of the Qualification Requirements have not been met by the Bidder, or the Bidder has made a material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Mine Allocatee either by issue of the LoA or entering into of the Coal Mine Development and Production Agreement, and if the Preferred Bidder has already been issued the LoA or has entered into the Coal Mine Development and Production Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by the Authority to the Preferred Bidder or the Mine Allocatee, as the case may be, without the Authority being liable in any manner whatsoever to the Preferred Bidder or Mine Allocatee.
- 6.6.5 In such an event, the Authority shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as damages, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/ or the Coal Mine Development and Production Agreement, or otherwise.

6.7 Clarifications

- 6.7.1 Bidders requiring any clarification on the RFP may notify the Authority in writing or by fax and e-mail in accordance with Clause 4.1.8. They should send in their queries on or before the date mentioned in the Schedule of Bidding Process specified in Clause 4.2. Requests for clarifications or amendments shall be in the formal set forth in Annexure 12. The Authority shall endeavour to respond to the queries within the period specified therein, but no later than 15 (fifteen) days prior to the Bid Due Date. The responses will be sent by fax or e-mail. The Authority will forward all the queries and their responses , to all Bidders without identifying the source of queries.
- 6.7.2 The Authority shall endeavour to respond to the questions raised or clarifications sought by the Bidders. However, the Authority reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause shall be taken or read as compelling or requiring the Authority to respond to any question or to provide any clarification.

6.7.3 The Authority may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and interpretations issued by the Authority shall be deemed to be part of the Bidding Documents. Verbal clarifications and information given by Authority or its employees or representatives shall not in any way or manner be binding on the Authority.

6.8 Amendments of RFP

6.8.1 At any time prior to the Bid Due Date, the Authority may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP by the issuance of addenda.

6.8.2 Any addendum issued hereunder will be in writing and shall be sent to all the Bidders and shall be deemed to be part of the Bidding Documents.

6.8.3 In order to afford the Bidders a reasonable time for taking an addendum into account, or for any other reason, the Authority may, in its sole discretion, extend the Bid Due Date in accordance with Clause 6.11.2

6.9 Information to be provided by Bidders

6.9.1 The Bidder shall provide all the documentary evidence required (a) to support its ability to meet the Qualifying Requirements and (b) elsewhere in this RFP.

6.9.2 The Bidder shall provide all the information sought under this RFP. The Authority will evaluate only those Bids that are received in the required formats and complete in all respects.

6.10 Bid contents and format for sealing and marking

6.10.1 The Bid shall be submitted in 1 (one) original + 6 (six) copies. The original set should contain all original documents and clearly marked "**ORIGINAL**" on the envelope containing original Bid. The Bidder is also required to submit 6 (six) copies of the Bid marked "**COPIES**" on the envelope containing the copies of the Bid. In the event of any discrepancy between the original and the copy, the original shall prevail.

6.10.2 The original Bid will contain 2 (two) separate sealed envelopes 1 (one) containing the original Techno Commercial Offer and the other containing the original Price Offer. The envelope containing the copies shall include copies of only the Techno Commercial Offer and **NOT** the Price Offer.

6.10.3 **Techno Commercial Offer:** the original Techno Commercial Offer shall be sealed in an envelope and marked as 'Techno Commercial Offer' and shall contain the following documents:

1. Letter comprising the Bid as per the format prescribed in Annexure 1 sealed in separate envelope, which shall be marked "Letter comprising the Bid".

2. Bank guarantee for Bid Security sealed in separate envelope, which shall be marked “Bank Guarantee for Bid Security” as per format given in Annexure 2.
3. Bidder’s details as per the format prescribed in Annexure 3.
4. Power of attorney for signing the Bid as per the format prescribed in Annexure 4.
5. In case of Consortium;
 - a. Power of attorney for Lead Member of Consortium as per the format prescribed in Annexure 5;
 - b. Copy of the Joint Bidding Agreement as per the format prescribed in Annexure 6.
6. Disclosure as per format given in Annexure 8.
7. Financial capacity as per the format prescribed in Annexure 9 and in case the Bidder is quoting the financial capacity of its Promoter then as per the format prescribed in Annexure 10.
8. Attested copies of the memorandum of association and articles of associations of the Bidder/Lead Member in case of Consortium.
9. Copy of last three (3) years audited annual reports containing unconsolidated/consolidated audited accounts (in accordance with Clause 5.1.8, directors’ report, etc. of Bidder or each Consortium Member in case of a Consortium and/or Promoter if their financial credentials have been taken into consideration for meeting qualification requirements.
10. Documentary evidence of meeting the Qualifying Requirements. Bidders shall furnish documentary evidence duly certified by Managing Director/ Chief Executive Officer, being a full time director on the Board of the Company and the Statutory Auditor in support of their Qualifying Requirements including certifying such information as:
 - a. Operational End Use Plant (steel, sponge iron, cement)
 - i. Capacity of plant
 - ii. Annual coal requirement
 - iii. Annual coal requirement met by captive block/CIL linkage
 - iv. Annual unmet demand
 - b. New End Use plant (steel, sponge iron, cement) or expansion of existing End Use Plant (steel, sponge iron, cement)
 - i. Capacity of new End Use Plant / expansion of existing End Use Plant
 - ii. Annual coal requirement of new End Use Plant/ expansion of existing End Use Plant

- iii. In case of sponge iron and cement, annual coal requirement of captive power plant linked with the identified End Use Plant
 - iv. Annual coal requirement to be met by captive block/CIL linkage
 - v. Environment clearance from the Ministry of Environment and Forests
 - vi. Detailed Project Report
 - vii. Documentary evidence (Allocation letter, etc.) for allocation of iron ore mine (steel) or Limestone mine (cement)
- c. Surface gasification
- i. Document for technological tie-up
 - ii. Detailed Project Report

11. Documentary evidence for using Promoter's financial strength.

- a. Provide a certificate stating the exact relationship with such Promoter including exact details about the equity shareholding. Such certificate shall be certified by the company secretary and one of the directors of the relevant entity.
- b. Submit legally binding undertaking supported by a board resolution from its Promoter that all the equity investment obligations of the Bidder or the Consortium Member of the Consortium shall be deemed to be equity investment obligations of the Promoter and in the event of any default, the same shall be met by the Promoter.

