

DRAFT FOR INVITING COMMENTS

Global Invitation for Request for Proposal

for

Disinvestment of Jammu and Kashmir Cements Limited

November 2022

Note to Readers

The objective of this draft PIM and RFP for Disinvestment of 100% stake of UT administration of Jammu and Kashmir in Jammu and Kashmir Cements Limited is to elicit comments and suggestions from the interested bidders on the draft RFP. As the UT administration of Jammu and Kashmir is conducting disinvestment exercise for the first time, it intends to hear from all prospective bidders their views on the transaction structure, bid documents, and any other suggestions they might have to ensure that each stakeholders viewpoints are adequately captured to ensure that the transaction documents/ process is comprehensive and consultative.

Interested Bidders who meet eligibility criteria mentioned in the Draft RFP and PIM may provide their comments on the draft RFP in electronic form via email on suggestjkindcom@gmail.com with subject line: Comments on Draft PIM and RFP for JKCL disinvestment.

A. PRELIMINARY INFORMATION MEMORANDUM

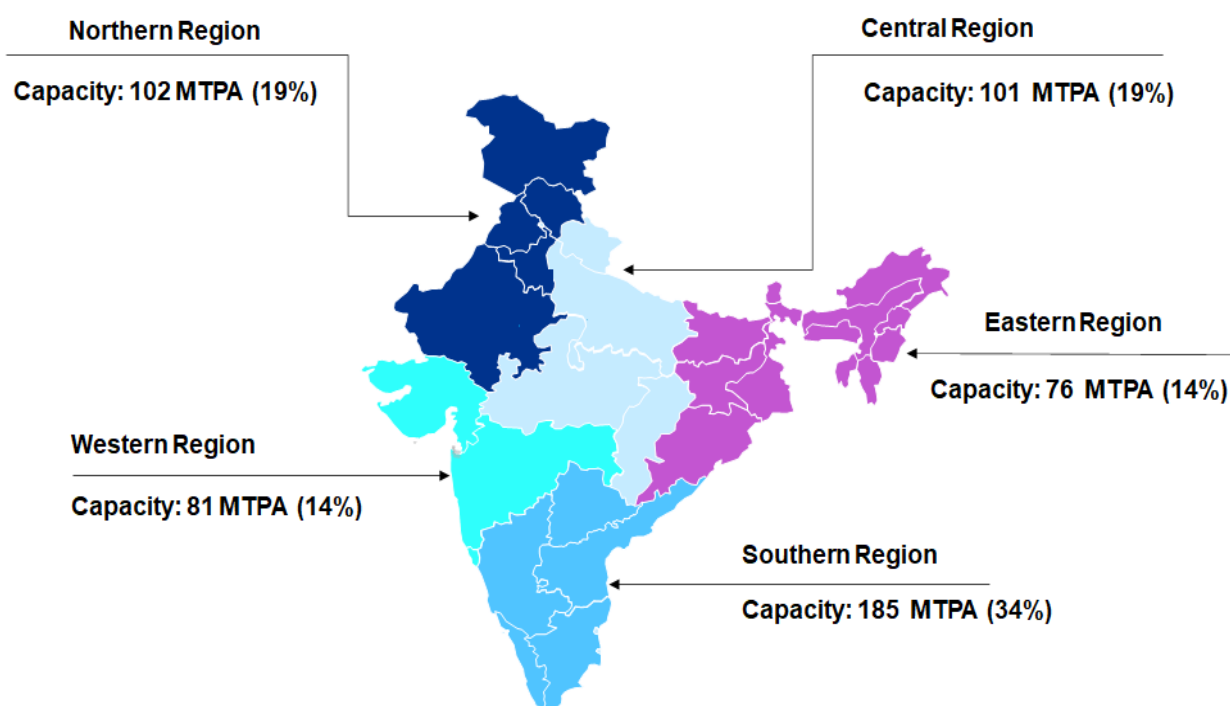
1. INDIA'S CEMENT INDUSTRY: AN OVERVIEW

India is the world's second largest cement market, in terms of both production and consumption, with its installed capacity translating to approximately 7% of global capacity. The country has an installed production capacity¹ of ~ 545 million tonnes per annum (MTPA) and a capacity utilization of ~65% which translates to an estimated production of ~ 355 MTPA at end of FY 22². India's north and central regions together accounted for nearly 38% of installed capacity.

Limestone, a key raw material, is the single most important factor determining the location of cement plants in India. The cement industry comprises five distinct regions-

North (19% capacity), South (34% capacity), West (14% capacity), and East (14% capacity) and Central (19% capacity).

Exhibit 1 Cement Production Capacity in India Region-Wise in FY 22



Source: Cement Manufacturer's Association

The Cement demand in Jammu and Kashmir is estimated at ~ 4.5 MTPA and has a production capacity is ~ 0.86 MTPA³. As reported by the Department of Promotion of Industry and Internal Trade (DPIIT), there are 10 cement plants in Kashmir. Given this local demand-supply gap, much of the cement demand of Jammu and Kashmir presently is met from Rajasthan and Himachal Pradesh.

Approximately, 98% of the installed capacity is within the private sector and the top 20 companies account for 70% of production. 210 large cement plants account for ~ 410 MTPA capacity; rest of the capacity is distributed in over ~ 350 mini-cement plants. The cement industry in India is dominated by a few large players controlling substantial market share. Ultratech, Adani (after buyout of Holcim stake in ACC and Ambuja), Shree Cement and Dalmia Bharat are the leading players in terms of capacity.

¹ Cement Manufacturers Association;

² ICRA cement sector analyst report 2022

³ Cement Manufacturer's Association

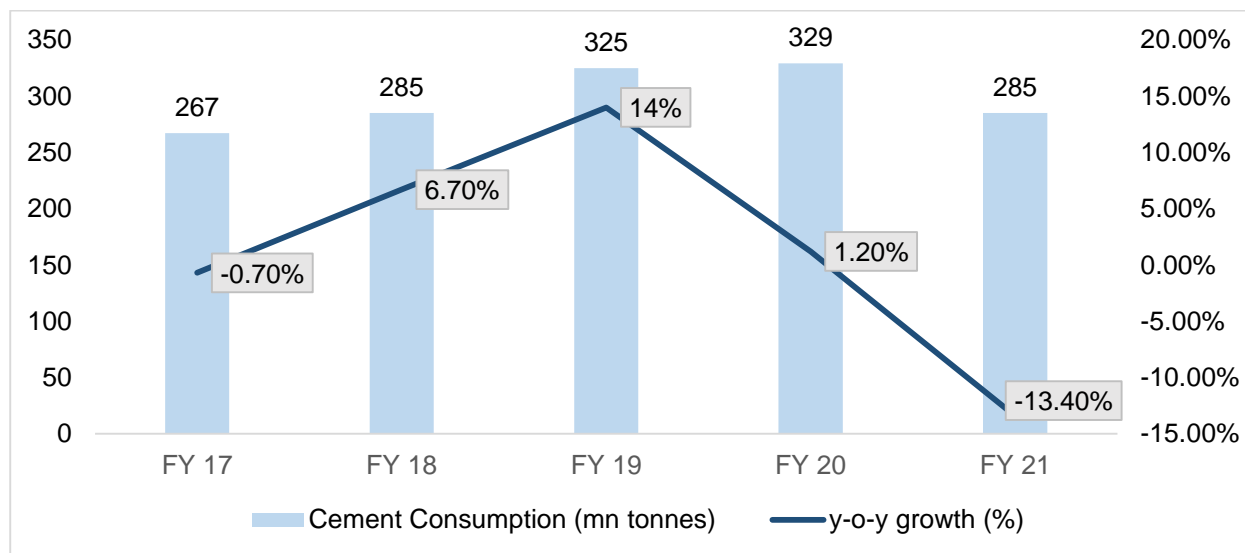
A significant entry barrier for cement manufacturers in India is the access to limestone reserves. The entry barrier for new players remains quite high. There are no FDI restrictions on foreign players but given the high level of competitive intensity, the preferred mode of entry is through M&As. As per the information provided on the portal of Department for Promotion of Industry and Internal Trade (DPIIT), India is home to 154 cement companies. Some of the companies have a country-wide presence, but many are purely regional. The cement market in India is largely an oligopoly market where large players have partial pricing control.

The current environment provides good opportunity for the cement industry. This is because the cement industry primarily derives demand from the infrastructure and real estate sector activity. Both these sectors have been in the limelight due to their potential to drive economic growth. Housing and real estate account for nearly 65% of cement consumption followed by infrastructure (25%), with commercial & industrial development accounting for the rest.

The government has launched several programmes such as Bharatmala, Sagarmala, and Smart Cities among others in a bid to strengthen the country's infrastructure and speed up development. Furthermore, affordable housing continues to be a key focus which will benefit the real estate sector. The focus of the cement industry has been on bringing down the operating costs especially in the environment of relentless rising of raw material cost such as coal, pet coke and freight cost. Also, the climate change activities have brought in significant developments in the sector to reduce the carbon footprint of cement companies and to limit.

India's per capita consumption of cement stood at 227 kg/year, which is significantly lower relative to global average of 500-550 kg/year, and to that of China at ~1,650-1,700 kg/year. There is sufficient headroom for consumption growth in the country⁴. Cement demand is slated to grow at 8.6% between FY 21-FY 24 on the back of robust infrastructure spending by government on account of National Infrastructure Pipeline (NIP) and due to impetus on Housing for All Scheme and recovery in real estate demand and overall pick up in economic growth. The cement industry is expected to add an incremental 80 MTPA by 2024⁵.

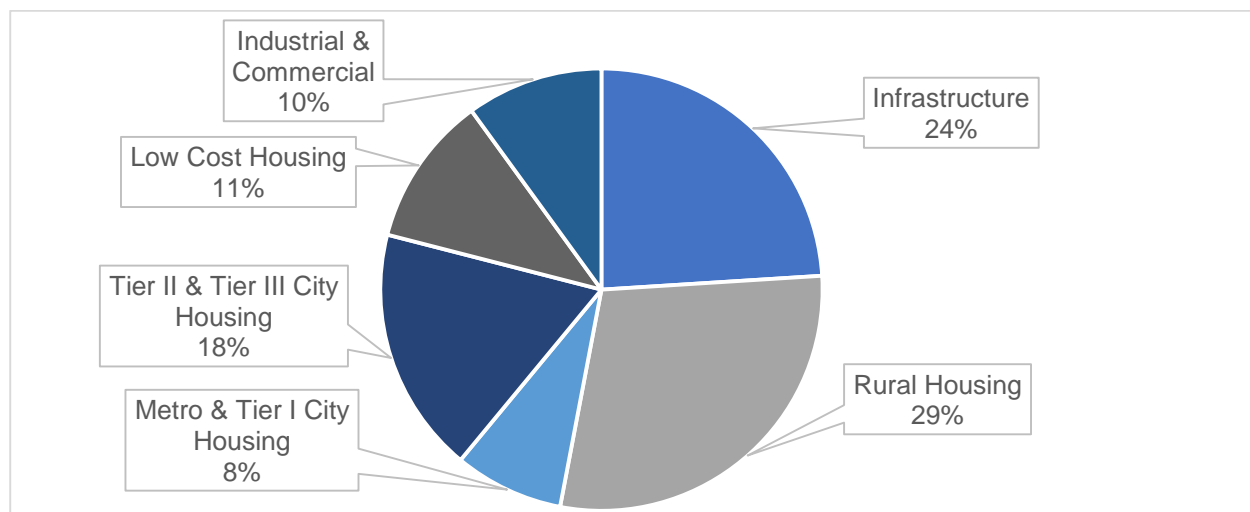
Exhibit 2 Cement Consumption in India till FY 21



Source: EMIS India Cement Sector Report 2022/2023

⁴ EMIS India Cement Sector Report 2022/2023

⁵ EMIS India Cement Sector Report 2022/2023

Exhibit 3 Cement Consumption in India by Sector in FY 21

Source: EMIS India Cement Sector Report 2022/2023

The Department for Promotion of Industry and Internal Trade (DPIIT) has been responsible for the promotion and development of the cement sector in the country. Its role encompasses facilitating investment in new and upcoming technology, foreign direct investment, and supporting the balanced development of industries.

The National Council for Cement and Building Materials (NCB), also known as the Cement Research Institute of India, is under the administrative control of DPIIT and has been entrusted with promoting research and scientific work connected with the cement and building material trade and industry. Currently, NCB is considered the key organization for administrative control of Ministry of Commerce and Industry for technological advancements, cement, and other building material industries. The Cement Manufacturers Association (CMA) is an apex body for all cement manufacturers in the country. CMA liaisons with the government and helps shape policies related to the cement industry. CMA also plays a key role in addressing issues related to cement manufacturing, which entail environment, taxation, logistics, waste management, recycling, and fuel supply among others.

2. JAMMU AND KASHMIR CEMENTS LIMITED OVERVIEW

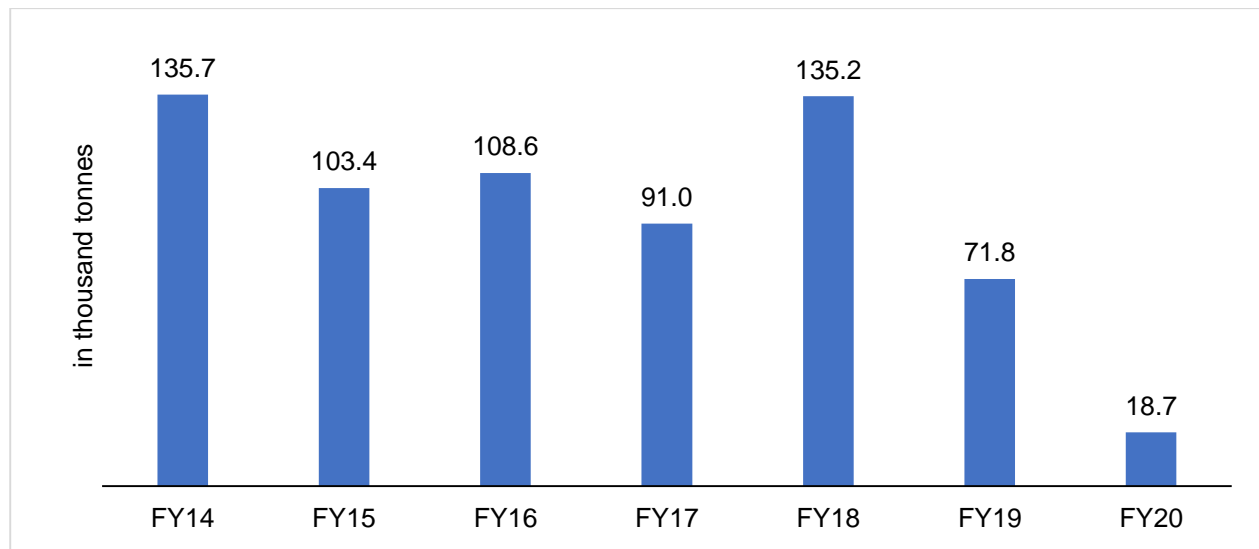
2.1. BRIEF ON THE PLANT

The Jammu and Kashmir Cements Ltd (JKCL) was incorporated in the year 1975 under Companies Act, 1956 as a government owned company with an authorized capital of Rs 60.00 crore. The primary objective of the creation of JKCL was to reap benefits of the rich deposits of Limestone in the Khrew belt for manufacturing and sale of cement. The company started its operation with the commissioning of its first integrated plant at Khrew, Pulwama with a capacity of 600TPD in 1982. Two new plants, one integrated plant at Khrew, Pulwama with a capacity of 600TPD and one grinding unit at Samba, Jammu with a capacity of 300TPD were commissioned in 2010 and 2015 respectively.

The company has rights over a Limestone mine in Khrew spread over 88.1 hectares, with an estimated net mineable reserve of around 10.4 million tonnes. Over the years, JKCL's main source of revenue has been sale of cement to various Government departments and PSUs.

Exhibit 4 provides the year-wise trends of JKCL's cement production. After a peak production of 135,000 tonnes in FY 18, production has declined since and the plants are non-operational at present.

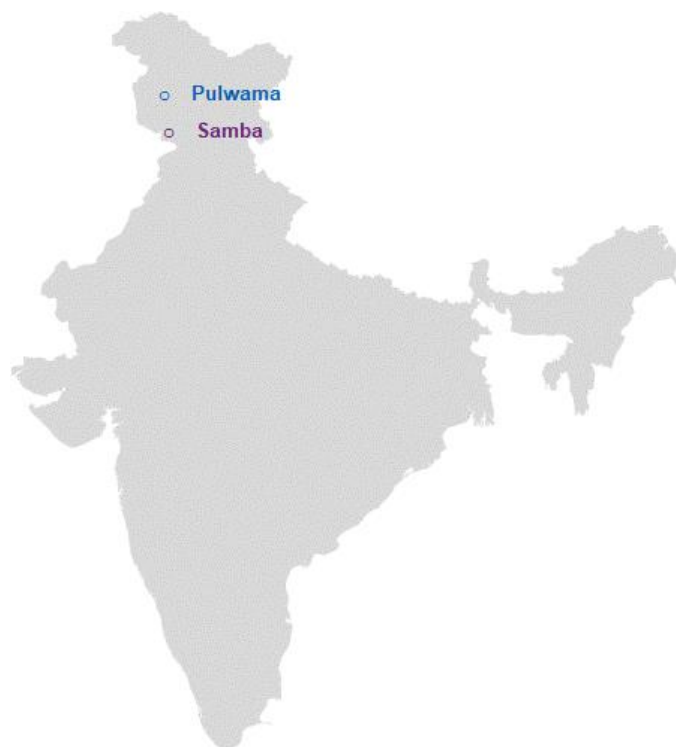
Exhibit 4 Year wise Cement Production by JKCL since FY 14



2.1.1. Location of the Plant

The integrated cement manufacturing plant of JKCL is located in Khrew in Pulwama district which is about 30 km South-East of Srinagar, and the Samba plant is located about 35km South-East of Jammu. The map below indicates the location of the plant.

Exhibit 5 Location of the facilities of the JKCL



The connectivity and access details of the plant facility are as provided below:

Road - The Khrew plant site is well connected by National Highway (NH 44) and the Samba plant is well connected by National Highway (NH 44)

Railway - The nearest railway station from Khrew Plant is Pampore (15 km) and Udhampur (140 km) and the nearest railway station from Samba plant is Jammu Tawi (36 km)

Airport - The nearest airport is Srinagar airport which is about 25 km from the Khrew Plant and the nearest airport to Samba plant is Jammu which is about 36 km from the plant

The integrated cement plant is located at an accessible location and has following benefits –

- The plant site is located within approved limestone industrial area (limestone belt) of district Pulwama
- The plant site is well connected with all-weather road network
- The plant site is located in proximity to the huge demand center for cement in the Valley
- Availability of adequate skilled manpower for running a cement plant

The plant exists adjoining to the alpine and temperate region of the Jammu and Kashmir state. Temperature varies considerably from month to month. The minimum air temperature drops below 0°C, at times, it can go down to -5 to -7°C. Ground frost is a common phenomenon during mid-winter. The rise in temperature is gradual when the air has high moisture content with the sky remaining overcast; the rise is however steep when the sky is clear and there is less moisture content in the air. The maximum air temperature goes up to 32°C.