12. Copy of the letter of invitation provided by the Authority constituting documentary evidence for purchase of this RFP.

13. A copy of Bidding Documents initialled by the Authorised Signatory on each page.

14. A copy of the Coal Mine Development and Production Agreement initialled by the Authorised Signatory on each page.

6.10.4 **Price Offer:** The Price Offer shall be sealed in an envelope and marked as 'Price Offer' and shall be as per the format prescribed in Annexure 7. No copies of the Price Offer are to be submitted.

6.10.5 Any other documents accompanying the Bid shall be placed in a separate envelope and marked as 'Enclosures of the Bid'. These documents shall not contain anything related to the Price Offer.

6.10.6 The 6 (six) true copies of the Techno Commercial Offer, with contents as specified in Clause 6.10.3, and the copies of the enclosures of the Bid shall be bound in hard cover and the pages shall be numbered serially.

6.10.7 The original Bid and copies shall be typed or written in indelible ink and signed by the Authorized Signatory who shall also initial each page, in blue ink. In case of printed and

published documents, only the cover shall be initialled. All the alterations, or amendments made to the Bid shall be initialled by the Authorised Signatory.

- 6.10.8 The 2 (two) envelopes i.e. (a) the ORIGINAL envelope (containing the original Techno Commercial Offer, the Enclosures of the Bid and the original Price Offer) and (b) the COPIES envelope (containing 6 (six) copies of the Techno Commercial Offer and 6 (six) copies of the Enclosures of the Bid) shall be placed in an outer envelope, which shall be sealed. Each of these 2 (two) envelopes shall clearly bear the following identification:

“Bid for the *** Coal Block” – ORIGINAL/ COPIES** (as the case may be)

and shall clearly indicate the name and address of the Bidder. In addition, the Bid Due Date should be indicated on the right hand top corner of each of the envelopes.

- 6.10.9 The overall outer envelope containing the 2 (two) envelopes as mentioned in Clause 6.10.8 above shall clearly bear the following identification

“Bid for(name) Coal Block”

and shall clearly indicate the name and address of the Bidder. In addition, the Bid Due Date should be indicated on the right hand top corner of the outer envelope.

- 6.10.10 The Bid shall be addressed to:

ATTN. OF: Mr. ****

DESIGNATION *****

ADDRESS: *****

FAX NO: *****

E-MAIL ADDRESS *****

- 6.10.11 If the envelopes are not sealed and marked as instructed above, the Authority assumes no responsibility for the misplacement or premature opening of the contents of the Bid submitted and consequent losses, if any, suffered by the Bidder. This might also lead to rejection of the Bid.

- 6.10.12 Bids submitted by fax, telex, telegram or e-mail shall not be entertained and shall be rejected.

6.11 Bid Due Date and extension

- 6.11.1 Bids should be submitted on or before the date and time specified in the table in Clause 4.2 at the address provided in Clause 6.10.10 in the manner and form as detailed in this RFP. A receipt thereof should be obtained from the person specified at Clause 6.10.10.

- 6.11.2 The Authority may, in its sole discretion, extend the Bid Due Date by issuing an addendum in accordance with Clause 6.8 uniformly for all Bidders.

6.12 Late Bids

- 6.12.1 Bids received by the Authority after the specified time on the Bid Due Date shall not be eligible for consideration and shall be summarily rejected.

6.13 Modifications/ Substitution/ Withdrawal of Bids

- 6.13.1 The Bidder may modify, substitute or withdraw its Bid after submission, provided that written notice of the modification, substitution or withdrawal is received by the Authority prior to the Bid Due Date. No Bid shall be modified, substituted or withdrawn by the Bidder on or after the Bid Due Date.
- 6.13.2 The modification, substitution or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 6.10, with the envelopes being additionally marked "MODIFICATION", "SUBSTITUTION" or "WITHDRAWAL", as appropriate.

6.14 Rejection of Bids

- 6.14.1 Notwithstanding anything contained in this RFP, the Authority reserves the right to reject any Bid and to annul the Bidding Process and reject all Bids at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons therefore. In the event that the Authority rejects or annuls all the Bids, it may, in its discretion, invite fresh Bids hereunder.
- 6.14.2 The Authority reserves the right not to proceed with the Bidding Process at any time, without notice or liability, and to reject any Bid without assigning any reasons.
- 6.14.3 Without prejudice to the generality of the foregoing, the Authority reserves the right to reject any Bid on any of the following criteria:
1. Bids not submitted with all the information/details listed in this RFP.
 2. Bid is non-responsive.
 3. Bids submitted without Bid Security or period of validity.
 4. Bids not submitted as per Clause 6 of this RFP.
 5. Bids with any assumptions or deviations from the RFP.

In the event of such disqualification, a Bidder's Bid Security will be forfeited and the Authority may undertake other penal action as well against such a Bidder.

- 6.14.4 The Authority at its sole discretion reserves the right to accept or reject any or all of the Bids received without assigning any reason, whatsoever.

6.15 Validity of Bids

- 6.15.1 The Bids shall be valid for a period of not less than 180 (one hundred and eighty) days from the Bid Due Date. The validity of Bids may be extended by mutual consent of the respective Bidder and the Authority.

6.16 Confidentiality

- 6.16.1 Information relating to the examination, clarification, evaluation and recommendation for the Bidders shall not be disclosed to any person who is not officially concerned with the Bidding Process or is not a retained professional advisor advising the Authority in relation to, or matters arising out of, or concerning the Bidding Process. The Authority will treat all information, submitted as part of the Bid, in confidence and will require all those who have access to such material to treat the same in confidence. The Authority may not divulge any such information unless it is directed to do so by any statutory entity that has the power under Applicable Law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/ or the Authority or as may be required by Applicable Law or in connection with any legal process.

6.17 Correspondence with the Bidder

- 6.17.1 Save and except as provided in this RFP, the Authority shall not entertain any correspondence with any Bidder in relation to acceptance or rejection of any Bid.