2.1.2. Demand for Cement

In Jammu and Kashmir, the cement industry is clustered around Srinagar and Pulwama district where raw material i.e. limestone is found in abundance and it is of the best quality required for the cement industry. The state has seen a phenomenal growth of cement industry in the area in the last decade. Cement, being a bulk commodity, is freight intensive and transporting cement over long distances can prove to be uneconomical. This has resulted in cement being a regional play. Moreover, the presence of raw material in abundance and incentives offered by the State Govt. has boosted the entrepreneurs of the region to come up with the state-of-the-art plants with the latest modern technologies to explore the field and make the cost of cement production competitive. In the state, the consumption of cement is much more than the local production. The cement thus has to be transported from outside the state for meeting the gap between supply and demand. The project thus enjoys an almost assured market.

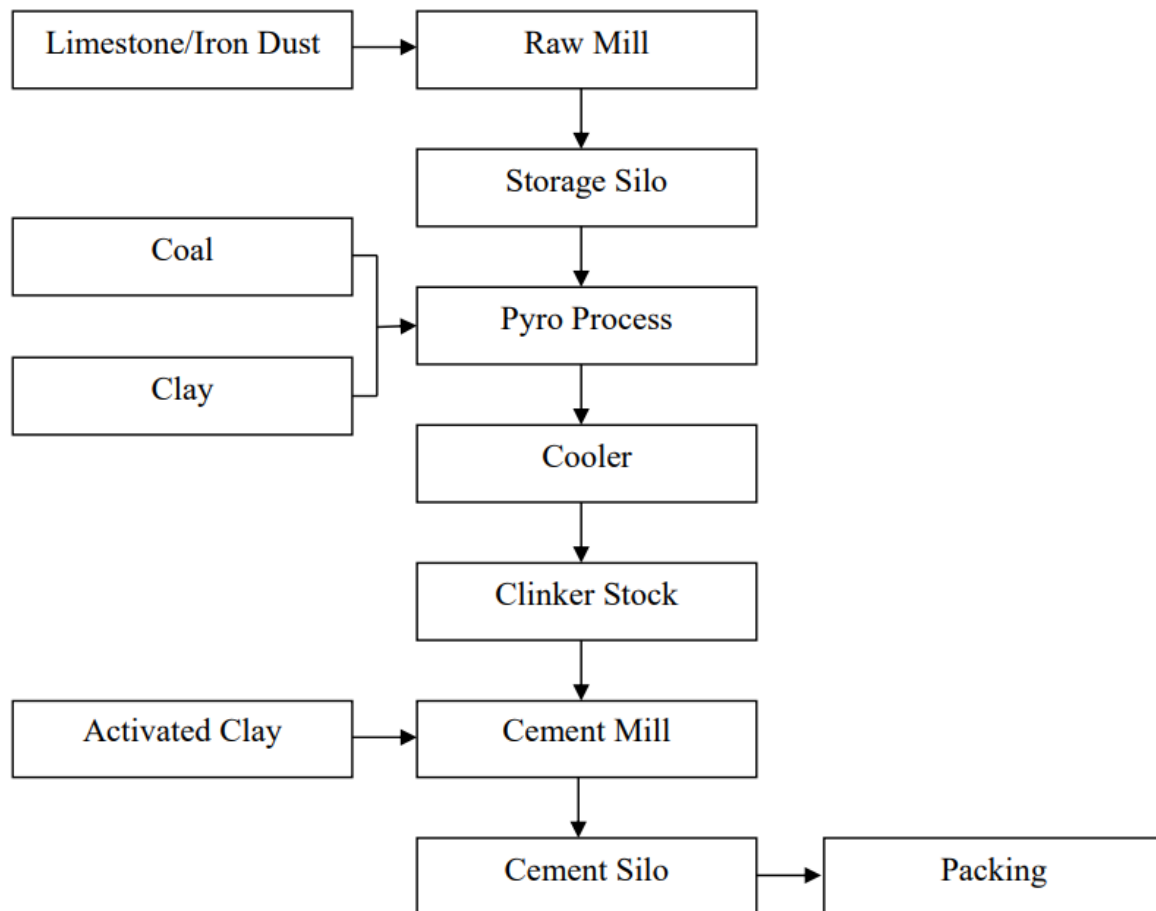
2.1.3. Details of the Plant

The integrated manufacturing cement plant at Khrew has a legacy plant commissioned in 1982 which is 600 TPD (which has 2 units of 300 TPD each). The new plant which was commissioned in 2010 has a capacity of 600 TPD. The plant uses a conveyor belt to transport limestone from crushing zone to both the plants (the crushing zone is attached to the limestone mine). The plant has coal linkage through a coal supply agreement with Eastern Coalfields Limited. The calcinated clay is available from local and adjoining areas.

The simplified cement plant process has the following process steps namely - Crushing of Limestone, Prehomogenisation, Grinding of Raw Materials, Homogenisation, Pyroprocessing, Clinker, Formation, Cement Grinding, Cement Storage, Packing and Dispatch. The cement plant uses Rotary Kiln Technology.

JKCL uses the 'dry method' for the production of clinker and cement. The different process steps involved in the production of cement are discussed as under:

- Crushing of Limestone** - The big boulders obtained from the mines are crushed into crushers. The crushing is carried out in double stages by using primary crusher and secondary crusher. Jaw crushers are employed for reduction of size of limestone boulders to a suitable feed size acceptable to the different types of grinding machines installed in the plant. The crushed limestone is transported to plant stockpile with the help of conveyor belt.
- Prehomogenisation** - The crushed limestone is transported to stacker reclaimer site with the help of conveyor belt installed at plant site. The crushed limestone is blended with the help of stacker and reclaimer systems. The crushed limestone travelling on the belt conveyors is stacked in layers with the help of stacker machine, which moves to and fro along the side of stacking yard. The stacked materials are then cut in slices with the help of a reclaiming machine which mixes the layers of stacked limestone thereby reducing the variation in quality of limestone as compared to the large variations obtained in the limestone obtained from mines.

Exhibit 6 Cement Manufacturing Flow in the JKCL Plant

- c) **Grinding of Raw Materials** - The pre-blended limestone from stack pile is transported to raw mill hoppers. Raw mill hoppers are provided with continuous weighing machines known as weigh feeders in order to produce a suitable raw meal proportioned appropriately for production of desired good quality of cement clinker. Vertical Roller Mill and Tube Mill Grinding machines is used for production of pulverized raw meal.
- d) **Homogenization** - The raw meal ground in the raw mill is thoroughly blended in vertically tallblending silos. The blending is performed pneumatically by introducing the compressed air in the bed of fine raw meal fed to the blending silo. The blended raw meal is taken out of the silo with the help of air slides and is fed in a central discharge bin, which is continuously aerated for accomplishing final blending of raw materials. The properly blended raw meal is now be ready for burning the same to produce cement clinker in the cement kiln.
- e) **Pyroprocessing** - The pyroprocessing system comprises of three important sections namely preheating and precalcining, clinkerisation and cooling. The preheating section is a tall column and comprises of battery of cyclones arranged one over the other in series. The preheaters comprise of 5-6 stage of low-pressure cyclones. The riser ducts of top stage cyclones is connected with powerful induced draft fans also known as preheater fans, smoke gas fans etc. Precalcining of raw meal is carried out in separate vessel vertically held and placed in between preheating and clinkerisation section. The clinkerisation reaction is carried out in a rotary kiln furnace. The rotary kiln is a long cylindrical shell provided with refractory bricks from inside which prevents the heat loss from the kiln and protects the steel shell from any damage due to persistent high temperature maintained inside the kiln. The dry and properly blended raw meal is lifted mechanically by bucket elevator from the bottom of raw meal blending/storage silo to the top of the preheater and fed at the top stage of cyclone inlet duct with the help of screw conveyor and rotary air lock. Raw meal weigh-feeders is installed for continuous weighment of raw meal for feeding the same to preheater at a constant rate.z

- f) **Cement Grinding** - The clinker produced in rotary kiln would be usually stored for few days before it is ground in cement grinding mills along with appropriate quantity of gypsum and other additive materials for production of finely pulverized cement with desired fineness. The ball mills along with roller press is used for clinker grinding in cement plant.
- g) **Cement Storage, Packing and Despatch** - The pulverized different types of cements is stored in different silos installed with different capacities. Depending upon the market requirements the cement is loaded in bulk or packed in 50 KG bags with the help of rotary packages, loaded onto trucks and finally dispatched to the required destinations

2.2. LIMESTONE DEPOSIT ASSESSMENT REPORT OF KHREW LIMESTONE MINE

2.2.1. Topography

The limestone deposit in the mine forms a part of the Gunsgund Gupron block (G. G. Block). The deposit forms a part of the northern hill range of the Shar-ondrus-kunyal valley with general trend of the hill range being along N-S to NNW-SSE. The limestone deposit lies about 2 kms N-E of village Khrew in Taluka Pampore of district Pulwama. The ML area rises from a flat level of about 1700m RL to about 2020m RL. The cement plants based on this deposit is located at about 1700 m RL above MSL. The valley in which the plants are located is surrounded by steep limestone hills on three sides. Leaving it open from Southwest Side only. The highest level in this part of ML area is 2020 m above MSL and the lowest level is 1710 m above MSL.

2.2.2. Lease Area

Mining Lease was granted to M/S Jammu and Kashmir Cements Limited by the Govt. of J&K over an area of 88.10 hectares in the year 1977 at village Khrew in district Pulwama. The mining operations were commenced in the lease since 1981-82 and the said mining lease is renewed up to the year 2027 by the Government of J&K. The Department of Industries and Commerce, Government of J&K has already sought approvals from the Geology and Mining Department to renew the mining lease for at least another 20 years.

2.2.3. Land use pattern

Land use Area	in ha
Forest	Nil
Agricultural	Nil
Grazing	Nil
Barren Govt. Land	88.10 ha

2.2.4. Geological Reserves

The G. G. Block covers an area of about 88.10 hectares and has been divided into 5 sub-blocks namely A, B, C, D and E for purposes of estimation of reserves and grade.

The detailed exploration of the G. G block has been undertaken by Directorate of Geology & Mining in 1973 for M/S Jammu and Kashmir Cements Limited for establishment of their cement project at Khrew. The G. G block was subdivided into 5 sub blocks for purposes of estimation and geological investigations so as to:

- Confirm existence of potential limestone horizon, suitable for cement manufacture
- Formulate structural concept of the deposit
- Delineate actual mining area

Due to magnesium nature of the limestone the sub blocks D & E have been left out of consideration. The assessment of potential reserves of limestone was done on the basis of geological cross sections prepared

across the strike of the deposit by Department of Geology & Mining, Govt. of J&K. Subblocks A, B, and C have thus been considered by the DGM, Govt of J&K for estimation of reserves.

2.2.5. Estimated Geological Reserves of Limestone

Sub Block	Proved reserves	Probable reserves
A	6.418 million tonnes	2.267 million tonnes
B	3.934 million tonnes	2.240 million tonnes
C	1.736 million tonnes	1.239 million tonnes
Total	12.088 million tonnes	5.746 million tonnes

For the estimation purpose, the reserves calculated up to and above 1800 m RL have been taken as proved reserves and between 1750 m RL and 1800 m RL are taken as probable reserves. The reasons of such classification are:

- Homogenous nature of the limestone horizons
- Less of intercalations/cavities within the limestone horizon, as observed in the mining excavations
- Confirmation of the envisaged quality behavior of the limestone in course of mining

2.2.6. Mineable Reserves

By considering a total loss of 15% (standard norm adopted by the DGM towards estimation errors, core losses during drilling and mining losses etc.) the estimated mineable reserves of limestone are given below.

Sub Block	Proved reserves *	Probable reserves ^
A	5.455 million tonnes	1.927 million tonnes
B	3.344 million tonnes	1.904 million tonnes
C	1.476 million tonnes	1.053 million tonnes
Total	10.275 million tonnes	4.884 million tonnes

* Reserves are considered up to and above 1800 m RL

^ Reserves are considered between 1750 m RL and 1800 m RL

The quantum of exploration carried out earlier by the department of Geology & Mining, Government of J&K is considered adequate for sustenance of the existing cement plant, besides due to continuity of the beds from top to bottom and absence of any major geological disturbance below 1750 m RL and based on experience, no adverse impact on the quality and continuity of the deposit is anticipated. Therefore, the probable reserves between 1750 m RL and 1800 m RL can be treated on par with proved reserves.

The deposit has been under exploitation with adoption of semi mechanized Opencast method since 1981-82 and the reserves excavated by the JKCL till date have been to the tune of 4.8 million tonnes (approximately).

2.3. TOTAL LAND AREA AVAILABLE WITH JKCL

The total land area attached with the Khrew Integrated Cement Plant at Khrew Tehsil Pampore district, Pulwama includes:

S No.	Khasra No.	Total Land
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S No.	Khasra No.	Total Land
1	3368	698 Kanal 14 Marla
2	3618	291 Kanal 05 Marla
3	3628	259 Kanal 11 Marla
4	Acquired for 600 TPD New Plant	27 Kanal 05 Marla
	Total	1276 Kanal 15 Marla
	Less Vacant Land (not to be included in bidding process)	240 Kanal
	Net Land Available for bidding process	1036 Kanal 15 Marla

2.4. FINANCIALS OF JKCL

The below table provides the financials and capacity utilization for JKCL over the last decade.

S No.	FY	Installed Capacity (MTs)	Clinker Production	Capacity Utilization (%)	Cement Production - Khrew Plant (MTs)	Cement Sale		Sales Turnover (In Rs Cr)	Profit/ Loss (in Rs Cr)
						Khrew (MTs)	Samba (MTs)		
1	2008 - 09	200,000	106533	53.27	140470	142305	0	77.66	3.7
2	2009 - 10	200,000	142882	71.44	162598	163461	0	92.5	4.86
3	2010 - 11	400,000	115542	28.88	136976	137039	0	81.87	-0.57
4	2011 - 12	400,000	172280	43.07	177550	177693	0	120.5	4.35
5	2012 - 13	400,000	152164	38.04	167906	167906	0	116	2.53
6	2013 - 14	400,000	141588	35.39	135712	131313	0	93.29	-16.92
7	2014 - 15	400,000	95421	23.85	103382	103138	0	80.28	-26.27
8	2015 - 16	400,000	102510	25.62	108607	108607	6704	89.97	-23.59
9	2016 - 17	400,000	77502	19.37	91019	118182	19270	87.26	-31.75
10	2017 - 18	400,000	129224	32.3	135944	135195	8842	114.01	-16.61

S No	FY	Installed Capacity (MTs)	Clinker Production	Capacity Utilization (%)	Cement Production - Khrew Plant (MTs)	Cement Sale		Sales Turnover (In Rs Cr)	Profit/ Loss (in Rs Cr)
						Khrew (MTs)	Samba (MTs)		
11	2018 - 19	333,000	58426	17.54	69385	71825	2285	59.33	-42.44
12	2019 - 20	200,000	18808	18.8	18691	18251	6384	20.8	-45.55

Please note that the audited financial accounts of JKCL are under finalization and would be available to interested bidders at the time of the launch of the bid process.

3. POLICIES OF THE UT ADMINISTRATION OF JAMMU AND KASHMIR

Jammu & Kashmir announced its first Industrial policy in 1995 and substituted by another policy in 1998. However, the Comprehensive Industrial Policy was announced in the year 2004 and later in 2016. The Industrial Policy 2016 aimed to attract substantial Investment in Industry for production of Goods, Services and employment generation through optimal utilization of available resources including Human Resource. The Policy was more focused towards the traditional cottage Industries namely Handicraft and Handloom to ensure economic upliftment of the artisans, weavers and traders in this sector. Now, the Government has notified J&K Wool Processing, Handloom and Handicraft Policy 2020 which focuses on requirements of Handloom and Handicraft sector.

The Government of India through Department for Promotion of Industry and Internal Trade (DPIIT) has been offering incentives under different packages such as Special Package I in 2002, Special Package II in 2012 and IDS 2017. Further various incentives have been offered under recently launched 'New Central Sector Scheme for Industrial development of Jammu & Kashmir' vide Government of India notification F.No. 1(1)/ 2020-SSS, dated 19th Feb 2021.

Department of Industries and Commerce, Government of Jammu & Kashmir is responsible for all round industrial development of the Union Territory (UT). It acts as a catalyst to modernize and strengthen the industrial units to make them globally competitive. The industrial landscape of the UT is dominated by MSME, and it plays a crucial role in propelling industrial growth and economy in UT as they contribute around 8% to the GSDP and employ the largest number of people in the manufacturing and services sectors. Approx. 25,000 MSMEs that are operational in the UT contribute almost 60% of the total investment and 90% of total employment in industrial sector in the UT. It is thus imperative that MSME sector be further supported through policy interventions.

Jammu and Kashmir Industrial Policy 2021 aims to address the challenges faced by industry and to create a Sustainable, Balanced, Progressive and Competitive ecosystem in the UT. The Jammu and Kashmir Industrial Policy 2021 is aimed at creating a conducive ecosystem for industry, which attracts investments in focus sectors leading to sustainable, equitable, environment friendly and balanced industrial development thereby creating employment opportunities for the youth, income generation and overall development of the region.

Exhibit 6 Incentives provided by UT of J&K to attract investments

Land Parcels are available in Jammu and Kashmir at very competitive rates in Industrial Areas

- ▶ One of the lowest industrial land rates in India
- ▶ Lowest industrial electricity rate in the country
- ▶ Development of land bank of 6650 acres

Adequate Power Supply provided to Industries

- ▶ India's lowest industrial power tariffs with duty exemptions
- ▶ 14,867 MW hydropower potential identified in the UT
- ▶ Special focus on non-conventional energy
- ▶ UT envisions a power surplus

In order to attract investments, the UT provides ample opportunities for reduction in cost of production and raising profitability, production, revenue and employment generation through readily available and accessible infrastructure.

4. TRANSACTION BACKGROUND AND BROAD TERMS

The Administrative Council of UT administration of Jammu and Kashmir (UTJK) in its meeting dated 19th October 2021 provided an in-principle approval for the complete sale of Jammu and Kashmir Cements Limited, by way of disinvestment of its 100% equity shareholding in the Jammu and Kashmir Cements Limited (JKCL). As part of this disinvestment exercise, the management and control of the JKCL i.e., control of the entire business (along with the mining rights) would be transferred to the successful bidder.

The Industries and Commerce Department, UTJK is adopting a single stage bid process for inviting offers from the interested bidders. The Bidder would need to qualify as per the eligibility criteria mentioned in the RFP. Once the Bidder is qualified, the financial bid offer submitted by the Bidder would be opened.

The disinvestment of JKCL would be undertaken through an outright share-purchase transaction, involving sale of 100% ownership in JKCL through a transfer of shares in favor of a private player selected as the preferred Bidder following a transparent and competitive bidding process.

The overall process of the transaction involves –

- a) Due Diligence by Bidders
- b) Submission of Financial and Non-Financial Bid by the Bidders
- c) Opening of the Non-Financial Bid and Qualification of the Bidders
- d) Opening of the Financial Bid
- e) Approval and Selection of the Successful Bidder
- f) Signing of the Transaction Documents

All assets of JKCL on an as-is where is basis, along with approvals and licenses (including mining license) will be transferred as part of the share purchase sale to the selected bidder.

Please note that the transaction process is further provided in greater detail in the draft RFP.

B. REQUEST FOR PROPOSAL

Notice Inviting Bid

Department of Industries and Commerce,
Union Territory administration of Jammu and Kashmir
Civil Secretariat, Srinagar, 190001

Notice Inviting Bid

Dated xx/xx/2022

Bid No.: XXXXXXXXXXXXX

Subject: Request for Proposal (RFP) for disinvestment of 100% equity stake of UT administration of Jammu and Kashmir in the Jammu and Kashmir Cements Limited

The UT administration of Jammu and Kashmir(UTJK) intends for complete sale of Jammu and Kashmir Cements Limited, by way of strategic disinvestment of the equity shareholding of UTJK (100%) in its undertaking the Jammu and Kashmir Cements Limited (JKCL), along with full management control.