6.18 Bid Security

- 6.18.1 The Bidder shall furnish as part of its Bid, a Bid Security in the form of a bank guarantee issued by an Acceptable Bank, in favour of the Authority in the format at Annexure-2 (the “**Bid Security**”) and having a validity period of not less than 240 (two hundred and forty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Authority and the Bidder from time to time.
- 6.18.2 The Bid Security shall be for an amount of INR [XXX] (Indian Rupees ([in words]))⁶.
- 6.18.3 Bid Security can also be in the form of a demand draft issued by an Acceptable Bank in India, drawn in favour of the Authority and payable at [New Delhi].The Authority shall not be liable to pay any interest on the Bid Security deposit so made and the same shall be interest free.
- 6.18.4 Any Bid not accompanied by the Bid Security shall be summarily rejected by the Authority as non-responsive.
- 6.18.5 Save and except as provided in Clause 6.18, the Bid Security of unsuccessful Bidders will be returned by the Authority, without any interest, as promptly as possible on acceptance of the Bid of the Preferred Bidder or when the Bidding Process is cancelled by the Authority. Where Bid Security has been paid by deposit in the form of a demand draft, the refund thereof shall be in the form of an account payee demand draft in favour of the unsuccessful Bidder(s). Bidders may by specific instructions in writing to the Authority give the name and address of the person in whose favour the said demand

⁶ 1-2% of the estimated development and construction expenditure for the Coal Block

draft shall be drawn by the Authority for refund, failing which it shall be drawn in the name of the Bidder/ Lead Member and shall be mailed to the address given on the Bid.

- 6.18.6 The Preferred Bidder's Bid Security will be returned, without any interest, upon the signing of the Coal Mine Development and Production Agreement and furnishing the Performance Security in accordance with the provisions thereof. The Authority may, at the Preferred Bidder's option, adjust the amount of Bid Security in the amount of Performance Security to be provided by him in accordance with the provisions of the Coal Mine Development and Production Agreement.
- 6.18.7 The Authority shall be entitled to forfeit and appropriate the Bid Security as damages inter alia in any of the events specified in Clause 6.18.8 herein below. The Bidder, by submitting its Bid pursuant to this RFP, shall be deemed to have acknowledged and confirmed that the Authority will suffer loss and damage on account of any 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.
- 6.18.8 The Authority shall have the right to forfeit the Bid Security as damages without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/ or under the Coal Mine Development and Production Agreement, or otherwise, under the following conditions:
1. If a Bidder submits a non-responsive Bid;
 2. If a Bidder engages in a Corrupt Practice, Fraudulent Practice, Coercive Practice, Undesirable Practice or Restrictive Practice as specified in Clause 8 of this RFP;
 3. If a Bidder withdraws its Bid during the period of Bid validity as specified in this RFP and as extended by mutual consent of the respective Bidder(s) and the Authority;
 4. In the case of Preferred Bidder, if it fails within the specified time limit -
 - a. to sign and return the duplicate copy of LoA;
 - b. to sign the Coal Mine Development and Production Agreement; or
 - c. to furnish the Performance Security within the period prescribed thereof in the Coal Mine Development and Production Agreement; or
 5. In case the Preferred Bidder, having signed the Coal Mine Development and Production Agreement, commits any breach thereof prior to furnishing the Performance Security.

7. Evaluation of Bids

7.1 Opening and evaluation of Bids

- 7.1.1 The Authority shall open the Bids at 15.30 hours on the Bid Due Date, at the place specified in Clause 6.10.10 and in the presence of the Bidders who choose to attend.
- 7.1.2 The Authority will subsequently examine and evaluate the Bids in accordance with the provisions set out in this Clause.
- 7.1.3 To facilitate evaluation of Bids, the Authority may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Bid.

7.2 Tests of responsiveness

- 7.2.1 Prior to evaluation of Bids, the Authority shall determine whether each Bid is responsive to the requirements of this RFP. A Bid shall be considered non-responsive if:
1. it is not received as per the formats provided in the Annexures of this RFP; or
 2. it is not received by the Bid Due Date including any extension thereof pursuant to Clause 4.2; or
 3. it is not signed, sealed, bound together in hard cover and marked as stipulated in Clauses 6.10; or
 4. it is not accompanied by the Bid Security as specified in Clause 6.18; or
 5. it is not accompanied by the Power(s) of Attorney as specified in Annexure 4 and Annexure 5, as the case may be; or
 6. it does not contain all the information (complete in all respects) as requested in this RFP (in formats same as those specified); or
 7. it contains any condition or qualification; or Bids not signed by Authorised Signatory and/or not sealed in the manner and to the extent indicated in Clause 6 of this RFP; or
 8. Bids submitted by the Consortium does not include the Joint Bidding Agreement; or
 9. More than 1 (one) Bid has been made for the Coal Block by a particular End Use Plant; or
 10. The relevant Bidder has a Conflict of Interest.
- 7.2.2 The Authority reserves the right to reject any Bid which is non-responsive and no request for alteration, modification substitution or withdrawal shall be entertained by the Authority after the Bid Due Date.