The complete Bid document can be viewed / downloaded from the official website of Department of Industries and Commerce, Jammu and Kashmir at <http://jkindustriescommerce.nic.in/> from 12.11.2022 to 28.11.2022 (up to 17:00 Hrs. IST).

The bidders downloading the tender document are required to submit a Tender fee of amount INR 10,00,000+ GST as applicable) (Indian Rupees Ten Lakhs + applicable GST) ("Tender Fee") through NEFT and sign a confidentiality agreement for access to data room. The Interested Bidder needs to make the payment of the fees to UTJK through NEFT in favor of following account:

Name: XXXXXXXXXXXXX

A/c No.: XXXXXXXXXXXXXXXX

IFSC: XXXXXXXX

Branch Address: XXXXXXXXXXXXXXXX

The interested bidder will need to submit the bids – online and physically containing two separate envelopes for Financial Bid and Non-Financial Bid as mentioned in detail in the RFP document. The last date for submission of online bid is XXXXXXXXX (XX:XX hrs.) and last date for receiving physical bid is XXXXXXXXX (XX:XX hrs.)

Thanking you,

Yours faithfully,

Shri xx

Designation

Disclaimer Notice

The Administration of Union Territory of Jammu and Kashmir (UTJK, UT administration of J&K or the Authority) is proposing to disinvest Jammu and Kashmir Cement Limited (JKCL or the Company), a fully owned cement manufacturing company under **UTJK** through strategic sale along with transfer of management control. ("Proposed Transaction"). KPMG India (KPMG or TA or Transaction Advisor or Advisor) has been appointed as Transaction Advisor pursuant to work order dated 20 May 2022, issued by NITI Aayog for advising on the Proposed Transaction.

The information contained in this Request for Proposal document (the "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 and such other terms and conditions subject to which such information is provided.

This RFP has been prepared by KPMG and is being issued for the limited purposes of providing certain information on JKCL and for enabling recipients to be apprised of such certain basic details of JKCL prior to submission of their Request for Proposal ("RFP") in respect of the Proposed Transaction. In all cases, bidders should carry out their own evaluation and analysis of JKCL and all data set forth in this RFP, and their own investigation in relation to the business of JKCL. This RFP does not contain complete information in relation to JKCL and may be subject to material updates, revisions or amendment. UTJK, JKCL or KPMG India do not intend for this RFP to form the basis of an investment decision or a decision to participate in the Transaction. This RFP is not intended to form the basis or as a recommendation on behalf of JKCL or UTJK or KPMG for any investment decision.

Each potential investor must seek its own advice from professionals for any matters pertaining to or relating to the Company or the Proposed Transaction or for evaluating the Proposed Transaction including with regard to legal, financial and taxation issues. Neither the UTJK, JKCL or any of its affiliates, subsidiaries, advisors, directors, officers, employees or agents make any representations and/or warranty in respect of the information contained in this RFP. This RFP has been prepared for information purposes only, without any regard to specific objectives, suitability, financial situations and needs of any particular person and does not constitute a recommendation, and should not be construed as an offer to sell or the solicitation of an offer to buy, purchase or subscribe to any securities, if any, mentioned therein, and neither this document nor anything contained herein shall form the basis of or be relied upon in connection with any contract or commitment whatsoever.

Each recipient of this RFP contemplating participating in the Proposed Transaction shall make, and shall be deemed to have made, its own independent investigation and assessment of the financial conditions and affairs and its own appraisal of the creditworthiness of the Company and its own independent assessment of the terms and conditions of the Proposed Transaction. The UTJK reserves the right to change the procedures for pursuing the Proposed Transaction. This document and opinion, if any, contained herein have been prepared by KPMG, based upon information available to the public and sources, believed to be reliable. This RFP is divided into chapters and sub-sections only for the convenience of the readers. Any partial reading of this RFP may lead to inferences, which may be at

divergence with the conclusions and opinions based on the entirety of this RFP. The distributing/taking/sending/dispatching/transmitting of this document in certain jurisdictions other than the Republic of India may be restricted or prohibited by law of such jurisdiction and persons into whose possession this document comes should inform themselves about, and observe, any such restrictions. The recipient shall be solely liable and responsible for any dissemination, distribution, transmission or reproduction of this RFP. Any failure to comply with these restrictions may constitute a violation of the laws of any such other jurisdictions for which the recipient shall be solely liable and responsible. It is recommended that this RFP shall not be disseminated, distributed, transmitted or reproduced. All acts, deeds and things done or caused or intended to be done, by UTJK, JKCL and/or KPMG India hereunder are based on and in reliance of the potential investor's acceptance of the terms and conditions of this disclaimer.

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1. Definitions

Capitalized terms defined herein shall bear the meaning ascribed thereto in this Request for Proposal (RFP). Additionally, in this RFP, unless there is anything repugnant to the subject or context thereof, the expressions listed below shall have the following meanings:

Expression	Definition
Act	means the (Indian) Companies Act, 2013, as presently enacted or as the same may be amended, restated, re-enacted or replaced, from time to time.
Advisors	shall refer to Transaction Advisor, Legal Advisor and Asset Valuer.
Applicable Law or Law	means applicable provisions of the laws of India or any other jurisdiction as applicable to any of the Bidders hereto, including any statute, law, regulation, ordinance, rule, judgment, notification, note, clarification or other form of delegated legislation binding upon the Parties, rule of common law, order, decree, bye-law, government approval, directive, guideline, requirement or other governmental restriction, or any similar form of decision of, or determination by, or any interpretation, policy or administration, having the force of law of any of the foregoing, by any authority having jurisdiction over the matter in question, whether in effect as of the date of this RFP or thereafter. For the avoidance of doubt, under no circumstances shall UTJK or any Governmental Authority or Person associated with the UTJK be regarded as subject to Laws other than those of India, for the purposes hereof.
Approvals	means the authorizations, consents, permits, permissions, waivers, and approvals of any and all Governmental Authorities required under Applicable Law for the consummation of the Transaction.
Associate Company	shall have the same meaning as defined under the Companies Act, 2013, as amended.
Bid	shall mean the Non-Financial Bid and the Financial Bid submitted by the Bidder in respect of the Transaction pursuant to this RFP.
Bid Due Date	Shall have the same meaning as defined in <i>Clause 2.3</i> .
Bidder or Interested Bidder	shall mean an Eligible Entity, submitting the Bid, either independently or collectively as a Consortium. For avoidance of doubt, the term Bidder will also include collectively all Consortium members and/or any SPV incorporated by the Consortium/ Bidder. Any reference to an Bidder shall include its successors and permitted assigns, as the context may require.
Bidding Process	shall mean the entire process envisaged under this RFP for submission of the Bid for the execution of the Transaction by the Successful Bidder.
Bid Security	shall mean an amount of INR 5,00,00,000 (Indian Rupees Five Crore Only) in the form of a bank guarantee in the format as prescribed in <i>Annexure 10</i> .
Consortium	shall refer to a group of maximum four (Four) Eligible Entities that have collectively submitted Bid in accordance with the provisions of this RFP and pursuant to a consortium agreement entered into amongst them and includes an Employee Consortium.
Consortium Member(s)	means an Eligible Entity participating in the Transaction as part of a Consortium.

Consortium SPV	means the SPV to be formed by Consortium Members in the event it is designated as the Successful Bidder.
Control	shall have the same meaning as assigned to it in Clause 27, Section 2 of the Companies Act, 2013, as amended.
Data Room/ VDR	shall mean the virtual data room established by JKCL/TA in relation to this Transaction to facilitate the due diligence exercise (DDE) by Interested Bidders.
Definitive Agreements	shall mean agreements to be entered into between JKCL's Specified Shareholders and Successful Bidder, and/or Parent meeting financial criteria on behalf of the Successful Bidder (in case of a Sole Bidder), SPV / Consortium SPV (as applicable) and Consortium Members, as the case may be, to effectuate the sale of JKCL.
Due Diligence Exercise or DDE	shall mean a due diligence conducted by the Bidders on JKCL which shall include a virtual data room and may also include, at the sole discretion of UTJK and JKCL, physical inspection.
Eligible Entity	shall mean the following domestic or international entity(ies), eligible to participate in this bid process and submit Bid in response to and in accordance with this RFP <ol style="list-style-type: none"> 1. A company incorporated in India under the Indian Companies Act, 1956, or Companies Act, 2013, as the case may be, excluding Government Company/ies as such term is defined under the Companies Act 2013; 2. A company incorporated outside India which is permitted to invest under the laws of India (subject to such parties obtaining all statutory approvals from GoI/FIFP/RBI etc.); 3. A limited liability partnership under the Limited Liability Partnership Act, 2008 4. A limited liability partnership incorporated outside India 5. SEBI Registered Alternative Investment Funds (AIF) 6. Funds incorporated outside India, which is eligible to invest in India under the laws of India (subject to such parties obtaining all statutory approvals from GoI/FIFP/RBI etc. by themselves)
Fee	shall mean a non-refundable fee of Rs.10 (Ten) Lakh , to be submitted by the Interested Bidder along with the Bid, in the form and manner prescribed in <i>Clause 2.2.3</i>
Governmental Authority	shall mean any government authority, statutory authority, government department, agency, commission, board, tribunal or court or other law, rule or regulation making entity having or purporting to have jurisdiction on behalf of the Republic of India or any state or other subdivision thereof or any municipality, district or other subdivision thereof.
Indian Rupees, Rupees, or INR	shall mean the lawful currency and legal tender of India
Lead Member	shall mean such Consortium Member holding at least fifty one percent (51%) equity shareholding on a fully diluted basis (i.e. holding at least 51% of in the equity shareholding on a fully diluted basis of the Consortium SPV) and is designated as Lead Member as per the Consortium Agreement executed among all the Consortium Members
Parent	means the entity into which the accounts of the IB/Consortium Member are consolidated.

Person	means any individual, company, firm, association, trust, or any other organization or entity (including the Government and any governmental or administrative subdivision).
Promoter	shall have the same meaning as defined under the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018, as amended.
Request for Proposal (RFP)	means this request for proposal together with the annexures and documents referred herein, and any addenda to this RFP.
Share Purchase Agreement or SPA	shall mean the share sale and purchase agreement which shall be entered into between UTJK and the Successful Bidder in respect of the Successful Bidder's purchase of the Sale Shares held by UTJK in JKCL.
SPV	shall mean a special purpose wholly owned and controlled by the Successful Bidder (whether a sole Bidder or a Consortium), as permitted to be incorporated in terms of this RFP.
Subsidiary company or Subsidiary (ies)	shall have the same meaning as assigned to it in Clause 87 Section 2 of the Companies Act 2013 as amended.
Successful Bidder	shall mean the Bidder that is finally selected in accordance with the terms of the RFP to enter into Definitive Agreements.
Transaction	shall mean disinvestment of 100% stake of UT administration of J&K in JKCL along with the transfer of management and Control.
UT administration of Jammu & Kashmir (or UTJK)	shall mean UT administration of Jammu & Kashmir acting through its Department of Commerce and Industry.

2. Introduction

2.1. Transaction background and salient features

- 2.1.1. Jammu and Kashmir Cements Limited (“JKCL” or “the Company”), was incorporated in 1975 under the Companies Act, 1956 as a government owned company with an authorized capital of Rs 60 Cr. The primary objective of the creation of JKCL was to reap benefits of the rich deposits of Limestone in the Khrew belt for manufacturing and sale of cement. The company started its operation with the commissioning of its first plant at Khrew, Pulwama, with a capacity of 600 TPD in 1982. Two new plants, one at Khrew, Pulwama with a capacity of 600 TPD and one grinding unit at Samba, Jammu with a capacity of 300 TPD were commissioned in 2010 and 2015 respectively. The company has rights over a Limestone mine in Khrew spread over 88.1 hectares, with an estimated net mineable reserve of around 10.4 million tonne. Over the years, JKCL’s main source of revenue has been sale of cement to various Government departments and PSUs.
- 2.1.2. The Administrative Council of UT administration of Jammu and Kashmir (UTJK) has in its meeting dated 19th October 2021 has provided an in-principle approval for the complete sale of Jammu and Kashmir Cements Limited, by way of strategic disinvestment of the equity shareholding of UTJK (100%) in its undertaking the Jammu and Kashmir Cements Limited (JKCL).
- 2.1.3. As part of the disinvestment exercise, the management, and control of JKCL will be transferred to the Successful Bidder through a transaction structure which includes purchase of shares of JKCL. By way of control of JKCL, the control of entire business of JKCL (including mining rights and land currently with JKCL) will also stand transferred.
- 2.1.4. The Interested Bidders would be required to submit a price bid for JKCL i.e., ***the best price offer for buying out 100% share of JKCL*** which would be payable upfront.
- 2.1.5. The UTJK through assistance from NITI Aayog has engaged KPMG Assurance and Consulting Services LLP (KPMG India or TA or Transaction Advisor) as Transaction Advisor for providing advisory services and managing the disinvestment process on their behalf
- 2.1.6. This RFP is provided by UTJK and shall remain the property of UTJK. By receiving this RFP, the Bidders agree and acknowledge that the documents submitted by the Bidders will not be returned to the Bidders.
- 2.1.7. Notwithstanding anything to the contrary contained in this RFP, the detailed terms specified in the Transaction Documents shall have an overriding effect (in case of any inconsistency between the RFP and the Transaction Documents); provided, however, that any conditions or obligations imposed on the Bidder hereunder (and which are not inconsistent with the Transaction Documents) shall continue to have effect in addition to its obligations under the Transaction Documents.

2.2. Transaction Process

2.2.1. The Authority has adopted a single-stage two envelope system (referred to as the “Bidding Process”) for inviting Interested Bidders, to make an offer for the purchase of Sale Shares along with the transfer of management control of JKCL by submitting their bid. Under this process, the Bid shall be invited in single stage bidding and two envelope system using two electronic envelopes. Prior to or along with the Bid, the Interested Bidder shall pay to the Authority a sum of Rs. 10,00,000 + GST as applicable (Rupees Ten Lakh + GST as applicable) as Tender Fee. The eligibility and qualification of the Bidder will be first examined based on the details submitted under first envelope (i.e., Non-Financial Bid) with respect to eligibility and qualifications criteria prescribed in this RFP. (“Bidder”, which expression shall, unless repugnant to the context, include the Members of the Consortium). The second envelope (i.e., Financial Bid) shall be opened of only of those Bidders whose Non-Financial Bid are responsive to eligibility and qualifications requirements as per this RFP.

2.2.2. Interested Bidders (“Bidders”) are being called upon to submit their Bid in accordance with the terms specified in this RFP. The Bid shall be valid for a period of 180 (one hundred eighty) days from the date specified in **Clause 2.3** for submission of Bid (the “Bid Due Date”).

2.2.3. The Interested Bidder shall pay to the Authority a sum of Rs. 10,00,000 + Applicable GST (Rupees Ten Lakh Only + Applicable GST) towards non-refundable fee as Tender Fee, in order to access the RFP document. The Interested Bidder needs to make the payment of the fees to UTJK through NEFT in favor of following account of **XXXX**

Name: **XXXXXXXXXXXXXXXX**

A/c No.: **XXXXXXXXXXXXXXXX**

IFSC: **XXXXXXX**

Branch Address: **XXXXXXXXXXXXXXXX**

2.2.4. Bidders that submit the Tender Fee would be allowed to participate in the bidding process and to conduct Due Diligence Exercise (DDE) in accordance with the Due Diligence Rules.

2.2.5. Bidders will be required to sign a confidentiality agreement after paying the tender fee to the authority, post which they would be provided access to Virtual Data Room (VDR) and draft SPA.

2.2.6. A Bidder is required to deposit, along with its Bid, a Bid Security Amount of Rs. 5 crore (Rupees Five Crore only) (“Bid Security”), refundable not earlier than 180 (one hundred eighty) days & not later than 240 (two hundred forty) days from the Bid Due Date, except in the case of the Selected Bidder whose Bid Security shall be retained till the expiry of 15 (fifteen) days from the date of payment of the upfront amount by the Bidder to the Authority.

2.2.7. The process for the proposed Transaction can be broadly categorized as follows:

- a. Due diligence by Bidders
- b. Bid process which includes:
 - i. Submission of Bid; (Non-Financial Bid and Financial Bid)
 - ii. Opening of Non-Financial Bid
 - iii. Opening of Financial Bid

- c. Approval and Selection of the Successful Bidder
- d. Execution of the Transaction Documents
- e. Completion/ Closure of the Transaction

2.2.8. The term “Highest Bidder” shall mean the Bidder who is quoting the highest offer for JKCL. If the Highest Bidder withdraws or is not selected for any reason in the first instance, the Authority reserves the right to course of action including declaring the Bidder proposing the next highest offer as the preferred bidder, re-tender or call for a limited or short notice tender, or take any such measure as maybe deemed fit in the sole discretion of UTJK, as allowed under extant guidelines

2.3. Transaction Timelines

2.3.1. The Transaction Timelines shall be as follows:

Table 1: Tentative Process Timeline

No.	Activity	Date	Time (IST)
1.	Issue of Draft RFP for comments	10.11.2022	
2.	Last date for receiving queries	25.11.2022	17:00 hrs.
3.	Invitation of Final RFP	01.12.2022	
4.	Access to Virtual Data Room	02.12.2022	
5.	Pre-Bid meeting	07.12.2022	10:00 hrs.
6.	Initiation of Due Diligence and Site Visit	08.12.2022	
7.	Submission of queries on Bid Documents and Data Room	23.12.2022	
8.	Issue of Non-Negotiable Transaction Documents	03.01.2023	
9.	Close of Virtual Data Room	10.01.2023	17:00 hrs.
10.	Last date for submission of Bids – Bid Due Date	13.01.2023	17:00 hrs.

Note: The above dates are tentative and may be changed at the discretion of UTJK during the bidding process. Such changes in dates/schedule for subsequent activities shall be duly notified.

2.3.2. The Interested Bidders will be notified separately on the schedule for the Site Visit.

2.3.3. The Interested Bidders have to submit their Bid in the form and manner as specified in the RFP. The Bid shall be addressed to the authorized representative, and it shall be received no later than 17.00 hours on XX month, 20XX (the “Bid Due Date”) in the manner specified in this RFP at the following address:

Name of Authorized Representative:
Address:
Tel:
Mobile:
Email:

2.4. Content of RFP

2.4.1. An advertisement has been issued in the newspapers inviting Interested Bidders (IBs) to submit their RFP to participate in the Transaction.

2.4.2. This RFP contains the following:

- a. Brief description of the Transaction
- b. Instructions to the Bidders
- c. Eligibility Criteria
- d. Conditions/ Circumstances which may lead to disqualification of IBs
- e. Submission of Bid
- f. Evaluation of Bid
- g. Covering Letter for Non-Financial Bid
- h. Form A (forming an integral part of Bid)
- i. Format of General Power of Attorney
- j. Format of Power of Attorney in favor of Lead Member
- k. Format for Consortium Agreement
- l. Confidentiality Undertaking
- m. Format of Affidavit
- n. Format of declaration with respect to Statement of Legal Proceedings
- o. Format of Bid Security in the form of Bank Guarantee
- p. Format for Financial Bid

2.4.3. This RFP along with annexure have been uploaded on **websites of XXXX**. Following receipt of RFP, Interested Bidders are required to respond in the format as detailed in this RFP along with a non-refundable Fee as detailed in *Clause 3.3*.

2.5. Clarification

2.5.1. If the Interested Bidder(s) needs any clarification/additional information in respect of this RFP, then the same shall be submitted in writing (in the format as per Table 2 prescribed hereunder) by email to the representative of UTJK as per the details mentioned below. The requests should be sent before the date specified in the time schedule given in the RFP. The UTJK shall not respond to any request for clarification received beyond the date so specified and intimated to the Interested Bidders:

Email ID:

2.5.2. All communications shall clearly mention in the subject line: “Queries/ Request for Clarification related to RFP for Disinvestment of JKCL”.

2.5.3. All queries or request for clarification/ additional information should be sent in the following format:

Table 2: Format for queries/ request for clarification related to draft RFP/ Transaction Documents for Disinvestment of JKCL

No.	Page number and section reference	Bidder’s queries/Request for additional information/ Request for Clarification	Bidder’s suggestions if any	Bidder(s)’ comments if any, including Rationale and/or justification for the proposed suggestion.
1.				

2.				
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- 2.5.4. The above format for providing suggestions and comments shall be strictly complied with. UTJK reserves the right to accept or reject in part or full any of the requests/ comments/clarifications/ suggestions, as it deems fit
- 2.5.5. Interested Bidders should note that all correspondence, enquiries, requests for additional information and clarifications in relation to the Transaction should be routed and addressed only to the UTJK at the above email address. Under no circumstances, the Bidders or their officers, employees, agents and professional advisors shall make contact with the NITI Aayog or UTJK or JKCL. Neither NITI Aayog nor UTJK nor JKCL shall be responsible in any manner to reply to any communication directly to the Bidders or to respond to any communication sent directly to them by the Bidders
- 2.5.6. The responses to the Bidder's queries shall be uploaded on the website of UTJK XXXXXX. Further, UTJK, JKCL and TA, reserve the right not to respond to queries or clarifications sought and not to provide information in addition to the information provided herein
- 2.5.7. A revised draft of the RFP and/ or Transaction Documents will be circulated to all the Interested Bidders for their perusal post incorporation of the comments/suggestions as may be deemed fit by UTJK. The revised draft of the RFP and/ or Transaction Documents will not be negotiable any further ("**Non-negotiable Transaction Documents**"). The Interested Bidders who agree with the drafts of the Non-negotiable Transaction Documents and choose to proceed with submitting their Bid will then have to initial the Non-negotiable Transaction Documents (such initialed draft of Non-negotiable Transaction Documents being the "Agreed Form Transaction Documents") and submit the same as part of their Bid.
- 2.5.8. Nothing mentioned in this section shall be taken or read as compelling or requiring the UTJK to respond to any questions or provide any clarifications. No extension of any time and date referred to in this RFP shall be granted on the basis or grounds that the UTJK or TA has not responded to any questions or provided any clarifications.

3. Instructions to the Bidders

3.1. General conditions

- 3.1.1.** This RFP along with annexure is available for downloading from the e-procurement portal/website of Department of Industries and Commerce, UTJK (website).
- 3.1.2.** The documents including RFP and draft Transaction Documents, and all attached documents are and shall remain or become the property of UTJK and are transmitted to Interested Bidders solely for the purpose of preparation and submission of Bid in accordance herewith. Interested Bidders are to keep all data and information of JKCL (shared as part of the Transaction process) as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid.
- 3.1.3.** The Interested Bidders shall bear all costs associated with the preparation and submission of the Bid and all costs associated with conducting the due diligence. The UTJK or the Company shall not, under any circumstances, be responsible or liable for any such costs, whether direct, incidental, or consequential and no cost incurred by the Interested Bidders in this regard shall be borne by the UTJK or the Company.
- 3.1.4.** The Interested Bidders are expected to carry out their own investigations and other examination in relation to the Transaction before submitting their Bid.
- 3.1.5.** Bids are liable to be rejected by UTJK if Interested Bidders fail to meet the qualifying eligibility criteria as specified in section titled 'Eligibility Criteria' and/or are disqualified in accordance with the conditions specified in section titled 'Disqualifications' in this RFP or for any other reason deemed fit, or even without assigning any reason whatsoever.
- 3.1.6.** The UTJK reserves the right to modify/postpone/cancel or call off the Transaction without communicating any reasons whatsoever. In such an event no financial obligation whatsoever shall accrue to UTJK, the Company, or any of their respective officers, employees, advisors or agents.
- 3.1.7.** The UTJK, JKCL, their Advisors, and their respective officers, employees and agents or advisors shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to the RFP process, including any error or mistake therein or in any information or data given by the Transaction Advisor.
- 3.1.8.** The UTJK and JKCL reserve the right not to respond to questions raised or provide clarifications sought, at their sole discretion if considered inappropriate or prejudicial to do so or even otherwise. Nothing contained in this document shall be taken or read as or construed or deemed as compelling or requiring the UTJK/ JKCL to respond to any question or to provide any clarification to the Interested Bidders. No extension of any time and date referred to in this RFP shall be granted on the basis or grounds that the UTJK/ JKCL has not responded to any question/ provided any clarification.

- 3.1.9. Notwithstanding anything contained in this RFP, the UTJK and JKCL reserves the right to reject any or all Bids on the grounds of national interest, national security, public interest, or any other grounds without communicating any reasons thereof and without any liability or any obligation for such rejection.

3.2. Amendment to the RFP

- 3.2.1. At any time prior to the Due Date for submission of Bid, UTJK may, for any reason, whether at its own initiative or in response to clarifications requested by any Interested Bidder, modify this RFP by the issuance of an addendum. Any addendum/clarification issued shall be uploaded on e-procurement portal/ website of Department of Industries and Commerce, UTJK (<http://jkindustriescommerce.nic.in/>).
- 3.2.2. To afford Interested Bidders a reasonable time to take any addendum or subsequent clarifications into account, or for any other reason, the UTJK may, at its sole discretion, extend Due Date for submission of the Bid.

3.3. Submission of Bid

- 3.3.1. The Bid, conforming to the conditions of this RFP shall be submitted in electronic form via e-procurement portal/ email to XXXX with all the requisite documents in pdf format by the Bid Submission Due Date and time prescribed at **Clause 2.3**. Bidders submitting Bid electronically shall also be required to submit the Bid in hard physical copy within 7 days from the Bid Submission Due Date. All the documents submitted in electronic form may either be scanned version of documents with physical signatures or signed digitally using a valid Digital Signature Certificate. Note: For avoidance of any doubt, it is clarified that the Power of Attorney cannot be digitally signed, even if Bid is submitted in an electronic form, which must be physically signed, witnessed, notarized and legalized/apostilled (as required) as per the procedure specified in **Annexure 3** and **Annexure 4** of the RFP. Such signed Power of Attorney may then be scanned and submitted electronically.
- 3.3.2. Bid shall be submitted during the working hours (Monday to Friday 10:00 a.m. to 5:00 p.m.) on or before scheduled date and time as stipulated in **Clause 2.3**.
- 3.3.3. The completed forms, “Annexures” of the bid shall be considered a part of the Transaction Documents in the case of Successful Bidder.
- 3.3.4. The Bids received after the appointed time and date at **Clause 2.3** will be rejected.
- 3.3.5. The Interested Bidder shall submit the Bid physically by mentioning the page number on each document and to be submitted in sequence in a sealed, covering envelope clearly marked “**Private and Confidential – Bid Submission for the Disinvestment of Jammu and Kashmir Cements Limited**” in folders as per the following directions:

- a. **Covering Envelope:** The Bid submitted in Cover Envelope should be a confidential bid and should not have any reference to the name of the Bidders. The sealed Cover Envelope should be super-scribed with “Cover Envelope – Bid for Disinvestment of Jammu and Kashmir Cements Limited”, Bid Due Date and should contain both sealed Envelope 1 (Non-Financial Bid) and Envelope 2(Financial Bid).The Cover Envelope should contain two separate sealed envelopes as described below:
- b. **Envelope 1:(Non-Financial Bid)** –containing the documents, as per the form and manner detailed below. This Envelope shall be super-scribed as “Envelope No. 1–Non-Financial Bid – Important Supporting Documents for the Disinvestment of Jammu and Kashmir Cements Limited
- c. **Envelope 2: (Financial Bid)** – containing only the Financial Bid Form.This Envelope shall be super-scribed as “Envelope No. 2 - Financial Bid for the Disinvestment of Jammu and Kashmir Cements Limited

3.3.6. The **Envelope 1(Non-Financial Bid)**should contain the following formats and documents as enlisted below:

- a. Covering Letter for Non-Financial Bid in the format specified in *Annexure 1*.
- b. Undertaking in relation to the Ultimate Beneficial Ownership in Annexure 1A.
- c. Duly filled in Form A by Interested Bidder/ each Consortium Member/ Parent of Sole Bidder in the event Sole Bidder fulfils the Net worth criteria through its Parent as per *Annexure 2*,including the following major supporting documents:
 - i. **Executive summary** providing brief description for the Bidder and (where applicable) for each Consortium Member, Parent whose Net worth has been relied upon by the Sole Bidder containing details like Ownership Structure, Identity of the natural persons who are the ultimate beneficial owners of the Bidder/ each Consortium Member, the Place of Effective Management of business of the Bidder/ Parent of Sole Bidder and each Consortium Member (“Place of Effective Management” means the place where key management and commercial decisions that are necessary for the conduct of business of an entity as a whole are, in substance made.), etc. write up on business history and growth, business areas / activities, respective revenue details etc., it shall include a brief commentary on the capability of the Bidder/ Parent of Sole Bidder/ Consortium Members, as demonstrated, inter alia, in its past track record, to run its own business.
 - ii. **Contact information** of the Bidder/ Parent of Sole Bidder/ each Consortium Member including full name, address, telephone and facsimile numbers, e-mail address and the names and the titles of the persons who are the principal points of contact for each member and identifying lead Consortium Member. Details of the website of the Bidder/ Parent of Sole Bidder/ each Consortium Member are also to be provided.
 - iii. **Basic information** pertaining to incorporation and commencement of business for Bidder/ Parent of Sole Bidder/ each Consortium Member.

- iv. **Certified true copies of the following documents** to be submitted. However, if Bidder/ Parent of Sole Bidder/ any Consortium Member cannot submit any of the following documents, it shall state reasons for the same:
- Memorandum of Association
 - Articles of Association
 - Certificate of Incorporation
 - Certificate of Commencement of Business
 - Charter Documents
 - Other Constitution Documents i.e. Partnership Deed etc. as may be applicable
 - Registration Certificate for AIFs
- v. A certificate for **list of Board of Directors, principal shareholders and key management personnel** duly signed by the respective Company Secretary or any officer in charge of secretarial/legal affairs of Bidders / Parent of Sole Bidder/ each Consortium Member and also counter signed by its authorized signatory.
- vi. A certificate by an independent chartered accountant/statutory auditor/Company Secretary or any other officer in-charge of secretarial/ legal affairs, for the **shareholding pattern** of the Bidder/ Parent of Sole Bidder/ each Consortium Member.
- vii. A certificate duly signed by Company Secretary or any other officer in charge of secretarial/legal affairs, for **eligibility to participate in the Transaction**.
- viii. An independent chartered accountant/ statutory auditor certificate **certifying the fulfillment of Financial Criteria** as specified in the Eligibility criteria section.
- ix. Audited Financial Statements (on standalone and consolidated basis)/Annual Reports for the previous three financial years.
- Provided that, in the event Bidder/ Parent of Sole Bidder/ any Consortium Member is an unlisted entity, and does not have the audited financial statements of immediately preceding financial year, the latest available unaudited/ provisional financial statements may be given as certified by its statutory auditor; in case such entity is a listed entity, and its audited financial statements are not available for the immediately preceding financial year, the information contained in latest Quarterly Limited Review report is to be submitted. However, the audited financial statements of such Bidder/ Parent of Sole Bidder/ Consortium Member shall be submitted, as and when prepared as per the statutory requirements and timelines of the relevant countries where it is incorporated.
 - All financial statements/ annual reports/ net worth certificate submitted should be certified by authorized signatory.
 - In case the Bidder/ Parent of Sole Bidder/ any Consortium Member cannot submit the consolidated financial statements as mentioned above, it shall specify reasons for the same.

- x. Documents such as a **board or shareholders' resolution in favor of the person executing the Power of Attorney** for the delegation of power on behalf of the Bidder/ Consortium Member. (The date of execution of board or shareholders' resolution should be prior to the date of execution of the Power of Attorney)
 - xi. **Management Organization:** An overview of Bidder's / Parent of Sole Bidder/ each Consortium Member's senior management and organization structure certified by the company secretary or any other officer in charge of secretarial/legal affairs of the Bidder/ each Consortium Member.
 - xii. **International Operations/ Joint Venture/Alliances:** Brief note of Bidder's / Parent of Sole Bidder/ Consortium Member's international operations, joint ventures, alliances (whether international or domestic, which the Bidder considers as being material (directly or indirectly) to its business and/ or the Transaction), including incorporation details, registered office, nature and size of such operations, equity ownership/ effective management and control (as applicable).
 - xiii. **Details of those companies and professional firms**, if any, who are (or will be) advising the Bidder/ Parent of Sole Bidder/ Consortium/ Consortium Member for the Transaction, together with the names of the principal individual advisors at those companies and firms.*Note: This information can be provided at a later stage, if not available at this stage.*
 - xiv. **Details of contingent liabilities and outstanding litigations**, which if materialized, would have or would reasonably be expected to have a material adverse effect on the business, operations (or results of operations), assets, liabilities and/or financial condition of the Bidder/ Consortium Member/ Parent of Sole Bidder (in case the net worth of same is used for meeting financial eligibility criteria), or other similar business combination or sale.
 - xv. If the Bidder/any Consortium Member is a foreign entity/ overseas corporate body, specify list of statutory approvals from the Government of India/ the Reserve Bank of India/ Department for Promotion of Industry and Internal Trade relevant ministry/ any other Government agency, specifying whether the same is applied for/ to be obtained/ awaited.
- d. Appropriately executed **General Power of Attorney** authorizing the signatory of the Bid to commit the Bidder / each Consortium Member (as per *Annexure 3*).
 - e. Appropriately executed **Power of Attorney authorizing the lead Consortium Member** to do all acts, deeds and things as may be necessary in connection with the Consortium's Bid for the Transaction (as per *Annexure 4*).
 - f. In case of a Consortium, a **Consortium Agreement** duly executed amongst each of the Consortium Members (as per *Annexure 5*).
 - g. Duly executed **Confidentiality Undertaking** (as per *Annexure 6*).
 - h. Duly executed **Affidavit** by Bidder/ Lead Member of Consortium / Parent of Sole Bidder (as per *Annexure 7*).
 - i. A declaration in relation to **statement of legal proceedings** (as per *Annexure 8*)

- j. An **Undertaking by Parent** (as per Annexure 9).
- k. Appropriately executed **Bid Security in the form of Bank Guarantee** (as per *Annexure 10*).
- l. Duly signed Statutory Auditor or independent chartered accountant's **certificate for Financial Capacity** (as per Annexure 11).

3.3.7. The **Envelope 2 (Financial Bid)** should contain only the Financial Bid Form, as per format provided in Annexure 12

3.3.8. Unless otherwise specified, a copy of any document that is not the original, shall be a certified true copy (duly verified by a notary) for submission. Documents executed and issued overseas will also have to be apostilled / consularised using the procedure as per applicable law.

3.3.9. The Bid and all related correspondence and documents in relation to the Bid shall be in English language. Any documents that are not in the English language shall be accompanied by an official translation duly notarized and apostilled / consularised by the Indian mission of the home country.

3.3.10. UTJK shall bear no responsibility for non-receipt of documents sent by post/courier/any other means.

3.3.11. Any additional information supplied subsequent to the Due Date of submission of Bid as prescribed in **Clause 2.3**, unless the same has been expressly sought for by UTJK, shall be disregarded.

3.3.12. Bids shall be opened only after the due date and time of submission of Bids.

3.4. General Conditions of the Bid Process

3.4.1. Bids submitted should be:

- a. In the form specified in this RFP;
- b. Unconditional and as per the terms and conditions of this RFP. Any condition or qualification or any other stipulation contained in the Bid shall render the Bid liable to rejection;
- c. Made on the basis of the terms of the Non-negotiable Transaction Documents and UTJK shall not consider any further amendments proposed by Bidders after the timeline as specified under the RFP; and
- d. Submitted to UTJK as per the timelines specified in this RFP, or as amended by UTJK.

3.4.2. **Bidder Warranty:** It would be deemed that by submitting the Bids, the Bidders have:

- a. Conducted due diligence related to the Transaction to its complete satisfaction;
- b. Made a complete and careful examination of the RFP, Non-negotiable Transaction Documents, Data Room, and other documents shared with the Bidders;
- c. Received all relevant information requested from JKCL/UTJK;
- d. Satisfied itself about all matters, things and information necessary and required for submitting an informed Bid; and
- e. by accessing this RFP, the Bidder agrees and releases the UTJK, JKCL and TA, its employees, agents and advisors, irrevocably, unconditionally and fully from any and all liabilities for claim, 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 herewith and waives any and all rights and/or claim it may have in this respect, whether actual or contingent, present or future.

- 3.4.3. **Cost of Bid:** The Bidders shall be responsible for all the costs associated with the preparation of their Bid and their participation in the Bid process. UTJK/JKCL/ Advisors will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bid process.
- 3.4.4. **Cost of Consummation of Transaction:** The Successful Bidder shall pay appropriate stamp duty in respect of the Transaction Documents. All costs, charges, taxes, and expenses incidental to and in relation to the Transaction including the cost of and incidental to the execution of Transaction Documents and other writings, if required to be made in pursuance thereof, registration fee, other governmental / third party charges, fees, etc., including for obtaining any approvals shall be borne and paid by the Successful Bidder alone. Bidders to satisfy themselves on their own regarding all associated costs of consummation of the Transaction during the due diligence process and UTJK/JKCL/ Advisors would not be liable for any such cost estimations.
- 3.4.5. **Currency:** The currencies for the purpose of submission of the Financial Bid/ Price Bid shall be the Indian Rupee (INR).
- 3.4.6. **Validity/ Extension of Validity of Bids:** Bids shall be valid for a period of 180 (one hundred and eighty) days from the Bid Due Date (the “Bid Validity Period”). The validity may need to be extended on intimation of the same to the Bidder and all documents submitted by the Bidder in connection with the Transaction, along with all enclosures, undertakings and information contained therein, shall continue to remain valid and binding till such date.

3.5. Evaluation of Bid

- 3.5.1. Any condition or qualification or any other stipulation contained in the Bid shall render the Bid liable to rejection as a non-responsive Bid.
- 3.5.2. The UTJK reserves the right to call for any additional document (s)/ information / physical copies of any document from the Bidders, which may be considered necessary, without any liability to the Company.
- 3.5.3. The UTJK or its Advisors may seek clarifications and information as it deems appropriate and if required from any or all the Bidders during the course of bid evaluation.
- 3.5.4. The UTJK reserves the right to verify all statements, information and documents submitted by the Bidder in response to the RFP, or the Bid process and the Bidders shall, when so required by the UTJK, make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification, by UTJK does not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the UTJK thereunder.

3.6. Governing Law/ Jurisdiction

- 3.6.1. This RFP and all matters incidentals hereto shall be governed by and construed in accordance with the laws of India. All disputes arising out of and in connection herewith shall be subject to the exclusive jurisdiction of the **High Court of Jammu & Kashmir**.