7.3 Selection of Preferred Bidder

- 7.3.1 The Bids of all Bidders will be assessed for responsiveness.
- 7.3.2 Subject to the provisions of this Clause 7.3, the Bidders whose Bids have been found to be responsive in terms of Clause 7.2, their Techno Commercial Offers shall be further evaluated to assess if they meet the Qualifying Requirements.
- 7.3.3 The Bidders that meet the Qualifying Requirements shall be designated as the “**Qualified Bidders**”.
- 7.3.4 The Price Offers of only the Qualified Bidders shall be opened.
- 7.3.5 The Bidder that quotes the highest Rs/ tonne amount in its Price Offer to the Authority shall be declared as the Preferred Bidder (the “**Preferred Bidder**”).
- 7.3.6 A Bidder is allowed to Bid for any number of coal blocks for the same End Use Plant. However, each Bidder must specify its preference order. In case a Bidder is the highest Bidder for more than 1 (one) coal block, it will be allotted the Coal Block as per its preference order. A Bidder/ Consortium will only be allocated Coal Blocks that are sufficient to meet 80% (eighty percent) of its unmet requirement.
- 7.3.7 The Bidders shall be ranked H1, H2Hn on the basis of the diminishing Price Offer for the Coal Block. The highest bidder (H1) shall qualify for the allotment of the Coal Block. In case:
1. H1 Bidder backs out from accepting the Coal Block then H2 would be asked to match H1, if H2 does not agree, then H3 would be asked and so on. If no Bidder agrees, then Coal Block will go for re-bidding.
 2. The Bid Security of H1 ranked Bidder will be forfeited and it will not be eligible to participate in any tender or RFP issued by the Authority [during the 5 (five) years commencing from the date of this RFP] if it withdraws its Bid after being declared the Preferred Bidder.
- 7.3.8 In the event that 2 (two) or more Bidders quote the same Rs/ Tonne amount, (the “**Tie Bidders**”), the Authority will call for a snap bid between the tied Bidders to quote a best and final Price Offer. The Bidder quoting the highest Rs/ Tonne amount in this snap bid shall be designated the Preferred Bidder.
- 7.3.9 The Price Offers of the Bidders that do not meet the Qualifying Requirements will be returned unopened.
- 7.3.10 Authority shall not entertain any query or clarification from Bidders who fail to meet the Qualifying Requirements.
- 7.3.11 After selection, the LoA shall be issued, in duplicate, by the Authority to the Preferred Bidder (to the Lead Member in case the Preferred Bidder is a Consortium) and the Preferred Bidder shall, within 7 (seven) days of the receipt of the LoA, sign and return the duplicate copy of the LoA in acknowledgement thereof. In the event the duplicate copy of the LoA duly signed by the Preferred Bidder is not received by the stipulated date, the Authority may, unless it consents to extension of time for submission thereof,

appropriate the Bid Security of such Bidder as damages on account of failure of the Preferred Bidder to acknowledge the LoA.

7.3.12 In case the Preferred Bidder is a Consortium, then it shall incorporate a special purpose vehicle as the Mine Allocatee.

7.3.13 After acknowledgement of the LoA as aforesaid by the Preferred Bidder, it shall cause the Mine Allocatee to execute the Coal Mine Development and Production Agreement within the period prescribed in Clause 4.2.

7.3.14 The Preferred Bidder shall not be entitled to seek any deviation, modification or amendment in the Coal Mine Development and Production Agreement.

7.4 Contacts during Bid Evaluation

7.4.1 Bids shall be deemed to be under consideration immediately after they are opened and until such time the Authority makes official intimation of award/ rejection to the Bidders. While the Bids are under consideration, Bidders and/ or their representatives or other interested parties are advised to refrain, save and except as required under the Bidding Documents, from contacting by any means, the Authority and/ or their employees/ representatives on matters related to the Bids under consideration.

8. Fraud and Corrupt practices

- 8.1.1 The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process and subsequent to the issue of the LoA and during the subsistence of the Coal Mine Development and Production Agreement. Notwithstanding anything to the contrary contained herein, or in the LoA or the Coal Mine Development and Production Agreement, the Authority may reject a Bid, withdraw the LoA, or terminate the Coal Mine Development and Production Agreement, as the case may be, without being liable in any manner whatsoever to the Bidder, Preferred Bidder or Mine Allocatee, as the case may be, if it determines that the Bidder, Preferred Bidder or Mine Allocatee, 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 Bidding Process. In such an event, the Authority shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/ or the Coal Mine Development and Production Agreement, or otherwise.
- 8.1.2 Without prejudice to the rights of the Authority under Clause 8.1.1 hereinabove and the rights and remedies which the Authority may have under the LoA or the Coal Mine Development and Production Agreement, or otherwise if a Bidder or Mine Allocatee, as the case may be, is found by the Authority 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 Bidding Process, or after the issue of the LoA or the execution of the Coal Mine Development and Production Agreement, such Bidder or Mine Allocatee shall not be eligible to participate in any tender or RFP issued by the Authority during a period of 5 (five) years from the date such Bidder or Mine Allocatee, as the case may be, is found by the Authority 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.
- 8.1.3 For the purposes of this Clause 8, the following terms shall have the meaning hereinafter respectively assigned to them:
1. **“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 Bidding Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly, with the Bidding Process or the LoA or has dealt with matters concerning the Coal Mine Development and Production 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 Authority, shall be deemed to constitute influencing the actions of a Person

connected with the Bidding Process); or (ii) save and except as permitted under the this RFP, engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LoA or after the execution of the Coal Mine Development and Production Agreement, as the case may be, any Person in respect of any matter relating to the Coal Block or the LoA or the Coal Mine Development and Production Agreement, who at any time has been or is a legal, financial or technical adviser of the Authority in relation to any matter concerning the Coal Block;

2. **“Fraudulent Practice”** means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process;
3. **“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 Bidding Process;
4. **“Undesirable Practice”** means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and
5. **“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 Bidding Process.

9. Pre-Bid Conference

- 9.1.1 Pre-Bid conference(s) for the Bidders shall be convened at the designated date, time and place. Only those Persons who have purchased the RFP document shall be allowed to participate in the pre-Bid conference(s). A maximum of 3 (three) representatives of each Bidder shall be allowed to participate on production of authority letter from the Bidder.
- 9.1.2 During the course of pre-Bid conference(s), the Bidders will be free to seek clarifications and make suggestions for consideration of the Authority. The Authority shall endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Bidding Process.

10. Miscellaneous

10.1.1 The Bidding Process shall be governed by, and construed in accordance with, the laws of India and the courts at [New Delhi] shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process.

10.1.2 The Authority, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;

1. suspend and/ or cancel the Bidding Process and/ or amend and/ or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;
2. consult with any Bidder in order to receive clarification or further information;
3. retain any information and/ or evidence submitted to the Authority by, on behalf of, and/ or in relation to any Bidder; and/ or
4. 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.

10.1.3 It shall be deemed that by participating in the Bidding Process, the Bidder agrees and releases the Authority, its 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 Bidding 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.

10.1.4 Proprietary data

All documents and other information supplied by a Bidder to the Authority shall remain or become the property of the Authority. It will not return any Bid or any information provided by the Bidder.

11. Annexure 1: Letter comprising the Bid

Dated:

To,

[*****
*****]

Sub: Bid for ***** Coal Block

Dear Sir,

1. With reference to your RFP document dated *****, I/we, having examined the Bidding Documents and understood their contents, hereby submit my/our Bid for the aforesaid Coal Block. The Bid is unconditional and unqualified.
2. I/ We acknowledge that the Authority will be relying on the information provided in the Bid and the documents accompanying the Bid for selection of the Mine Allocatee for the aforesaid Coal Block, and we certify that all information provided therein is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying the Bid are true copies of their respective originals.
3. This statement is made for the express purpose of our selection as Mine Allocatee of the aforesaid Coal Block.
4. I/ We have an operational/ planned End Use Plant(s) of [] Capacity in integrated steel/ sponge iron/ cement/ surface gasification (strike out which ever are not applicable).
5. I / We are applying for the allocation of captive Coal Block under the category for integrated steel/ sponge iron/ cement/ surface gasification (strike out which ever are not applicable).
6. I/ We confirm that if I/ we are allotted the Coal Block, the total domestic coal availability (through linkage, captive mining) to my / our End Use Plant(s) shall not exceed 80% (eighty percent) including the peak production expected from the Coal Block.
7. I/ We have bid for the following coal blocks {Bidder/ Consortium to identify all coal blocks bid for}. In case I/ We are H1 in one or more of these coal blocks, we specify our preference as follows: {Bidder to specify}
8. I / We undertake that in no case shall we be awarded coal blocks with production capacity that is more than our unmet requirement. I/ We understand that our unmet requirement is computed as our total demand for coal for 80% (eighty percent) satisfaction level minus coal linkage given to me/ us and peak production estimated from other captive blocks available to me /us as per the approved mine plan for these other captive blocks.

9. I/ We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the Bid.
10. I/ We acknowledge the right of the Authority to reject our Bid without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by Applicable Law, our right to challenge the same on any account whatsoever.
11. I/ We certify that in the last 3 (three) years, we/ any of the Consortium Members or our/ their Associates have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.
12. I/ We declare that:
 - a) I/ We have examined and have no reservations to the Bidding Documents, including any addendum issued by the Authority; and
 - b) I/ We do not have any Conflict of Interest in accordance with Clause 6.1.11 of the RFP document; and
 - c) I/ We have not directly or indirectly or through an agent engaged or indulged in any Corrupt Practice, Fraudulent Practice, Coercive Practice, Undesirable Practice Or Restrictive Practice, as defined in Clause 8 of the RFP document, in respect of any tender or request for proposal issued by or any agreement entered into with the Authority or any other public sector enterprise or any government, central or state; and
 - d) I/ We hereby certify that we have taken steps to ensure that in conformity with the provisions of Clause 8 of the RFP, no person acting for us or on our behalf has engaged or will engage in any Corrupt Practice, Fraudulent Practice, Coercive Practice, Undesirable Practice or Restrictive Practice; and
13. I/ We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive nor to invite the Bidders to Bid for the Coal Block, without incurring any liability to the Bidders, in accordance with Clause 6.14 of the RFP document.
14. I/ We believe that we/ our Consortium satisfy(s) the Net Worth criteria and meet(s) the requirements as specified in the RFP document.
15. I/ We declare that we/ any Consortium Member, or our/ its Associates are not a Member of a/ any other Consortium submitting a Bid for the Coal Block. I /We declare that we/ any Consortium Member, or our/ its Associates are not a Member of any other Consortium submitting another Bid for the End Use Plant(s).
16. I/ We certify that in regard to matters other than security and integrity of the country, we/ any Consortium Member or any of our/ their Associates have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the mining of the Coal Block or development of the End

Use Plant(s) which relates to a grave offence that outrages the moral sense of the community.

17. I/ We further certify that in regard to matters relating to security and integrity of the country, we/ any Consortium Member or any of our/ their Associates have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.
18. I/ We further certify that no investigation by a regulatory authority is pending either against us or against our Associates or against our chief executive officer or any of our directors/ managers/ employees.
19. I/ We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the guidelines referred to above, we shall intimate the Authority of the same immediately.
20. I/ We acknowledge and agree that in the event of a change in Control of a Promoter or Associate whose financial capacity was taken into consideration for the purposes of short-listing and qualification under and in accordance with this RFP, I/We shall inform the Authority forthwith along with all relevant particulars and the Authority may, in its sole discretion, disqualify us/ our Consortium or withdraw theLoA, as the case may be.
21. I/ We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority in connection with the selection of the Bidder, or in connection with the Bidding Process itself, in respect of the above mentioned Coal Block and the terms and implementation thereof.
22. In the event of my/ our being declared as the Preferred Bidder, I/we agree to enter into a Coal Mine Development and Production Agreement in accordance with the RfP documents. We agree not to seek any changes in the aforesaid Agreement and agree to abide by the same.
23. I/ We have studied all the Bidding Documents carefully and also surveyed the Coal Block. We understand that except to the extent as expressly setforth in the Coal Mine Development and Production Agreement, we shall have no claim, right or title arising out of any documents or information provided to us by the Authority or in respect of any matter arising out of or relating to the Bidding Process including the award of Coal Block.
24. I/ We offer a Bid Security of INR[] (Indian Rupees []only) to the Authority in accordance with the RFP Document.
25. The Bid Security in the form of a demand draft/ bank guarantee (strike out whichever is not applicable) is attached.
26. The documents accompanying the Bid, as specified in Clause 6.10 of the RFP, have been submitted as part of the Bid.
27. I/ We agree and understand that the Bid is subject to the provisions of the Bidding Documents. In no case, I/we shall have any claim or right of whatsoever nature if the Coal Block is not awarded to me/us or our Bid is not opened or rejected.

28. The Price Offer has been quoted by me/us after taking into consideration all the terms and conditions stated in the RFP, Coal Mine Development and Production Agreement, our own estimates of costs and feasibility and after a careful assessment of the Coal Block and all the conditions that may affect the project cost and implementation of the project.
29. I/ We agree and undertake to abide by all the terms and conditions of the RFP document.
30. {We, the Consortium Members agree and undertake to be jointly and severally liable for all the obligations of the Mine Allocatee under the Coal Mine Development and Production Agreement.}
31. I/ We shall keep this offer valid for 180 (one hundred and eighty) days from the Bid Due Date specified in the RFP.
32. I/ We hereby submit our Price Offer in Rs/ tonne above the earmarked Floor Price Rs/ tonne for the Coal Block in accordance with the Bidding Documents and the Coal Mine Development and Production Agreement.