4. Qualification requirements and Eligibility Criteria

4.1. Eligibility Criteria

4.1.1. The eligibility criteria for the Interested Bidders would be as follows:

A. Incorporation Criteria:

- 4.1.2. Any Eligible Entity (**Single Entity** or a Group of Entities (“**Consortium**”) but with an identified Lead Member) which is permitted to invest under the laws of India (subject to such entity obtaining all statutory approvals by themselves from GOI, Department for Promotion of Industry and Internal Trade, RBI, relevant ministry etc. as applicable) can submit a Bid either independently or as a Consortium Member. (“Bidder”)
- 4.1.3. The ultimate beneficial owner for any Interested Bidder should not be the same as that of any other Interested Bidder or of any Consortium Member. In case of a Consortium, the ultimate beneficial owner of any member of the Consortium should not be the same as that of any member of any other Consortium or that of any sole bidder. In this regard, the Interested Bidder/consortium member shall submit an undertaking in form of **Annexure 1A**. In case of any Interested Bidders who are funds (including Alternate Investment Funds), ultimate beneficial owner would mean the investment management entity which manages the investments of the fund and not the investors who have invested in the fund
- 4.1.4. It is clarified that Government Company/ies as such term is defined under the Companies Act, 2013, are not eligible to participate in the Transaction, in accordance with OM issued by Ministry of Disinvestment vide letter No. 4(32)/2002-MoDI dated September 18, 2002. In such context, Government’s ownership means direct holding of the Central Government or of other CPSEs.
- 4.1.5. An Interested Bidder will be considered as eligible, only if it meets Government of India’s extant FDI policy as prescribed under the Consolidated FDI Policy, 2017, including the Press Note No. 3 (2020 Series) and any of its modifications hereafter.
- 4.1.6. The Interested Bidder shall be eligible to participate under the extant laws including but not limited to applicable orders issued by the Central Government (including Order No. F/No.6/18/2019-PPD and Order No. P- 45021/112/2020-PP (BE-II) (E-43780) by Ministry of Finance, Ministry of Commerce and Industry, Department of Expenditure, Public Procurement Division dated 23 July 2020 and 24 August 2020 and as per amendments from time to time). The Bidder/ Member of the Consortium/, who have beneficial ownership in countries which share land border with India and intend to participate in public procurement in India have to get registered with the competent authority.

B. Financial Criteria

4.1.7. The Interested Bidder shall satisfy the following financial criteria:

- a. **Net Worth:** The Interested Bidder should have a Minimum Net-worth of **Rs.250 Crore** or **USD 30.40million** (Rs./\$ conversion of 82.2279 as per FBIL <https://www.fbil.org.in/#/home> as

on 18.10.2022).

Note: **Net Worth** shall mean

- ***In case of a company*** - “Net Worth” shall be calculated as the aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure, Intangible Assets, redemption reserves, reserves made for any specific purpose, miscellaneous expenditure not written off as per the latest audited balance sheet which shall not be as of a date earlier than 31st December 2021, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation. Further, the cross holding of investments amongst the Consortium Members is also to be deducted where the Bidder is a Consortium. In case of consolidated financials, non-controlling interest (“NCI”) shall be included in the aforesaid definition of “Net Worth” for determining Consolidated Net Worth based on the consolidated financial statements. However, to the extent the non-controlling interest includes any reserves created out of revaluation of assets, write back of depreciation and amalgamation, the same shall be excluded.
 - ***In case of LLP***: “Net Worth” shall be calculated as Partners’ Capital and all reserves created out of the profits, after deducting the aggregate value of the accumulated losses, deferred expenditure, Intangible Assets, redemption reserves, reserves made for any specific purpose and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation. Further, the cross holding of investments amongst the Consortium Members is also to be deducted where Bidder is a Consortium
 - ***In case of AIF/ Fund*** - In case of AIF/Fund Net worth shall be considered as 100% of committed capital or 0.25 times of Assets Under Management (AUM). The Fund should have committed capital of at least Rs 250 crore or AUM of at least Rs 1,000 crore.
- b. **Profitability**: The Interested Bidder (other than AIF) should have a net positive Profit after Tax (PAT) in at least three (3) out of the immediately preceding last five (5) financial years
- c. Financial criteria shall be assessed on the basis of the following:
- **In case of entities, other than AIFs/ Funds**: Audited financial statement of an Interested Bidder (on consolidated basis), of which the latest audited financial statement which shall not be as of a date earlier than 31st December 2021.

If the audited financial statements are not available for the immediately preceding financial year, unaudited/provisional numbers as certified by the statutory auditors (in case of an unlisted company) or information contained in Quarterly Limited Review report (in case of a listed company) shall be considered. The Financial Criteria should be certified by a statutory auditor (in case of a company) or an independent chartered accountant (in case of other Eligible Entities).

- **In case of AIFs/ Funds:** A certificate from Statutory Auditor or an independent chartered accountant certifying assets under management or committed capital shall be submitted. Certificate should not be older than 3 months from the date of RFP.
- d. Where the financial statements are expressed in a currency other than the Indian Rupee, the eligible amount as described above shall be computed by taking the equivalent amount at the exchange rates prevailing on the dates of such financial statement as stipulated by Reserve Bank of India/ Financial Benchmarks India Limited (FBIL). All financial information required for satisfying the eligibility criteria shall be represented in Indian Rupees.
- e. The Net worth criteria may be satisfied either by the Interested Bidder or its Parent (in case of Sole Bidder only). It is clarified that in addition to the eligibility requirement on ultimate beneficial ownership, two or more Interested Bidders cannot use financial strength of the same Parent.
- f. The combined / cumulative Net Worth of the Consortium should meet the minimum Net Worth criteria mentioned, calculated as follows:

$$\text{Net Worth of the Consortium} = [(\text{Net Worth of Lead Member}) + (\text{Net Worth of member 2}) + (\text{Net Worth of member 3}) + (\text{Net Worth of member 4})].$$

4.1.8. **Conditions for bidding by Consortium:** Eligible Entities are permitted to form a Consortium to participate in the Transaction. The maximum number of members, including Lead Member, in a consortium can be [4/four]. A member of a consortium cannot participate simultaneously as a part of another consortium or as a sole bidder

- a. **Lead Member:** The Consortium shall have only one (1) Lead Member.
- b. Minimum stake requirement:
 - i. Lead Member shall hold at-least 51% equity shareholding on a fully diluted basis in the Consortium
 - ii. Each Consortium Member shall hold at least 10% equity shareholding on a fully diluted basis in the Consortium
- c. Financial Criteria:
 - i. **Net Worth:** Where Interested Bidder is a Consortium, the Combined Net-worth of all the Consortium Members should meet the Minimum Net-worth Criteria as mentioned in Clause 4.1 (2 a) above.
 - Note - Net Worth of the Consortium = $[(\text{Net Worth of Lead Member}) + (\text{Net Worth of member 2}) + (\text{Net Worth of member 3}) + (\text{Net Worth of member 4})]$.
 - The Lead Consortium Member shall have a Net-worth contribution, of at least 51%, towards the calculation of Minimum Net-worth and each Consortium Member shall have a positive Net-worth.
 - ii. **Profitability:** Where the Interested Bidder is a Consortium, all the members of the Consortium (other than AIF) should have a net positive PAT in at least three (3) out of the immediately preceding last five (5) financial years

- 4.1.9. **Formation of SPV:** In case of the Bid by a Consortium, the Consortium shall incorporate a Special Purpose Vehicle, in the form of a company (the “Consortium SPV”) in India/under the laws of India, within a stipulated time, once finally selected to enter into the Definitive Agreements. The shareholding of the Consortium Members in the Consortium SPV shall be the same as their shareholding in the Consortium.
- 4.1.10. **Restrictions on change in composition of Consortium:**
- a. **Prior to Due Date for submission of Bid:** The Interested Bidder is permitted to change Consortium Members prior to the due date of submission of Bid by withdrawing the Bid and submitting a fresh Bid before the due date of submission of Bid.
 - b. **After the Due Date for submission of Bid till determination of Preferred Bidder:** No change, either by way of withdrawal/substitution/addition of any Consortium Member or any change affecting the composition of the Consortium will be permitted after the due date for submission of Bid, as prescribed in Clause 2.3, will be allowed.
- 4.1.11. An Interested Bidder can submit only one Bid i.e., either as a sole bidder or as a member of one Consortium. In case, more than one Bid is submitted by an Interested Bidder, all such Bids shall be disqualified.
- 4.1.12. Interested Bidder/Parent of Sole Bidder (in case of reliance on net worth of Parent by the Sole Bidder), Consortium Member should not have been convicted by a court of law or indicted/ have any adverse order passed against them by any other regulatory authority in any matter involving a grave offence and/ or which casts a doubt on its ability to participate in the Transaction. Further, the Interested Bidder, its directors, Promoters / Promoter Group members/Subsidiaries/Associate Company, any Consortium Member, its director or its Promoters/Promoter Group / Subsidiary/Associate, that have been charge-sheeted or convicted on matters relating to national security or integrity under the provision of the Indian Penal Code, 1860 or Official Secrets Act, 1923 or other relevant legislation, shall not be eligible. The mere fact that an appeal against any such order mentioned above is pending in any court of law or any regulatory authority will not dilute the disqualification.
- 4.1.13. Additionally, the Interested Bidder / Parent of Sole Bidder (in case of reliance on net worth of Parent by the Sole Bidder) / Consortium Member or any of their Subsidiary or Associate Company should not be party to any existing disputes or legal proceedings by or against JKCL, which proceeding may be prejudiced by the participation of the Interested Bidder / Consortium Member in the selection process or the Transaction.

4.2. Other Terms and Conditions

- 4.2.1. The Interested Bidder must meet the Eligibility Criteria as stated in *Clause 4.1* of this RFP, on the date of submission of the Bid and must continue to be eligible throughout the Transaction until its completion. Interested Bidder shall have the obligation to immediately notify the UTJK on its becoming ineligible any time during the Transaction. In the event of any Interested Bidder getting

disqualified or not meeting the eligibility criteria, such Interested Bidder shall not be permitted to continue to participate in the Transaction.

- 4.2.2. All the Bid(s) shall be valid till the Shortlisted Bidder is declared or such other time as may be notified to the Interested Bidders.
- 4.2.3. No Interested Bidder shall submit more than one Bid. A Bidder submitting bid independently or as a Consortium Member shall not be entitled to submit another Bid either independently or as a member of any other Consortium, as the case may be.
- 4.2.4. All financial statements or data to be derived therefrom for the evaluation of Financial Criteria referred herein shall mean on a consolidated basis.
- 4.2.5. Successful Bidder/Consortium would be required to lock-in at least 51% of its shareholding for a minimum period of 5 (five) years from date of signing of Definitive Agreements. In case of a Consortium the Lead Member shall continue to hold at least 26% equity shareholding in the Consortium SPV for a minimum period of five (5) years from the date of closing under the Definitive Agreements.
- 4.2.6. In case the Interested Bidder is a Consortium, it agrees that for the purpose of this Undertaking, its liability shall be joint and several with each of the Consortium Members
- 4.2.7. Requisite approvals: The Interested Bidder shall be required to obtain all necessary approvals under applicable laws from relevant government agencies, as may be required to enable the Interested Bidder to enter into the Definitive Agreements before completing the Transaction. It may be noted that key approvals that may be required for the Transaction are for transfer of limestone mine lease, transfer of land (currently being assessed by JKCL) and NOC from lenders. However, routine and other approvals, may also be required depending on the Transaction structure.
- 4.2.8. Where the Interested Bidder/ Consortium Member is a foreign entity, it shall ensure that it meets extant FDI norms and regulations. A Bidder will be considered as eligible, only if it meets Government of India's extant FDI policy as prescribed under the Consolidated FDI Policy, 2017, including the Press Note No. 3 (2020 Series) and any of its modifications hereafter.
- 4.2.9. Only Interested Bidders which are permitted under applicable laws to participate (to the extent of their proposed participation) shall be permitted to bid.
- 4.2.10. After the submission of the Bid, there shall be no change in the Control of the Successful Bidder and each Consortium Member for a minimum period of five (5) years from the date of closing under Definitive Agreements, without prior approval of UTJK.
- 4.2.11. **Change in Consortium:** Where a sole bidder or Consortium has submitted the Bid, it is expected that there shall not be any changes in the Consortium Members, except as provided below:
 - a. Any change prior to the last date for submission of Bid may be permissible by withdrawing the Bid and submitting a fresh Bid before the last date for submission of Bid. However, no change in composition of Consortium will be permitted after last date for submission of Bid.

b. In case of a Consortium, following conditions shall be met:

- i. No change in Lead Member shall be allowed
- ii. Shifting from one Consortium to another shall not be permitted

4.2.12. The UTJK reserves the right to seek any additional clarifications, representations or documents from the Interested Bidders or any of their Group Companies to its sole satisfaction.

4.2.13. Notwithstanding anything contained in this RFP, the UT administration of J&K reserves the right to reject any Bid and to annul the Bid process and reject all Bids at any time without any liability or any obligation for such acceptance, rejection or annulment, including on grounds of national integrity, national security and national interest and without assigning any reasons therefore. In the event that the UTJK rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.

4.2.14. The UTJK reserves the right not to proceed with the Bid process at any time, without notice or liability, and to reject any Bid without communicating any reasons. The fact that the UTJK may entertain bids by entities (including SPVs) from a jurisdiction outside of India should not be construed as approval from GOI on any tax issues relating to foreign investments in India that may arise in relation to the Proposed Transaction. Bidders have to comply with relevant tax laws and procedure.

5. Disqualification

- 5.1.1. Any Bid which has been found to be incomplete in content or attachments or authenticity may be rejected. TA shall reserve the right to seek clarifications/ pending documents in order to enable omissions to be dealt with during qualification process subject to intimation to UTJK.
- 5.1.2. Without prejudice to any other rights or remedies available to UTJK, the UTJK reserves the right to disqualify any Bidder or Consortium Member and exclude its Bid from further consideration for any of the reasons, including without limitation listed below:
- a. Any misrepresentation/ false statement made by a Bidder / any Consortium Member at any stage of the Transaction, whether in the non-financial bid, the financial bid, supporting documentation or otherwise and whether written or oral.
 - b. If the Bid submitted by the Bidder is in any respect inconsistent with, or demonstrates any failure to comply with, the provisions of the RFP, including not being accompanied by the non-refundable Fee.
 - c. If any condition or qualification or any other stipulation is inserted by the Bidder / any Consortium Member, in the Bid submitted by them.
 - d. Failure by Bidder / any Consortium Member to provide the necessary and sufficient information required to be provided in the Bid in accordance with this RFP.
 - e. Failure by Bidder / any Consortium Member to provide, within the time specified by the UTJK, the supplemental information sought by the UTJK for evaluation of the Bid.
 - f. Submission of more than one (1) Bid by any Bidder either as sole bidder or as Consortium Member in which case, all such Bids or where the ultimate beneficial owner of any Bidder / Consortium Member is the same as that of any other Bidder / member of any other Consortium, shall be rejected.
 - g. The Bidder not satisfying the eligibility and requisite qualification criteria specified in the RFP and hence not being eligible.
 - h. Failure by Bidder / any Consortium Member to comply with any other condition or requirement as listed in the RFP.
 - i. In case the Bidder / any Consortium Member is a Government Company/ies as such term is defined under the Companies Act, 2013
 - j. Failure to comply with any reasonable request of UTJK in relation to the Transaction.
 - k. If UTJK is not satisfied with sources of funds/ownership structure of the Bidder.
 - l. If at any time it is discovered that the Bidder / Consortium Member or its respective Promoter are subjected to winding up/insolvency/ bankruptcy proceedings or other proceedings of a similar nature.
 - m. Any of the outstanding indebtedness of the Bidder / any Consortium Member or its respective Parent (in case of reliance on parent net worth) availed from either banks or financial institutions being classified as 'non-performing asset' or any equivalent classification in their respective jurisdiction for period of 12 months prior to date of submission of Bid.
 - n. Any information regarding or in connection with the Bidder / Consortium Member, their

directors, their Associate Company, Subsidiary, Promoter or Promoter Group which becomes known that is detrimental to the national security and/or national interest and/or the Transaction and/or the interests of the Company.

- o. If at any stage of the Transaction, the Bidder/ Consortium Member and/ or its directors/ CEO or the concern in which Bidder/ Consortium Member and/ or its directors/ have substantial interest are denied security clearance or their security clearance is revoked by the GOI.
- p. Initiation or existence of any legal proceedings, by or against the Bidder/ Consortium Member, their Subsidiary or Associate Company, in respect by or against JKCL, which proceeding may be prejudiced by the participation of the Bidder / Consortium Member in the selection process or the Transaction.
- q. Bidder / Consortium Member or its Promoters or Promoter Groups or directors of Bidder /Consortium Member is debarred from accessing or operating in the capital markets or restrained from buying, selling, or dealing in securities by any Governmental Authority.
- r. Bidder / Consortium Member or its Promoters or Promoter Groups or directors of Bidder /Consortium Member are appearing in the RBI list of wilful defaulters or any such list by a competent authority in their respective jurisdiction. For the purpose of this clause, “Wilful Defaulter” means an issuer who is categorized as a wilful defaulter by any bank or financial institution or consortium thereof, in accordance with the guidelines on wilful defaulters issued by the Reserve Bank of India and includes an issuer whose director or Promoter is categorized as such.
- s. Bidder/ Consortium Member is an erstwhile Overseas Corporate Bodies (OCB) which is incorporated outside India and are under the adverse notice of RBI.
- t. For the purpose of this clause, “Overseas Corporate Bod(ies)” mean a company, partnership firm, society and other corporate body owned directly or indirectly to the extent of at least sixty per cent by Non-Resident Indians and includes overseas trust in which not less than sixty per cent beneficial interest is held by Non-resident Indians directly or indirectly but irrevocably, which was in existence as on the date of commencement of the Foreign Exchange Management (Withdrawal of General Permission to Overseas Corporate Bodies (OCBs) Regulations, 2003) and immediately prior to such commencement was eligible to undertake transactions pursuant to the general permission granted under Foreign Exchange Management Regulation Act, 1999.
- u. Bidder / Consortium Member is prohibited or restricted from investing in JKCL under FEMA, 1999 or any rules or regulations made there under. It being clarified that sectors where government approval is required will not be considered as ‘restricted’ from investing.
- v. If it is discovered at any stage of the Transaction that the Bidder / Consortium Member does not possess requisite corporate authorizations to participate in the Transaction.

5.1.3. Where Bidder is a Consortium, if any of the Consortium Members are disqualified, the Consortium shall automatically stand disqualified.

5.1.4. Breach of Undertaking executed by the Bidder.

5.1.5. In regard to matters relating to the national security and national integrity, any charge-sheet by any Governmental Authority / conviction by a court of law including under the provisions of the

Indian Penal Code or Official Secrets Act or any other relevant legislation for an offence committed by the Bidder /Consortium Member, their directors or any of its Promoter/Promoter Group/Subsidiary/Associate Company would result in disqualification. The mere fact that an appeal against any such order mentioned above is pending in any court of law or any regulatory authority will not dilute the disqualification.

- 5.1.6. The Bidder/ any Consortium Member who is not qualified to participate in the Transaction pursuant to the Government of India office memorandum No. 3/9/2016-DoD-II-Bdated September28, 2017, as amended from time to time. (as provided in *Annexure 13A*)
- 5.1.7. If the Bidder/ any Consortium Member does not satisfy any of the requirements as may be issued by UTJKby way of notifications/ guidelines / circulars or such similar notifications from time to time, including any conditions for qualification, the Bid submitted by the Bidder shall be disqualified.
- 5.1.8. Integrity Pact Clause: If aBidder /any Consortium Member is found involved in corrupt practices, unfair means or illegal activities during any stage of the Transaction or during the bid process and during the negotiation and execution of the Definitive Agreements, the Bidder shall be disqualified, at the sole discretion of UTJK.
- 5.1.9. If any default, as above, becomes known after the Bidder has been shortlisted to receive the RFP that would have entitled UTJK to reject or disqualify the Bidder, UTJK reserves the right to reject or disqualify the Bidder at the time such information becomes known to UTJK.
- 5.1.10. UTJKdetermination that one or more of the events specified in this Clause5.1.6 has occurred shall be final and conclusive.
- 5.1.11. The above circumstances for disqualifications, at the discretion of UTJKshall also be applicable to Parent, where any Sole Bidder fulfils the Net worth criteria through its Parent.

6. Fraud and Corrupt Practices

- 6.1.1. The Bidder and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process. Notwithstanding anything to the contrary contained herein, the UTJK shall be entitled to reject a Bid without being liable in any manner whatsoever to the Bidder if it determines that the Bidder 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.
- 6.1.2. Without prejudice to the rights of UTJK under clause (a) hereinabove, if a Bidder is found by UTJK 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, such Bidder shall not be eligible to participate in any tender or RFP issued by the GOI/ UTJK during a period of 3years from the date such Bidder is found by UTJK/GOI 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, as the case may be.
- 6.1.3. For the purposes of this clause, the following terms shall have the meaning hereinafter respectively assigned to them:
- a. “corrupt practice” means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of UTJK/ JKCL who is or has been associated in any manner, directly or indirectly with the Bidding Process or has dealt with matters concerning the Transaction or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of UTJK, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) engaging in any manner whatsoever, whether during the Bidding Process or till the execution of the Transaction, engaging any person who at any time has been or is a legal, financial or technical adviser of UTJK in relation to any matter concerning the Transaction unless otherwise permitted under this RFP by UTJK;
 - b. “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;
 - c. “coercive practice” means impairing or harming or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Bidding Process;
 - d. “undesirable practice” means (i) establishing contact with any person connected with or employed or engaged by UTJK 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;
 - e. “restrictive practice” means forming an illegal cartel or arriving at any understanding or

arrangement among Bidder(s) with the objective of restricting or manipulating a full and fair competition in the Bidding Process.

7. Pre-Bid Conference and Miscellaneous

7.1. Pre-Bid Conference

- 7.1.1. Pre-Bid conference of the Bidders shall be convened at the designated date, time and place. A maximum of four representatives of prospective Bidders shall be allowed to participate on production of authority letter from the Bidder.
- 7.1.2. During the course of pre-Bid conference(s), the Bidders will be free to seek clarifications and make suggestions for consideration of the UTJK. The UTJK 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.

7.2. Indemnity

- 7.2.1. The Bidder hereby undertakes that all information submitted or to be submitted by the Bidder to the UTJK at any stage of the transaction or Bidding Process including under their respective Bids or pursuant to any additional requests made by the UTJK is and shall be true and correct as of the date such information was/ will be provided. At any stage of the Bid Process, in case it is found that the Bidder has made any misrepresentation or submitted incorrect or false information or has not responded to any queries/further information requested by the UTJK, the Bidder shall be liable to indemnify UTJK/ GOI, and the Advisors for any loss caused to them or for any claim made against them in respect of the Transaction.

7.3. Confidentiality

- 7.3.1. Information relating to the examination, clarification, evaluation and recommendation in relation to the Bidder(s) shall not be disclosed to any person not officially concerned with the process or is not a retained professional advisor by the UTJK for the Transaction, in relation to, or matters arising out of, or concerning the Bidding Process. The UTJK will treat all information submitted as part of the Bid in confidence and would require all those who have access to such material to treat the same in confidence. The UTJK and TA will not divulge any such information unless it is ordered to do so by any authority that has the power under law to require its disclosure or to enforce or assert any right or privilege of the authority. The UTJK, GOI and TA however reserve the right to make public disclosure of the names of any of the Bidder(s).

7.4. Right to Accept and Reject any or all Bids

- 7.4.1. Notwithstanding anything contained in this RFP, UTJK reserves the right to accept or 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, without assigning any reasons thereof. In

the event UTJK rejects or annuls the bids, it may in its sole discretion, invite all the eligible Bidder(s) to submit fresh bids hereunder.

8. Annexures

8.1. Annexure 1: Covering Letter for Non-Financial Bid

(To be typed on the letterhead of the Bidder/ Lead Consortium Member submitting the Bid)

Reference No. _____ Date _____

To,

XXXXXX

XXXXXX

Sub: BIDFOR DISINVESTMENT OF JAMMU AND KASHMIR CEMENTS LIMITED (“JKCL”)

Dear Sir/ Madam,

This is with reference to the advertisement dated [●] (“Advertisement”) inviting Bid for Disinvestment of 100% equity share capital of UT administration of Jammu and Kashmir in Jammu and Kashmir Cements Limited (“JKCL” or “the Company”) along with transfer of management control (“the Disinvestment”).

This communication has been issued by the [Bidder (as defined below) OR Lead Member (as defined below)] for and on behalf of the Consortium (as defined below).]⁶

We have read, reviewed and fully understood the contents of the Advertisement, the RFP dated [●], including all of the qualification requirements and information provided therein and hereby unconditionally and irrevocably accept, agree and acknowledge the terms thereof. We have also completed the entire process of Due Diligence, including site visits to the plants of JKCL to our satisfaction. We have also on occasions raised queries and sought clarifications in the said matter and have been satisfactorily answered. We are now eager to proceed with the next steps of the Transaction and in this regard hereby wish to state, undertake, and confirm as follows:

1. We are interested in bidding for the Disinvestment of 100% equity share capital of UT administration of Jammu and Kashmir in Jammu and Kashmir Cements Limited.
2. We are submitting this Bid as [●] [insert name of Interested Bidder] having its registered office at [●]

⁶Strike out, whichever is not applicable

OR

2. We have formed a consortium comprising [●] members (“Consortium”) as follows:
 - i. [●] holding [●] % stake in the Consortium i.e. holding [●] % of the equity share capital of the Consortium SPV, on a fully diluted basis, and is designated as Lead Member as per the Consortium Agreement executed among all the Consortium Members (“Lead Member”);
 - ii. [●] holding [●] % stake in the Consortium i.e. holding [●] % of the equity share capital of the Consortium SPV, on a fully diluted basis;
 - iii. [●] holding [●] % stake in the Consortium i.e. holding [●] % of the equity share capital of the Consortium SPV, on a fully diluted basis; and
 - iv. [●] holding [●]- % stake in the Consortium i.e. holding [●] % of the equity share capital of the Consortium SPV, on a fully diluted basis
3. We confirm and represent that we have the requisite corporate authorization to submit the Bid and that the undersigned is an Authorized Representative of the Bidder
4. We confirm that we are not affected by any of the disqualifications set out in the RFP. In the event we are attracted by any of the disqualifications in terms of the RFP during the pendency of the Bid Process, owing to change in facts or circumstances, we would intimate the UTJK of the same immediately
5. We agree to form a special purpose vehicle (SPV), in India/under the laws of India, once finally selected to enter into the Transaction Documents. [Please strike out if not applicable].
6. We undertake that in the event we are selected as the Successful Bidder and make the investment through a SPV then each Consortium Member, shall be jointly liable for obligations of the SPV and shall also be a party to the Definitive Agreements along with the SPV. The Lead Member shall, additionally, be responsible for ensuring the individual and collective commitment of each of the Consortium Members in discharging all of their respective obligations in connection with the Bid. *(applicable for the case of Consortium)*. [Please strike out if not applicable].
7. We agree that if, at any stage of the Bidding Process, it is found that we have made any misrepresentation or submitted incorrect or false information or have not responded to any queries/further information requested by the UTJK, we shall indemnify UTJK, and the Advisors, for any loss caused to them or for any claim made against them in respect of the Transaction.
8. We certify that neither have we or our Parent (in case net worth of Parent is being relied on) been convicted by any Court of law, indicted, nor has any adverse order been passed against us by a regulatory authority which would cast a doubt on our ability to manage the public sector unit when it is disinvested or which related to a grave offence that outrages the moral sense of the community.
9. We further certify that in regard to matters relating to security and integrity of the country, no charge sheet has been filed by any agency of the Government of India nor have we been convicted by a Court of law, including under the provisions of the Indian Penal Code or Official Secrets Act, for any

offence committed by us, our directors or any of our respective Subsidiaries, or against any of our Associate Companies or any of our Promoters, Promoter Group.

10. We further certify that no investigation by a regulatory authority is pending either against us or our Parent (in case net worth of Parent is being relied on).
11. We represent that we are not disqualified to enter into or perform our obligations in relation to the Transaction (including acting as Promoter of the company) pursuant to the applicable laws including regulations, guidelines, orders, directions or instructions of any regulatory authority (including SEBI or RBI), administrative authority or department or ministry of central or state government or any court in India.
12. We represent that we or our Promoters or Promoter Groups or our directors are not debarred from accessing or operating in the capital markets.
13. We represent that we or our Promoters or Promoter Groups or our directors not appearing in the RBI list of wilful defaulters or any such competent authority in their respective jurisdiction.
14. We hereby state and confirm the following:
 - a) Our Bid is unconditional and unqualified and is true and correct to the best of our knowledge and understanding
 - b) The Bid Security paid by us vide Bank Guarantee [provide details of bank guarantee as applicable] equivalent to INR 5,00,00,000 (Rupees Five Crore) (enclosed herein), shall get encashed/invoked on the occurrence of any of the events of default mentioned in the RFP for the purpose
 - c) Our Bid is complete in content and attachments and is strictly as per the requirements stipulated in the RFP. Our Bid does not demonstrate any failure to comply with any provision of the RFP or that the Bid is being conditional in any respect.
 - d) Any error or omission in our Bid is entirely and solely our responsibility.
 - e) Our Bid is based on the representation, warranty, undertaking and covenant that all information provided in the Bid is true, accurate and complete as of the date hereof.
 - f) In the event of our being declared as the Successful Bidder, we agree to enter into Definitive Agreement in accordance with the Agreed Form of Transaction Documents (a duly authenticated copy of which is duly submitted with bid) prior to the Bid Due Date. We agree not to seek any changes in the aforesaid drafts and agree to abide by the same.
 - g) We acknowledge that the UTJK will be relying on the information provided in the Bid for selection of the strategic Successful Bidder, and we certify that all information provided in the Bid are 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.
 - h) We hereby waive, to the fullest extent permitted by Applicable Law, our right to challenge any information/document, that may come to our notice subsequently and may have affected the Price Bid had such information/document came to our notice before submitting the Financial Bid.

- i) We confirm that we accept all the terms and conditions laid down in the RFP and Transaction Documents and all the other documents provided to us during the Transaction.
- j) We agree and confirm that we will be solely responsible for complying with the obligations/compliances as may be required to be made/undertaken under the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations 2011 and other Approvals (as defined in RFP), as may be amended from time to time.
- k) The Financial Bid is unconditional and has been quoted by us after taking into consideration and acceptance of all the terms and conditions stated in the RFP, Agreed Transaction Documents and our own estimates of costs and after a careful assessment of the Company being disinvested.
- l) We understand that the Financial Bid is exclusive of any costs, charges and expenses and payment of fees and duties (including the adjudication, stamp duty and registration fee and other similar levy payable and whether payable in one or more states or jurisdictions), statutory and otherwise in relation to completion of all statutory, regulatory, and other compliances for the said Transaction.
- m) We acknowledge the right of the UTJK to reject our Financial 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.
- n) We agree to keep this offer valid for 180 (one hundred and eighty) days from the Bid Due Date specified in the RFP which may need to be further extended on intimation to the Bidder and all documents submitted by us in connection with the Transaction, along with all enclosures, undertakings and information contained therein, shall continue to remain valid and binding till such date.
- o) We further understand that the information and data received by us for this Transaction is confidential and has not been divulged or disclosed or reproduced or disseminated, in whole or part, to any person or entity except to our directors, officers, employees and professional advisers who need to know the information for the purpose of evaluating the Transaction. We have used the confidential information only for the purpose of the Transaction. We agree and undertake to abide by all the terms and conditions of the RFP document.
- p) We submit this Bid under and in accordance with the terms of the RFP.

Thank you.

Yours sincerely,

For and on behalf of: [name of the Interested Bidder/ Lead Member]

Signature: (Authorized Representative and Signatory)

Name of the Person: [●]

Designation: [●]

Enclosures:

- a. Demand Draft for Non-refundable Fee
- b. Form A
- c. General Power of Attorney
- d. Power of Attorney in favor of Lead Member [submitted by each Consortium Member]⁷
- e. [Certified true Copy of the Consortium Agreement between the Consortium Members]⁸
- f. Confidentiality Undertaking
- g. Affidavit
- h. Declaration on Statement of legal proceedings [submitted by each Consortium Member]⁹
- i. Undertaking by Parent of Sole Bidder¹⁰

⁷Delete if not applicable

⁸Delete if not applicable

⁹Delete if not applicable

¹⁰Delete if not applicable

8.2. Annexure 1A: Undertaking in Relation to Ultimate Beneficial Ownership

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

To,

XXXXXX

XXXXXX

Sub: UNDERTAKING IN RESPECT OF BID FOR DISINVESTMENT OF JAMMU AND KASHMIR CEMENTS LIMITED (“JKCL”)

We hereby represent and undertake that we do not have the same ultimate beneficial owner(s) as of any other Bidder or Consortium Member participating in the Transaction and we have not submitted more than one (1) Bid, either as a Sole Bidder or as a Consortium Member.

Note: Capitalized terms not defined shall have the same meaning ascribed to them in the RFP

Yours sincerely,

For and on behalf of: [name of the Interested Bidder/ Consortium Member]

Signature: (Authorized Representative and Signatory)

Name of the Person: [●]

Designation: [●]

8.3. Annexure 2: Form A (forming an integral part of the Bid)

(To be submitted on letterhead (unless otherwise mentioned) of Bidder/each Consortium Member/ Parent (in the event Sole Bidder fulfils the financial criteria through its Parent)

1. Name of the Bidder/Consortium Member _____
2. Executive Summary and Management Organization: providing brief description of the Bidder and (where appropriate) of member in the consortium/ Parent on whose Network has been relied on by the Sole Bidder, containing details like ownership structure, identity of the natural persons who are the ultimate beneficial owners, the Place of Effective Management of business of the Bidder/ Parent of Sole Bidder /Consortium Member (“Place of Effective Management” means the place where key management and commercial decisions that are necessary for the conduct of business of an entity as a whole are, in substance made), (as per Central Board of Direct Taxes Guideline F. No. 142/11/2015-TPL dated January 24, 2017)etc. write up on business history and growth, business areas / activities, respective revenue details, the Place of Effective Management of business of the Bidder/ Parent of Sole Bidder /Consortium Member etc. It shall include a brief commentary on the capability of the IB/ Parent of Sole Bidder /Consortium Member, as demonstrated, inter alia, in its past track record, to run its own business.
3. Also, an overview of Bidder’s / Parent of Sole Bidder /Consortium Member’s senior management and organization structure certified by the company secretary/ any other officer in charge of secretarial/legal affairs
4. Contact Information of the Bidder/ Parent of Sole Bidder /Consortium Member:
 - i. Following details of Bidder/ Parent of Sole Bidder /Consortium Member including phone number and facsimile number
 - a. Registered Office – Address, phone number, facsimile number
 - b. Head Office – Address, phone number, facsimile number
 - ii. If Consortium, name of the Lead Consortium Member:
 - iii. Address for correspondence along with email address of Bidder/ Parent of Sole Bidder / Consortium Member.
 - iv. Contact Person(s):
 - a. Name:
 - b. Designation:
 - c. Phone No.:
 - d. Mobile No.:
 - e. Fax No.:
 - f. Email:
 - v. Website details of Bidder/ Parent of Sole Bidder /Consortium Member.

5. Basic Information:

- i. Constitution (Tick, wherever applicable)
 - a. Public Limited Company
 - b. Private Limited Company
 - c. Limited Liability Partnership Firm
 - d. Others, if any (Please specify)
- ii. Date and Place of incorporation of Bidder/ Parent of Sole Bidder / Consortium Member
- iii. Date of commencement of business of Bidder/ Parent of Sole Bidder /Consortium Member
- iv. Role/ Interest of each Member in the Consortium (if applicable).
- v. Nature of business carried out/ products dealt with by the Bidder/ Parent of Sole Bidder / Consortium Member and a profile containing information on the Bidder's / Parent of Sole Bidder /Consortium Member's operations.
- vi. Certified true copies of the following documents to be submitted. However, if Bidder/ Parent of Sole Bidder /Consortium Member cannot submit any of the following documents, it shall state reasons for the same as per the format below:

Documents	Submitted (Yes/ No)	If not submitted, please state reasons for the same
Certificate of Incorporation		
Memorandum of Association		
Articles of Association		
Certificate of Commencement of Business		
Charter Documents		
Other Constitution Documents, i.e., Partnership Deed etc., as may be applicable		
Registration Certificate for AIFs		

- vii. A certificate for list of Board of Directors and key management personnel duly signed by the respective Company Secretary or any other officer in-charge of secretarial/legal affairs of Bidder/ Parent of Sole Bidder /Consortium Member and also counter signed by its authorized signatory.
- viii. A certificate by an independent chartered accountant/statutory auditor/Company Secretary or any other officer in-charge of secretarial/legal affairs for the shareholding pattern of the Bidder/ Parent of Sole Bidder /Consortium Member.

ix. Basis of eligibility for participation in the process (Please mention details of your eligibility) as under:

- a. A certificate duly signed by our Company Secretary/ any other officer in charge of secretarial/legal affairs, stating that we are eligible to participate in the proposed Disinvestment in terms of Clause _____ (specific reference to the said provision may be drawn) of our Memorandum and Articles of Association/_____ (insert name of Constitution Document, viz., Partnership Deed etc. as may be applicable).
- b. Audited Financial Statements (on standalone and consolidated basis)/Annual Reports for the previous three financial years (including profit and loss statement, balance sheet and cash flow statement) (Kindly also include most recent, not older than 31st December 2021, Audited Financial Statements/Annual Report on standalone and consolidated basis).

Provided that, in the event such Bidder/ Parent of Sole Bidder / any Consortium Member is an unlisted entity, and does not have the audited financial statements of immediately preceding financial year, the latest available unaudited/ provisional financial statements may be given as certified by its statutory auditor; in case such entity is a listed entity, and its audited financial statements are not available for the immediately preceding financial year, the information contained in latest Quarterly Limited Review report is to be submitted. However, the audited financial statements of such entities shall be submitted, as and when prepared as per the statutory requirements and timelines of the relevant countries where it is incorporated.

All financial statements/ annual reports/net worth certificates submitted should be certified by authorized signatory.

In case the Bidder/ Parent of Sole Bidder /any Consortium Member cannot submit the consolidated financial statements as mentioned above, it shall specify reasons for the same.

- c. **Certificate for fulfilment of Financial Criteria:** Please provide an independent chartered accountant/statutory auditor certificate certifying Net worth for Bidder/ Parent of Sole Bidder /Consortium Member as specified in the Eligibility Criteria section of the RFP.

The certificate for fulfilment of Financial Criteria should clearly mention the following:

- The date of Net worth calculation for which Net worth details have been submitted.
- That the Net worth calculation has been done in accordance with the stipulations under the Eligibility Criteria section of the RFP.
- In case the Bidder/ Parent of Sole Bidder /Consortium Member are not required to prepare consolidated financial statements as a part of statutory requirements, the same should be mentioned in the certificate (in such a case, the standalone financial statements are to be used for assessment. However, the same would be accepted only if the certificate for fulfilment of Financial Criteria clearly mentions the non-requirement for preparation of consolidated financial statements)

- The certificate should clearly mention that the issuing authority is Statutory Auditor or independent chartered accountant (as applicable), for the Bidder/Consortium Member
 - It should clearly specify the cross holdings among Consortium Members, if any.
 - The financial statements on the basis of which the Financial Criteria have been assessed correspond to accounting periods completed (each of not less than 12 months duration) and are not based on partial periods.
- x. Provide documents such as a board or shareholders' resolution in favor of the person executing the Power of Attorney for the delegation of power on behalf of the Bidder/ Consortium Member.