In witness thereof, I/we submit this Bid under and in accordance with the terms of the RFP document.

Yours faithfully,

Date: (Signature, name and designation of the Authorised signatory)

Place: Name and seal of Bidder/Lead Member

Note: Paragraphs in curly parenthesis may be omitted by the Bidder, if not applicable to it, or modified as necessary to reflect Bidder-specific particulars.

Note: All capitalized terms used but not defined herein shall have the meaning ascribed to them in the Bidding Documents.

12. Annexure 2: Bank Guarantee for Bid Security

Bank Guarantee. No.

Dated:

1. In consideration of you, *****, having its office at *****, (hereinafter referred to as the “**Authority**”, which expression shall unless it be repugnant to the subject or context thereof include its, successors and assigns) having agreed to receive the Bid of (a company registered under the Companies Act, 1956) and having its registered office at [(and acting on behalf of its Consortium)] (hereinafter referred to as the “**Bidder**” which expression shall unless it be repugnant to the subject or context thereof include its/their executors, administrators, successors and assigns), for the [] Coal Block pursuant to the RFP document dated issued in respect of the Coal Block and other related documents including without limitation the Coal Mine Development and Production Agreement (hereinafter collectively referred to as “**Bidding Documents**”), we (Name of the Bank) having our registered office at and one of its branches at (“**Bank**”), at the request of the Bidder, do hereby in term of Clause 6.1.5 of the RFP Document, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfilment and compliance of the terms and conditions of the Bidding Documents (including the RFP document) by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to the Authority an amount of INR [] (Indian Rupees [] only) (hereinafter referred to as the “**Guarantee**”) as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Bidder if the Bidder shall fail to fulfil or comply with all or any of the terms and conditions contained in the said Bidding Documents.
2. Any such written demand made by the Authority stating that the Bidder is in default of the due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Documents shall be final, conclusive and binding on the Bank.
3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable under this Guarantee without any demur, reservation, recourse, contest or protest and without any reference to the Bidder or any other person and irrespective of whether the claim of the Authority is disputed by the Bidder or not, merely on the first demand from the Authority stating that the amount claimed is due to the Authority by reason of failure of the Bidder to fulfil and comply with the terms and conditions contained in the Bidding Documents. Any such demand made on the Bank shall be conclusive as regards amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding INR [] (Indian Rupees [] only).
4. This Guarantee shall be irrevocable and remain in full force for a period of 240 (two hundred and forty) days from the Bid Due Date inclusive of a claim period of 60 (sixty) days or for such extended period as may be mutually agreed between the Authority and the Bidder, and

agreed to by the Bank, and shall continue to be enforceable till all amounts under this Guarantee have been paid.

5. We, the Bank, further agree that the Authority shall be the sole judge to decide as to whether the Bidder is in default of due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Documents including, inter alia, the failure of the Bidder to keep its Bid open during the Bid validity period set forth in the said Bidding Documents, and the decision of the Authority that the Bidder is in default as aforesaid shall be final and binding on us, notwithstanding any differences between the Authority and the Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other authority.
6. The Guarantee shall not be affected by any change in the constitution or winding up of the Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank with any other person.
7. In order to give full effect to this Guarantee, the Authority shall be entitled to treat the Bank as the principal debtor. The Authority shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said Bidding Documents or to extend time for submission of the Bids or the Bid validity period or the period for conveying acceptance of Letter of Award by the Bidder or the period for fulfilment and compliance with all or any of the terms and conditions contained in the said Bidding Documents by the said Bidder or to postpone for any time and from time to time any of the powers exercisable by it against the said Bidder and either to enforce or forbear from enforcing any of the terms and conditions contained in the said Bidding Documents or the securities available to the Authority, and the Bank shall not be released from its liability under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the said Bidder or any other forbearance, act or omission on the part of the Authority or any indulgence by the Authority to the said Bidder or by any change in the constitution of the Authority or its absorption, merger or amalgamation with any other person or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Bank from its such liability.
8. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or made if addressed to the Bank and sent by courier or by registered mail to the Bank at the address set forth herein.
9. We undertake to make the payment on receipt of your notice of claim on us addressed to [name of Bank along with branch address] and delivered at our above branch which shall be deemed to have been duly authorised to receive the said notice of claim.
10. It shall not be necessary for the Authority to proceed against the said Bidder before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank, notwithstanding any other security which the Authority may have obtained from the said Bidder or any other person and which shall, at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealised.

11. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of the Authority in writing.
12. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorised and has full power to execute this Guarantee for and on behalf of the Bank.

Signed and Delivered by Bank

By the hand of Mr. /Ms., its and authorised official.

(Signature of the Authorised Signatory)

(Official Seal)

13. Annexure 3: Bidder's details

1. Name of the bidding company/Consortium

1.1 Lead Member in case of Consortium

1.2 Details of the Consortium

S. No.	Name of the company	Equity % in Consortium	Role in Consortium
1			
2			
3			
4			

2. Brief description of the company/ each member of the Consortium including details of its main lines of business

3. Details of the contact person

Name:

Designation:

Company:

Address:

Phone nos:

Fax nos:

E-mail address:

4. Details of the Authorised Signatory of the Bidder

Name:

Designation:

Company:

Address:

Phone nos:

Fax nos:

E-mail address:

5. The following information shall also be provided for each Consortium Member.

S.N	Criteria	Yes	No
1	Has the bidding company/constituent of Consortium been barred by the Central / State Government, or any entity from participating in any project. If yes then please attach the detail.		
2	If the answer of 1 is yes, does the bar subsist as on the date of Bid		

Name:

Designation:

Company:

Address:

Ph. No:

Fax:

Email Address:

Signature and Seal of the Authorised Representative of the Bidder

Date:

Place:

14. Annexure 4: Power of Attorney for signing of Bid

Power of Attorney for signing of Bid

(Refer Clause 6.1.6)

Know all men by these presents, We, (name and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorise Mr. / Ms (Name), son/daughter/wife of and presently residing at, who is presently employed with us and holding the position of, as our true and lawful attorney (hereinafter referred to as the “**Attorney**”) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our bid for the [] Coal Block in response to the Request For Proposal No. ___ issued by Ministry of Coal (the “**Authority**”) including but not limited to signing and submission of all applications, bids and other documents and writings, participate in bidders’ and other conferences and providing information / responses to the Authority, representing us in all matters before the Authority, and generally dealing with the Authority in all matters in connection with or relating to or arising out of our bid for the said Coal Block and/or upon award thereof to us and/or till the entering into of the Coal Mine Development and Production Agreement with the Authority.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this power of attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE,, THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF, 20.....