Note: The date of execution of board or shareholders' resolution should be prior to the date of execution of the Power of Attorney

6. International Operations/ Joint Ventures/ Alliances:

- i. Brief note of Bidder's / Parent of Sole Bidder's / Consortium Member's/ international operations, joint ventures, alliances, (whether international or domestic), including incorporation details, registered office, nature and size of such operations, equity ownership/ effective management and control (as applicable). Such details shall be provided for only those operations which the Bidder considers as being material (directly or indirectly) to its business and/ or the Transaction

7. Professional Advisors:

- i. Bidder / Consortium Member to provide names and addresses of those companies and professional firms, if any, who are (or will be) advising the Bidder/ Parent of Sole Bidder /Consortium/Consortium Member for the Transaction, together with the names of the principal individual advisors at those companies and firms.

8. Outstanding Litigation/ Contingent Liability:

- i. Bidder / Parent of Sole Bidder/ Consortium Member must provide with the Bid a statement of those pending litigations that, if decided against the Bidder / Parent of Sole Bidder/ Consortium Member shall disqualify the Bidder /Consortium Member in terms of the prescribed Eligibility criteria and extant GOI instructions on disinvestment.
- ii. Bidder / Parent of Sole Bidder/ Consortium Member to provide details of all contingent liabilities that, if materialized, that have or would reasonably be expected to have a material adverse effect on the business, operations (or results of operations), assets, liabilities and/or financial condition of the Bidder / Parent of Sole Bidder/ Consortium Member, or other similar business combination or sale.

9. Foreign Direct Investment (FDI) Restrictions

- i. If the Bidder / any Consortium Member is a foreign entity/ overseas corporate body, specify list of statutory approvals from the Government of India/ the Reserve Bank of India/ Department for Promotion of Industry and Internal Trade/ relevant ministry/ any other Government agency, specifying whether the same is applied for/ to be obtained/ awaited.

Yours sincerely,

For and on behalf of: (name of the Bidder/ Parent of Sole Bidder /Consortium Member)

Signature: (Authorized Representative and Signatory)

Name of the Person: [●]

Designation: [●]

Place:

Date:

Important Note:

- i. Please follow the order adopted in the Format provided, while submitting the details
- ii. If the Bidder / Parent of Sole Bidder /any Consortium Member are unable to respond to a particular question/request or submit any document as per stated requirement, the relevant question/request or request for submission of document, must nonetheless be set out as per the Format, with the words “No response given” mentioned against it, stating reasons for the same

8.4. Annexure 3: General Power of Attorney

(To be appropriately stamped on non-judicial stamp paper of appropriate value as per Stamp Act relevant to place of execution and to be notarized and submitted by the Bidder / each Consortium Member submitting the Bid)

General Power of Attorney

To all to whom these presents shall come, We..... [name of the Bidder] having our registered office/principal office at _____ [address of the registered office/principal office] do hereby exclusively, unconditionally and irrevocably constitute, nominate, appoint and authorize Mr./Ms. (name),.....son/daughter/wife of and presently residing at, who is presently employed with [us/ the Lead Member of our Consortium]¹¹ 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, to do, execute, and perform all such acts, agreements, deeds, matters and things as are necessary or required in connection with or incidental to submission of our response to Request For Proposal for the proposed disinvestment of 100% equity stake of UT administration of J&K in Jammu and Kashmir Cements Limited dated [●] (as amended) (hereinafter referred to as “RFP”)

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 Attorney pursuant to and in exercise of the powers conferred by this power of attorney (“Power of Attorney”) and that all acts, deeds and things done by the Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us concerning or touching these presents as fully and effectually as if we were present and had done, performed or executed the same itself.

We confirm and declare that we have not executed any other power of attorney in favor of any other person(s) in relation to the subject matter of this power of attorney and this power of attorney is irrevocable.

All the terms used herein but not defined shall have the meaning ascribed to such terms in the RFP dated [●].

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

.....

(Signature, name, designation and address)

In the presence of:

Accepted

¹¹Strike out whichever is not applicable

(Signature, Name, Designation and Address of the Attorney)

[To be duly notarized]

[To affix common seal, if applicable]

Notes:

- i. 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. The Power of Attorney shall be appropriately stamped and notarized.
- ii. Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders' resolution/ power of attorney in favor of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.
- iii. For a Power of Attorney executed and issued overseas, the document will also have to be legalized using a different procedure as per applicable law.
- iv. The date of execution of Power of Attorney shall be before the date of execution of other documents as part of RFP.
- v. In case of a consortium, all the Consortium Members are required to submit the Power of Attorney
- vi. Affixation of Common Seal to be done basis appropriate Board Resolution authorizing affixation of Common Seal and signatures against the same unless the same is not required as per the Bidder's constitutional documents and/or Applicable Laws and as explained by the Bidder to UTJK. The said Board Resolution to be submitted along with Power of Attorney.

8.5. Annexure 4: Power of Attorney in favor of Lead Member

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

Whereas the UT Administration of J&K has invited Bids from Bidders for the disinvestment of 100% of the equity share capital of UT administration of J&K in Jammu and Kashmir Cements Limited (the “Transaction”).

Whereas, _____ (Lead Member/Member-1), _____ (Member-2), _____ (Member-3) and _____ (Member-4) (collectively the “Consortium”) being Consortium Members are in bidding for the Transaction in accordance with the terms and conditions of the Request For Proposal for the proposed disinvestment of 100% equity stake of UT administration of J&K in Jammu and Kashmir Cements Limited dated [●] (as amended) and other connected documents in respect of the Transaction, and

Whereas the members to record their understanding to participate in the bidding with have entered into the Consortium Agreement dated _____, and Whereas, it is necessary for the Consortium Members 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 (“Non-Financial and Financial”) for the Transaction and its execution.

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS

We (hereinafter collectively referred to as the “Principals”),

- a. M/s _____, having our registered office/principal office at _____;
- b. M/s _____, having our registered office/principal office at _____;
- c. M/s _____, having our registered office/principal office at _____;
- d. M/s _____, having our registered office/principal office at _____;

, do hereby irrevocably designate, nominate, constitute, appoint and authorize M/S _____, being one of the Consortium Members, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the “Attorney”). We hereby irrevocably authorize the Attorney (with power to sub-delegate):

1. To conduct all business for and on behalf of the Consortium and any one of us during the process of this Transaction
2. In the event the Consortium is selected as Successful Bidder, during the execution of the Transaction 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 qualification of the Consortium and submission of its Bid for the Transaction
3. Further, do any of such acts, deeds or things on our behalf including but not limited to signing and submission of Bid in response to RFP and other documents and writings, participate in pre-bid 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

4. Generally, to represent the Consortium in all its dealings with UTJK, JKCL and/ or any other UTJKAgency or any person, in all matters in connection with or relating to or arising out of the Consortium's Bid for the Transaction and/or upon award thereof till the completion of the Transaction

AND hereby agree to 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.

All the terms used herein but not defined shall have the meaning ascribed to such terms in the RFP and Transaction Documents.

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS _____, DAY OF [●], 20[●],

Executants:

For _____, (Signature) _____,
(Name & Title)

For _____, (Signature) _____,
(Name & Title)

For _____, (Signature) _____,
(Name & Title)

Witnesses:

1

2

(Notarized)

Important Instructions:

- i. 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. The Power of Attorney shall be duly notarized and stamped.
- ii. For a Power of Attorney executed and issued overseas, the document will also have to be legalized using a different procedure as per applicable law.
- iii. The date of execution of Power of Attorney for Lead Consortium Member shall be subsequent to the date of execution of General Power of Attorney (Annexure 3) by the Consortium members.

8.6. Annexure 5: Format for Consortium Agreement (In case Bidder is a Consortium)

(To be appropriately stamped and notarized)

(To be submitted by the lead Consortium Member on behalf of itself and the Consortium members submitting the Bid)

THIS Consortium Agreement ("Agreement") is executed on this _____ day of _____ Two thousand _____ between

1. M/s [insert name of Lead Member] _____ [a limited liability partnership OR company] incorporated under the laws of _____ and having its [Registered Office OR Principal Place of Business] at _____, having CIN / LLPIN/ registration/incorporation number (if applicable) _____ (hereinafter called the "Member-1", which expression shall include its successors, executors and permitted assigns);
2. M/s _____ [a limited liability partnership OR company] incorporated under the laws of _____ and having its [Registered Office OR Principal Place of Business] at _____, having CIN / LLPIN/ registration/incorporation number (if applicable) _____ (hereinafter called the "Member-2", which expression shall include its successors, executors and permitted assigns);
3. M/s _____ [a limited liability partnership OR company] incorporated under the laws of _____ and having its [Registered Office OR Principal Place of Business] at _____, having CIN / LLPIN/ registration/incorporation number (if applicable) _____ (hereinafter called the "Member-3", which expression shall include its successors, executors and permitted assigns);
4. M/s _____ [a limited liability partnership OR company] incorporated under the laws of _____ and having its [Registered Office OR Principal Place of Business] at _____, having CIN / LLPIN/ registration/incorporation number (if applicable) _____ (hereinafter called the "Member-4", which expression shall include its successors, executors and permitted assigns); and

for the purpose of submitting response to Advertisement dated [●] inviting Bids for disinvestment of 100% equity stake of UT administration of J&K in Jammu and Kashmir Cements Limited ("JKCL" or "Company") along with transfer of management control.

WHEREAS, each Member individually shall be referred to as the "Member" and all of the Members shall be collectively referred to as the "Members" in this Agreement.

WHEREAS the Instructions for submitting Bid as per RFP stipulates that in case Bid is being submitted by a Consortium of Bidders, the Consortium Members will have to submit a legally enforceable Consortium Agreement in a format specified by UTJK.

Capitalized terms used in this Agreement but not defined herein shall have the meaning as per the RFP.

NOW THEREFORE, THIS AGREEMENT WITNESSTH AS UNDER:

In consideration of the above premises and agreements all the Members in this Consortium do hereby mutually agree as follows:

1. We, the Consortium Members and Members to the Agreement do hereby unequivocally agree that Member-1 (M/s_____), holding at least 40% shareholding (i.e. equity share capital and shareholding on a fully diluted basis) shall act as the Lead Member as defined in the RFP for self and agent for and on behalf of Member-2, _____, Member-3, _____, and Member-4, _____ and to submit the Bid;
2. We have formed consortium comprising _____ members as follows:
 - i. _____ (Insert name)/% stake in the Consortium i.e. holding [●]% of the equity share capital of the Consortium SPV, on a fully diluted basis;
 - ii. _____ (Insert name)/% stake in the Consortium i.e. holding [●]% of the equity share capital of the Consortium SPV, on a fully diluted basis;
 - iii. _____ (Insert name)/% stake in the Consortium i.e. holding [●]% of the equity share capital of the Consortium SPV, on a fully diluted basis;
3. We undertake that after the submission of the Bid, the composition of the Consortium shall be maintained for a period as specified in the RFP, if it is shortlisted as the Successful Bidder.
4. The Lead Member is hereby authorized by the Members of the Consortium and Members to the Agreement to bind the Consortium and receive instructions for and on their behalf.
5. The Lead Consortium Member shall hold at least 40% equity shareholding on a fully diluted basis in the Consortium SPV.
6. We understand and acknowledge that if the Consortium is the successful bidder it will have to do the acquisition of the UT administration of J&K stake in the Disinvestment through a special purpose vehicle ("Consortium SPV"). We undertake to incorporate the Consortium SPV after the submission of our Bid and prior to entering into the definitive agreements, including the share purchase agreement, in connection therewith.
7. It is clarified that in case the Consortium forms the Consortium SPV as an LLP/partnership and not a company, such participation shall be construed to mean partnership interest in the partnership.
8. The Members of the Consortium shall be jointly responsible and liable for the Consortium to fulfil all of its obligations relating to the Bid including inter alia the RFP and Definitive Agreement(s) entered into by Consortium of Consortium SPV. The Lead Member shall, irrespective of its financial commitment to the Consortium, additionally be severally responsible for ensuring the individual and collective commitment of each of the members of the Consortium in discharging all of their

- respective obligations in connection with the Bid, Definitive Agreement(s) and Lead Member shall be liable for consequences of breach of the aforesaid documents by the members of Consortium.
9. The Lead Member, on behalf of the Consortium, shall inter alia be responsible for liaising with any authority or persons as required and to do all acts necessary for and on behalf of the Consortium.
10. Except as specified in the Agreement, it is agreed that sharing of responsibilities as aforesaid shall not in any way be a limitation of responsibility of the Consortium Members under this Agreement.
11. This Agreement shall come into effect on the day first above written and shall remain valid until the Consortium has any unfulfilled obligation. In the event however the Consortium is the successful bidder and the Consortium SPV signs the Definitive Agreement(s) this Agreement will be valid for so long as the Consortium SPV has any unfulfilled obligations under such agreements.
12. This Agreement shall be construed and interpreted in accordance with the laws of India and courts at Srinagar alone shall have the exclusive jurisdiction in all matters relating thereto and arising thereunder.
13. The Lead Member is authorized and shall be fully responsible for the accuracy and veracity of the representations and information submitted by the Members respectively from time to time in the Bid.
14. It is hereby expressly understood between the Members that no Member at any given point of time, may assign or delegate its rights, duties or obligations under the Bid except with prior written consent of UT administration of , .
15. We acknowledge that we have read and understood the RFP and Transaction Documents and will abide by all the terms and conditions mentioned therein.
16. This Agreement:
- has been duly executed and delivered on behalf of each Member hereto and constitutes the legal, valid, binding and enforceable obligation of each such Member;
 - sets forth the entire understanding of the Members hereto with respect to the subject matter hereof; and
 - may not be amended or modified except in writing signed by each of the Members and with prior written consent of UT administration of J&K.

IN WITNESS WHEREOF, the Members have, through their authorized representatives, executed these present on the Day, Month and Year first mentioned above.

Witnessed by:	FOR [Insert name of Member-1]
Signature:	_____ (Signature, Name & Designation of the
Name:	person authorized vide board resolution/power of
Address:	attorney duly executed by such partners as
	authorized by the partnership deed governing such
	partnership dated [●]/any similar authorization)

Witnessed by: Signature: Name: Address:	FOR [Insert name of Member-2] _____(Signature, Name & Designation of the person authorized vide board resolution/power of attorney duly executed by such partners as authorized by the partnership deed governing such partnership dated [●]/any similar authorization)
Witnessed by: Signature: Name: Address:	FOR [Insert name of Member-3] _____(Signature, Name & Designation of the person authorized vide board resolution/power of attorney duly executed by such partners as authorized by the partnership deed governing such partnership dated [●]/any similar authorization)

[Signature and stamp of Notary of the place of execution]

[To affix common seal, if applicable]

Important Instructions:

For a Consortium Agreement executed and issued overseas, the document will also have to be legalized using a different procedure as per applicable law. The document shall also be duly stamped and notarized.

8.7. Annexure 6: Confidentiality Undertaking

(To be appropriately stamped and notarized and submitted by the Bidder/ each Consortium Member seeking VDR access and / or submitting the Bid)

DEED OF CONFIDENTIALITY UNDERTAKING

This DEED OF CONFIDENTIALITY UNDERTAKING ("Undertaking") is made on this day of, 2022.

BY

M/s _____ [insert name of Bidder/ Lead Member] a [limited liability partnership OR company] incorporated under the laws of _____ [insert name of the country] and having its [Registered Office OR Principal Place of Business] at _____ (hereinafter called the ["Bidder" OR "Lead Member"]¹², which expression shall include its successors, executors and permitted assigns);

[AND]

M/s _____ [insert name of Consortium Member] a [limited liability partnership OR company] incorporated under the laws of _____ [insert name of the country] and having its [Registered Office OR Principal Place of Business] at _____ (hereinafter called "Member-2", which expression shall include its successors, executors and permitted assigns);

AND

M/s _____ [insert name of Consortium Member] a [limited liability partnership OR company] incorporated under the laws of _____ [insert name of the country] and having its [Registered Office OR Principal Place of Business] at _____ (hereinafter called "Member-3", which expression shall include its successors, executors and permitted assigns);

AND

M/s _____ [insert name of Consortium Member] a [limited liability partnership OR company] incorporated under the laws of _____ [insert name of the country] and having its [Registered Office OR Principal Place of Business] at _____ (hereinafter called "Member-4", which expression shall include its successors, executors and permitted assigns);

¹²Delete whichever is not applicable

The Lead Member, Member-2, Member-3 and Member-4 shall be collectively referred to as Bidder]¹³

IN FAVOUR OF:

The Principal Secretary, Department of Commerce & Industry, UT administration of Jammu & Kashmir (the "Administrative Ministry");

AND

Jammu and Kashmir Cements Limited (JKCL), a company incorporated under the Companies Act, 1956, bearing corporate identification number (CIN) XXXXXXXXX, having its registered office at XXXXXXXX ("JKCL" or the "Company").

WHEREAS:

- A. The Bidder has submitted a Bid for participation in the disinvestment of 100% equity stake of UT administration of J&K in Jammu and Kashmir Cements Limited ("JKCL" or "Company") along with the transfer of management and Control (the "Transaction")
- B. In the context of the Bidder's interest in the Transaction, the Disclosing Party (as defined hereinafter) may disclose Confidential Information (as defined hereinafter) to the Receiving Party (as defined hereinafter) to enable the Bidder to evaluate the Transaction.

NOW, THEREFORE, in consideration for receiving the Confidential Information, the Bidder hereby executes this Undertaking and undertakes, represents, warrants, covenants and agrees to the terms and conditions contained herein:

1. Capitalized terms and expressions used but not defined in this Undertaking shall have the same meaning ascribed thereto in the RFP. The following capitalized expressions used in this Undertaking (including the recitals) shall have the meaning assigned to them hereunder;

- 1.1. "Confidential Information" means and includes any and all facts, knowledge, information, documents and materials whether written or oral, obtained or received in the process of the Transaction from the Disclosing Party and/or any other person, including as part of due diligence process, information shared in VDR or otherwise and also includes all notes, analyses, compilations, studies, summaries, and other material prepared by the Receiving Party containing or based, in whole or in part, on any information included in the foregoing.

Notwithstanding the foregoing, the following information will not constitute "Confidential Information" for purposes of this Undertaking:

- a. Information which the Bidder can prove was already in the possession of the Receiving Party and was available to the Receiving Party on a non-confidential basis prior to its disclosure to the Receiving Party by the Disclosing Party;

¹³Delete if Bidder is not a Consortium

- b. Information which is obtained by the Receiving Party from a third person who, insofar as is known to the Receiving Party, is not prohibited from disclosing the information to the Receiving Party under a contractual, legal or fiduciary obligation to the Disclosing Party; and
- c. Information which is or becomes generally available to the public otherwise than as a result of a breach of this Undertaking by the Receiving Party.

The decision of the Government and/or the Company on whether any information qualifies within the exceptions in (a), (b) and (c) above shall be final, conclusive and binding.