For.....

(Signature, name, designation and address)

Witnesses:

1.

2.

Accepted Notarised

(Signature, name, designation and address

of the Attorney)

Notes:

- 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 when it is so required, the same should be under common seal affixed in accordance with the required procedure.
- Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders resolution authorizing the execution of this power of attorney.
- For a power of attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the power of attorney is being issued. However, the power of attorney provided by Bidders from countries that have signed the Hague Legislation Convention, 1961 are not required to be legalised by the Indian Embassy if it carries a conforming apostille certificate.

15. Annexure 5: Power of Attorney for Lead Member of the Consortium

Whereas the ***** (the “**Authority**”) has invited Bids from pre-qualified and short-listed parties for the ***** Coal Block pursuant to its Request For Proposal No. ___.

Whereas,, and (collectively the “**Consortium**”) being Members of the Consortium are interested in bidding for the Coal Block in accordance with the terms and conditions of the Request for Proposal and other connected documents in respect of the Coal Block, and

Whereas, it is necessary for the Members of the Consortium to designate one of them as the Lead Member with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium’s bid for the Coal Block and its execution.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS

We, having our registered office at, M/s., having our registered office at, and M/s., having our registered office at, (hereinafter collectively referred to as the “**Principals**”) do hereby irrevocably designate, nominate, constitute, appoint and authorise M/s, having its registered office at, being one of the Members of the Consortium, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the “**Attorney**”) and hereby irrevocably authorise the Attorney (with power to subdelegate) to conduct all business for and on behalf of the Consortium and any one of us during the bidding process and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the submission of its bid for the Coal Block, including but not limited to signing and submission of all applications, bids and other documents and writings, accept the Letter of Award, participate in bidders’ and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of the bid of the Consortium and generally to represent the Consortium in all its dealings with the Authority, and/ or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Consortium’s bid for the Coal Block and/ or upon award thereof till the Coal Mine Development and Production Agreement is entered into with the Authority.

AND hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this power of attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us/ Consortium.

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF, 20....

For

(Signature, Name & Title)

For

(Signature, Name & Title)

For

(Signature, Name & Title)

(Executants)

(To be executed by all the Members of the Consortium)

Witnesses:

1.

2.

Notes:

- 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 when it is so required, the same should be under common seal affixed in accordance with the required procedure.
- Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders resolution authorizing the execution of power of attorney.
- For a power of attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the power of attorney is being issued. However, the power of attorney provided by Bidders from countries that have signed the Hague Legislation Convention, 1961 are not required to be legalised by the Indian Embassy if it carries a conforming apostille certificate.

16. Annexure -6: Joint Bidding Agreement

Joint Bidding Agreement

(To be executed on stamp paper of appropriate value)

THIS JOINT BIDDING AGREEMENT is entered into on this the day of20... (the “Agreement”)

AMONGST

1. {..... Limited, a company incorporated under the Companies Act, 1956} and having its registered office at (hereinafter referred to as the “Lead Member” or “**First Party**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

2. {..... Limited, a company incorporated under the Companies Act, 1956} and having its registered office at (hereinafter referred to as the “Other Member” or “**Second Party**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

3. {..... Limited, a company incorporated under the Companies Act, 1956} and having its registered office at (hereinafter referred to as the “Other Member” or “**Third Party**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

4. {..... Limited, a company incorporated under the Companies Act, 1956} and having its registered office at (hereinafter referred to as the “Other Member” or “**Fourth Party**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

The above mentioned parties of the FIRST PART, SECOND PART, THIRD PART & FOURTH PART are collectively referred to as the “**Parties**” and each is individually referred to as a “**Party**”

WHEREAS,

- A. Ministry of Coal, Government of India having its registered office at ----- (hereinafter referred to as “**MoC**” which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited Bids (the **Bids**”) by its Request For Proposal No. __ (“RFP”) dated for allotment of [insert name] coal block (the “ **Coal Block**”) for captive purpose
- B. The Parties are interested in jointly bidding for the Coal Block as members of a Consortium, 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:

1. Definitions and Interpretations

In this Agreement, the capitalised terms not defined herein shall, unless the context otherwise requires, have the meaning ascribed thereto under the RFP .

2. Consortium

The Parties do hereby irrevocably constitute a consortium (the “**Consortium**”) for the purposes of jointly participating in the Bidding Process for the Coal Block. 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 Coal Block, either directly or indirectly or through any of their associates.

3. Role of the Parties

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

Party of the First Part shall be the Lead member of the Consortium and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Consortium during the Bidding Process.

4. Shareholding in the Consortium

The proposed interest of the Consortium members in the Mine Allocatee is as follows:

- a. Lead Member% (in words)
- b. Second member.....% (in words)

- c. Third member.....% (in words)
- d. Fourth member.....% (in words)

5. Representation of the Parties

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

1. 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;
2. 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, to the best of its knowledge:
 - a. require any consent or approval not already obtained;
 - b. violate any Applicable Law presently in effect and having applicability to it;
 - c. violate the memorandum and articles of association, by-laws or other applicable organisational documents thereof;
 - d. violate any clearance, permit, grant, license or other governmental authorisation, approval, judgment, 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
 - e. 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;
3. this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and
4. there is no litigation pending or, to the best of such Party's knowledge, 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 fulfillment of its obligations under this Agreement.

6. Termination

This Agreement shall be effective from the date hereof and shall continue in full force and effect until the execution of the Coal Mine Development and Production Agreement between MoC and the Mine Allocatee, in case the Coal Block is awarded to the Consortium. However, in case the Consortium is either not qualified for the Coal Block or does not get selected for allotment of the Coal Block, the Agreement will stand terminated.

7. Miscellaneous

- a. This Agreement shall be governed by laws of India.
- b. The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of the MoC.

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

For and on behalf of LEAD MEMBER

(Signature)

(Name)

(Designation)

(Address)

For and on behalf of SECOND MEMBER

(Signature)

(Name)

(Designation)

(Address)

For and on behalf of THIRD MEMBER

(Signature)

(Name)
(Designation)
(Address)

For and on behalf of FOURTH MEMBER

(Signature)

(Name)
(Designation)
(Address)

Notes:

- The mode of the execution of the Joint Bidding Agreement should be in accordance with the procedure, if any, laid down by the Applicable Law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.
- Each Joint Bidding Agreement should attach a copy of the extract of the charter documents and documents such as resolution / power of attorney in favour of the person executing this Agreement on behalf of the Consortium Member.

17. Annexure -7: Price Offer

Price Offer

(On the letterhead of the Bidder/Lead Member of the Consortium)

Dated

To,

The Authorised Person

.....

Sub: Price Offer for the Coal Block

Ref: RFP dated [insert Date]

Dear Sir,

We hereby furnish our Price Offer for the ----- (name of the coal block) Coal Block, which is being auctioned for captive mining.

We have understood the RFP and have thoroughly examined the specifications laid by you in the RFP document.

We agree that this offer shall remain valid for a period of 180 (one hundred and eighty) days from the Bid Due Date or such further period as may be mutually agreed upon.

We declare that the following is our bid for the Payment to the Government quoted in Rs/ tonne to be paid every year based on the volume of actual production from the offered Coal Block and computed in accordance with the Coal Mine Development and Production Agreement.

Name of the Coal Block	Rs/ tonne offered for the Coal Block	
	<i>In figures</i>	<i>In words</i>
----- Coal Block	-----	-----

Floor Price Rs/ Tonne for this Coal Block is [XXX]

Yours faithfully

Signature of the Authorised Signatory:

Name:

Designation:

Company:

Address:

Ph. No:

Fax:

Email Address:

Date:

Place:

18. Annexure -8: Disclosure

[On the letter head of Bidder /each member in a Consortium]

Disclosure

We hereby declare that the following companies with which we/ have direct or indirect relationship are also separately participating in this Bid process as per following details:

S. No.	Name of the company	Relationship
1		
2		
3		
4		

In case there is no such company please fill in the column "name of the company" as Nil.

Further we confirm that we do not have any Conflict of Interest with any other company participating in this bid process.

Signature and seal of Chief Executive Officer/Managing Director

1. The above disclosure should be signed and certified as true by the chief executive officer/managing director of the executant.

19. Annexure 9: Financial capacity of the Bidder

Financial Capacity of the Bidder /Consortium

(On the letter head of the Bidder/ Lead Member of the Consortium)

(Not using the financial strength of Promoter)

To,
Authorised Person

.....
.....

Sub: Response to RFP

Dear Sir,

We certify that our financial capacity has been calculated in accordance with the instruction provided in Clause 5.1.8 of the RFP. The financials for the last 3 (three) years are indicated below

		Net Worth (Rs. Crore)			
Financial Year		Year 1	Year 2	Year 3	Avg
<u>Single Bidder</u>					
Name of the Company					
<u>Consortium</u>	Shareholding % of the member company in bidding consortium				
Lead member					
Second member					
Third member					
Fourth member					

Note:

- Certificate(s) from statutory auditors specifying the Net Worth of the Bidder/ each member of the Consortium, for the last 3 (three) years, and also specifying the methodology adopted for calculation conforms to the provisions of the Clause 5.1.8 to be provided

Signature of Authorised Signatory:

Name:

Designation:

Company:

Address:

Ph. No:

Fax:

Email Address:

Date:

Place:

Certified by Statutory Auditor

20. Annexure -10: Financial Capacity of the Bidder

Financial Capacity of the Bidder /Consortium

(On the letterhead of the Promoter)

To,

Authorised Person

.....

Sub: Response to RFP

Dear Sir,

We certify that our financial capacity has been calculated in accordance with the instruction provided in clause 5.1.8 of the RFP. The financials for the last 3 (three) years are indicated below

Exhibit (i): Applicable in case of bidding company*

For the above calculations, we have considered the financial capacity of the Promoter for the last 3 (three) financial years

Name of the bidding company	Name of the Promoter	Equity % of Promoter in the bidding company	Net Worth (Rs. Crore)			
			Year 1	Year 2	Year 3	Avg

Exhibit (ii): Applicable in case of Consortium*

(To be filled by each Consortium Member separately)

Name of Member: [Insert name of the Member]

For the above calculations, we have considered the financial capacity of the parent/ Affiliate for the last three financial years:

Name of the Consortium Member	Name of the Parent/ Affiliate	Equity % of Promoter in the bidding company	Equity % of the member company in the bidding consortium	Net Worth (Rs. Crore)			
				Year 1	Year 2	Year 3	Avg.

Name of the Consortium Member	Name of the Parent/Affiliate	Equity % of Promoter in the bidding company	Equity % of the member company in the bidding consortium	Net Worth (Rs. Crore)			

Note: Year 1 will be the latest completed financial year, preceding the bidding. Year 2 shall be the year immediately preceding Year 1 and so on.

Signature and Stamp of

Chief Executive Officer/Managing Director of Parent/Affiliate

Certified by Statutory Auditor

Date;

*Strike out which is not applicable

21. Annexure -11: RFP documents

1. Model Coal Mine Development and Production Agreement
2. Information Docket consisting of:
 - a. Geological Report
 - b. [Any other information/ document]

22. Annexure -12: Format for Clarifications /Amendments to the RFP

(Applicable only for the Pre-Bid meeting before submission of the Bid in response to the RFP)

Sr No.	Document	Clause No. and Existing provision	Clarification required	Suggested text for the amendment	Rationale for the Clarification or Amendment

Signature _____

For,

Bidder's Rubber Stamp and Full Address.