- 1.2. "Disclosing Party" means the Company, the Administrative Ministry, the UT administration of J&K, other Governmental Authority and/or their respective Representatives, whether jointly or severally.
- 1.3. "Governmental Authority" means any governmental or regulatory authority, government ministry or department in India or other rule or regulation making entity having jurisdiction or acting on behalf of the Republic of India or any political subdivision thereof.
- 1.4. "Person" means any individual, company (including the Company and the Advisors), firm, association, trust, or any other organization or entity (including the Government and any governmental or political subdivision, ministry, department or agency thereof)
- 1.5. "Receiving Party" means the Bidder and its/ their Representatives, whether jointly or severally.
- 1.6. "Representative(s)" of any Person includes the directors, officers, employees, agents, consultants, advisors, lenders for financing of this Transaction or other representatives, including legal counsel, accountants and financial advisors of such Person and also includes the Representatives of the Representatives of any Person.
- 2. The Confidential Information disclosed by the Disclosing Party or any other person in connection with the Transaction to the Receiving Party, or acquired by the Receiving Party in the course of any studies conducted by the Receiving Party, will be received and treated by the Receiving Party as strictly confidential, subject to its obligations contained herein, and the Receiving Party shall not, without the Company's as well as the Government's prior written consent issued by its authorized personnel, or as expressly permitted herein, directly or indirectly disclose to any other Person, or use or allow others to disclose or use, the Confidential Information.
- 3. The Receiving Party will use the Confidential Information only to evaluate the Transaction and to decide whether or not it wishes to proceed with the Transaction and not for any purpose other than the Transaction. The Receiving Party will not directly or indirectly use the Confidential Information for any other purpose or in any other manner whatsoever and shall particularly ensure that the interests of the Company / UT administration of J&K/ Advisors are not adversely affected in any manner whatsoever.
- 4. In consideration of the Disclosing Party providing the Receiving Party with Confidential Information, by the Bidder's execution of this Undertaking, the Bidder, for itself and on behalf of all other Receiving Party, agrees that all of the Confidential Information shall be held and treated by the Receiving Party in strict confidence. The Bidder agrees (a) to disclose Confidential Information only to Consortium Members and/or those of its Representatives who need to know the Confidential Information for the purposes of an evaluation of the Transaction and each such Bidder or Representative of the Bidder will be informed and advised in writing by the Bidder of the

confidential nature of such information and the contents of and the obligations under this Undertaking and (b) to satisfy itself that each such Consortium Member and/or Representative of the Bidder will hold and treat the Confidential Information in confidence and act in accordance therewith. The Bidder agrees that the Confidential Information shall not, without the Company's as well as the Government's prior written consent, be disclosed by the Bidder and/or its/ their Representatives in any manner whatsoever, in whole or in part, to any third Person, and shall not be used by the Bidder or its Representative other than in connection with an evaluation of the Transaction.

The Bidder recognizes and acknowledges the competitive value and confidential nature of the Confidential Information and the possible resultant impact to the Company and the Government if the Confidential Information is disclosed or allowed to be disclosed to an unauthorized party or used for any purpose other than evaluating the Transaction. The Bidder acknowledges and agrees that it is imperative that all Confidential Information remains confidential.

The Bidder, before disclosing any of the Confidential Information to any shareholder/ member/ partner/ Representative of the Bidder, or any shareholder/ member/ partner/ Representative of a Consortium Member(s), as the case may be, shall ensure that such shareholder/member/ partner/ Representative of the Bidder or Consortium Member(s), as the case may be, has already executed and furnished to the UTJK, a written undertaking identical in form and content as this Undertaking in favor of the Government, the Company and the Advisors within 7 (seven) days of it becoming a Consortium Member.

Notwithstanding any agreement or undertaking, the Bidder agrees that it shall continue to be responsible and liable for any breach of this Undertaking even though the same is caused by any act or omission of any of the shareholders/ members/ partners/ Representative of the Bidder and shareholder/ members/ partners/ Representative of a Consortium Member(s), as the case may be, and shall indemnify and hold the Government, the Company, and the Advisors harmless (including provisions of clause 6 and 15 set forth herein) from any breach of this Undertaking or consequences and claims arising therefrom.

[In case the Bidder is a Consortium, it agrees that for the purpose of this Undertaking, its liability shall be joint and several with each of the Consortium Members.]¹⁴

5. Except as permitted by Clause 4 herein and except as expressly permitted by the Definitive Agreements, entered into by the Bidder, and/or any company formed and promoted by them for the acquisition of JKCL, the Receiving Party will not directly or indirectly disclose to any Person (including another prospective purchaser who has been provided Confidential Information) the fact that the Confidential Information has been made available to the Receiving Party or that the Receiving Party have inspected any portion of the Confidential Information, or that the Receiving Party had discussion or negotiation in relation to the Transaction. Except with the prior written consent of the Company and the Government, and except as expressly permitted by such definitive share purchase agreement, the Receiving Party will not directly or indirectly disclose to any Person the fact that any discussions or negotiations are taking place concerning the Transaction, including the status and content of such discussions or negotiations.

¹⁴Delete, if Bidder is not a Consortium

6. On acquiring the Confidential Information on the terms stated in this Undertaking or otherwise, the Receiving Party shall comply with all applicable law, and the Bidder hereby jointly and severally indemnifies and agrees to hold the Government, the Company and the Advisors indemnified and harmless (without prejudice to Clause 15 set forth below) against all and any consequences arising from any violation by the Receiving Party of such applicable laws.
7. If the Receiving Party is requested or becomes legally compelled (by oral questions, summons, interrogatories, requests for information or documents, subpoena, civil or criminal investigative demand, or similar process) or is required by a Governmental Authority and/or regulatory body (including any self-regulated organization in India or overseas) to make any disclosure that is prohibited or otherwise constrained by this Undertaking or any similar undertaking or agreement, the Receiving Party will provide, the Government, the Company and the Advisors with prompt written notice of such request so that the Advisors, the Government or the Company may seek an appropriate injunction, protective order or other appropriate remedy. Subject to the foregoing, the Receiving Party may furnish that portion (and only that portion) of the Confidential Information that, in the written opinion of the Bidder's legal counsel (reasonably acceptable to the Government, the Company and the Advisors), the Receiving Party is legally compelled or is otherwise legally required to disclose or else stand liable for contempt or suffer other material censure or material penalty; provided, however, that the Receiving Party must use best efforts to obtain reliable assurance that confidential treatment will be accorded to any Confidential Information so disclosed.
8. The confidentiality obligations contained in this Undertaking may, at the discretion of the Government, the Company and the Advisors, be amended, modified or superseded upon the Bidder and/or any company formed and promoted by them for executing Definitive Agreements, but shall be without prejudice to any of the Advisors', the Government's or the Company's rights in respect of any breach of this Undertaking which may have occurred prior to such amendment, modification or supersession.

The Bidder agrees that the Government reserves the right, in its sole discretion to modify the process of the Transaction in any part and/or to vary any terms at any time without prior notice to the Bidder and/or to reject any or all proposals made by the Bidder with regard to the Transaction.

9. The Government and/or the Company may elect at any time to terminate further access by the Receiving Party to any Confidential Information required by the Bidder in connection with its evaluation of the Transaction. After any such termination by the Government and/or the Company as specified in Clause 8 above, or after the decision of the Bidder to not proceed with the Transaction, the Bidder:
 - a. will promptly deliver to the concerned Disclosing Party, all Confidential Information including all documents or other materials furnished by such Disclosing Party to the Receiving Party, together with all copies and summaries thereof in the possession or under the control of the Receiving Party, and
 - b. will destroy materials generated by the Receiving Party that include or refer to any part of the Confidential Information, without retaining a copy of any such material.

Any such destruction pursuant to the foregoing must be confirmed by the Bidder in writing to each of the Advisors, the Government and the Company (such confirmation must include a list of the destroyed materials). The Bidder acknowledges that the return of the Confidential Information and

the return or destruction of the Confidential Information pursuant to termination or otherwise shall not release the Receiving Party from its obligations under this Undertaking.

10. The Receiving Party shall not deal or communicate (except in the ordinary course of its business) with any officer, director or employee of the Government or the Company regarding the business, operations, prospects or finances of the Company or the Plant, without the UTJK's prior written consent. It is understood that the Advisors will arrange for appropriate contacts for due diligence purposes in connection with the Transaction. Unless otherwise agreed to by the UTJK in writing (i) all communications regarding any possible transaction, (ii) any requests for additional information, (iii) any requests for management meetings, and (iv) any queries regarding the Transaction, will be directed exclusively to the UTJK. However, if the Receiving Party is called upon by the Government and/or the Company for any discussions, the Receiving Party will do so or meet the Government and/or the Company only after duly informing the Advisors in writing.
11. The Government and/or the Company reserves the right, in its sole discretion, to reject any and all proposals made by the Receiving Party with regard to the Transaction and to terminate discussions and negotiations with the Receiving Party at any time. Without limiting the preceding sentence, nothing in this Undertaking (i) requires either the Bidder or the Government to enter into the Transaction or to negotiate such Transaction for any specified period of time or (ii) requires the Government or the Company to enter into an agreement or an understanding, or prohibits the Government or the Company from entering into any agreement or understanding, for proceeding with the Transaction with any other Person.
12. In the event that the Receiving Party is not declared as the Successful Bidder, it shall not, directly or indirectly, solicit for employment or hire any employee of the Company for a period of one (1) year from the date of this Undertaking or till six (6) months from the completion of the Transaction, whichever is later.
13. The Bidder understands, acknowledges and agrees that the Government, the Company and the Advisors retain the right to determine, in their sole discretion, the information that they wish to make available to the Receiving Party and the personnel through whom the same will be made available. Further, nothing in this Undertaking shall amount to or be construed as the Disclosing Party making any representations or warranties, express or implied, as to the accuracy and/or completeness of the Confidential Information and the Disclosing Party shall have no liability whatsoever to the Receiving Party resulting from the Bidder's use of the Confidential Information. The Bidder also agrees that if it determines to proceed with the Transaction, its determination will be solely based on the terms of the Definitive Agreements as well as on its own investigation, analysis and assessment of its investment. Moreover, unless and until such agreements are entered into, neither the Government nor the Bidder will be under any legal obligation of any kind with respect to the Transaction except for the matters specifically agreed to in this Undertaking or in another written and duly executed Definitive Agreement.
14. The Bidder hereby indemnifies and agrees to hold the Government, the Company and the Advisors indemnified and harmless from all and any damages, losses, costs, or liabilities (including legal fees and the cost of enforcing this indemnity) arising out of or resulting from any unauthorized use or disclosure by any Receiving Party of the Confidential Information or other violation of this Undertaking (notwithstanding that a Receiving Party may not be party to this Undertaking) or of any similar undertaking or agreement. In addition, because an award of money damages (whether

pursuant to the foregoing sentence or otherwise) would be inadequate for any breach of this Undertaking or any similar undertaking or agreement by the Receiving Party and any such breach would cause the Disclosing Party irreparable harm, the Bidder also agrees that, in the event of any breach or threatened breach of this Undertaking or such similar undertaking or agreement, the Government, the Company or the Advisors will also be entitled, without the requirement of posting a bond or other security, to equitable relief, including injunctive relief and specific performance. Such remedies will not be the exclusive remedies for any breach of this Undertaking but will be in addition to all other remedies available at law or equity to the Government, the Company, and/or the Advisors

15. The Bidder understands, acknowledges, confirms and agrees that each of the Government, the Company and the Advisors are beneficiaries under this Undertaking. The Bidder further agrees and confirms that each of the Government, the Company and the Advisors, will be entitled to and may enforce, either individually or jointly, the obligations imposed on the Receiving Party under this Undertaking.
16. The Receiving Party agrees that in case the Bidder or any Consortium Member decides not to proceed with the Transaction or if the UTJK/ Advisors notify the Bidder or any Consortium Member that the UTJK does not wish the Bidder or any such Consortium Member to consider the Transaction any further, the terms of the Undertaking shall survive on even subsequent to the date of receipt of notification of such decision by the relevant party.
17. The Bidder agrees that no failure or delay by the Government / the Company/ the Advisors in exercising any right, power or privilege hereunder will operate as a waiver thereof nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereto.
18. The terms of this Undertaking may be varied only with the Company's and the Government's prior written agreement. This Undertaking shall be effective as of the date first above given on the first page of this Undertaking.
19. This Undertaking shall be governed by and construed in accordance with the substantive laws of India without giving effect to its conflict of law principles.
20. All notices required or permitted to be given hereunder shall be in writing and shall be valid and sufficient if dispatched by registered airmail, postage prepaid, or by cable or facsimiles as follows.

If the notice is to the Bidder:

Bidder/ Lead Member	[Member-2	Member-3]¹⁵
[●]	[●]	[●]

Any of the Bidder, the Company or the Advisors may change its address by a notice given to the other in the manner set forth above. All notices and other communications shall be deemed to have been duly given (i) on the expiry of seven days after posting, if transmitted by registered airmail or (ii) on the date

¹⁵Delete if not applicable

immediately after the date of transmission with confirmed answer back if transmitted by cable or facsimile whichever shall first occur.

IN WITNESS WHEREOF, this Undertaking has been executed by the duly authorized representative of the Bidder on the date and year first hereinabove written.

Witnessed by: Signature: Name: Address:	FOR [Insert name of the Bidder/Lead Member] _____(Signature, Name & Designation of the person authorized vide board resolution/power of attorney duly executed by such partners as authorized by the partnership deed governing such partnership dated [●]/any similar authorization)
Witnessed by: Signature: Name: Address:	FOR [Insert name of Member-2]16 _____(Signature, Name & Designation of the person authorized vide board resolution/power of attorney duly executed by such partners as authorized by the partnership deed governing such partnership dated [●]/any similar authorization)
Witnessed by: Signature: Name: Address:	FOR [Insert name of Member-3]17 _____(Signature, Name & Designation of the person authorized vide board resolution/power of attorney duly executed by such partners as authorized by the partnership deed governing such partnership dated [●]/any similar authorization)
Witnessed by: Signature: Name: Address:	FOR [Insert name of Member-4]18 _____(Signature, Name & Designation of the person authorized vide board resolution/power of attorney duly executed by such partners as authorized by the partnership deed governing such partnership dated [●]/any similar authorization)

Important Instructions:

¹⁶Delete if not applicable

¹⁷Delete if not applicable

¹⁸Delete if not applicable

- i. For a Confidentiality Undertaking executed and issued overseas, the document will also have to be legalized using a different procedure as per applicable law
- ii. In case of a consortium, all the Consortium Members are required to submit the Confidentiality Undertaking.

8.8. Annexure 7: Format of Affidavit

(To be duly executed and adequate stamp duty to be paid by the Bidder/ Parent of Sole Bidder /Lead Consortium Member with respect to this document.)

AFFIDAVIT

I, [name] aged [age] years, resident of [address] working as [designation] an Authorised Signatory on behalf of [name of the Bidder/ Parent of Sole Bidder /Lead Consortium Member] hereby state as under:

1. I am the [designation of the deponent] of the [name of the Bidder/ Parent of Sole Bidder /Lead Consortium Member]. I am conversant with the facts and circumstances surrounding the subject of this affidavit [and have been authorized to depose to the same pursuant to the power of attorney dated [date] issued pursuant to [particulars of corporate approval]]. I am filing this affidavit to place on record verification of facts and documents in connection with the bidding process concerning disinvestment of Jammu and Kashmir Cements Limited (JKCL).
2. I state that I have reviewed the contents of the RFP and the requirements of each of them in relation to the disinvestment of Jammu and Kashmir Cements Limited (JKCL) and also the terms and conditions thereof.
3. I state that all documents and information submitted with the RFP of [insert name of the Bidder] has been personally verified and has also been verified by the concerned authority within [insert name of the Bidder/ Parent of Sole Bidder /Consortium Member].
4. [Insert separate paragraphs for each information/ document physically submitted to the UT administration of Jammu and Kashmir, in a chronological sequence].
5. I state that each of the documents submitted is true, correct and complete in all respects and that nothing has been concealed in the information submitted as mentioned above.
6. I understand that in case of any untrue, incomplete or incorrect information is submitted, the Bid submitted by [insert name of the Bidder] shall be liable to be disqualified.
7. I state that, in the event [insert name of the Bidder/ Parent of Sole Bidder /Consortium Member] are attracted by any of the disqualifications or any other factor which makes us ineligible in terms of the RFP during the pendency of the process of Disinvestment, we the [insert name of the Bidder/ Lead

Consortium Member] shall immediately notify the TA along with the copy of all the relevant documents

8. I state that, in the event of any change in the information or documents submitted by [insert name of the Bidder/ Parent of Sole Bidder /Consortium Member], we the [insert name of the Bidder/ Parent of Sole Bidder /Consortium Member] shall immediately notify the UT administration of J&K along with the copy of all the relevant documents.
9. This Affidavit has been provided by me and on behalf of [insert name of the Bidder/ Parent of Sole Bidder /Consortium Member] for the purpose of confirming the correctness, completeness and validity of all documents and information submitted by [insert name of the Bidder/ Parent of Sole Bidder /Consortium Member] in relation to disinvestment of Jammu and Kashmir Cements Limited (JKCL).

Solemnly affirmed and verified on this [day] day of [month][year] at [place].

(Signature)

Name, Designation & Address

VERIFICATION

I, [name], [the [designation of the deponent] of] the [insert name of the Bidder/ Parent of Sole Bidder /Consortium Member] above named, having my office at [address], do hereby solemnly declare that what is stated above is on the basis of the books and records of the [insert name of the Bidder/ Parent of Sole Bidder /Consortium Member], and verify that the contents of the above affidavit are true and correct, no part of it is false and nothing material has been concealed therefrom.

Verified at [day] day of [month] [year] at [place].

Deponent

(Signature)

[particulars of notarization]

Name, Designation & Address

8.9. Annexure 8: Declaration in relation to Statement of Legal Proceedings

(To be forwarded on the letterhead of the Bidder/each Consortium Member submitting the Bid)

DECLARATION

1. We solemnly declare that neither we or our Parent (in the event net worth of the Parent is relied upon) are convicted by any court of law or are indicted or have received any adverse order from regulatory authority relating to a grave offence with regard to matters other than the security and integrity of the country. Neither have we been convicted by any Court of law, indicted, nor has any adverse order been passed against us by a regulatory authority which would cast a doubt on our ability to manage the public sector unit when it is disinvested, or which related to a grave offence that outrages the moral sense of the community.

The term “Grave Offence” shall have the same meaning as set forth in the Office Memorandum dated September 28, 2017 on “Guidelines for qualification of Bidders seeking to acquire stakes in Public Sector Enterprises through the process of disinvestment”.

2. We further declare that in regard to matters relating to security and integrity of the country, no charge sheet has been filed against us, our directors, or respective Subsidiaries, Associate Companies or any of our Promoters, Promoter Group by any agency of the Government of India or convicted by a Court of law.
3. We further declare that no investigation by a regulatory authority is pending either against us or our Parent (in case of reliance on net worth of the Parent).
4. We further declare that no legal proceedings by or against the Bidder/ Parent of Sole Bidder (in case of reliance on net worth of Parent by the Sole Bidder) /Consortium Member / their respective Subsidiary and Associate Companies thereof by or against JKCL or its directors in capacity as directors of JKCL, have been initiated or is in existence, which proceeding may be prejudiced by the participation of the Bidder in the selection process or the Transaction.
5. We declare that complete information as required is provided in the Bid and Statement of Legal Capacity.
6. We comply with the Office Memorandum No. 3/9/2016-DD-II-B Dated: 28th September, 2017, (refer Annexure [12]), as amended from time to time.

Yours sincerely,

For and on behalf of: [name of the Bidder/ Consortium Member]

Signature: (Authorized Representative and Signatory)

Name of the Person: [●]

Designation: [●]

Note: In case any Bidder is unable to give above undertaking in view of any conviction, indictment, adverse order or investigation as above, full details of the same shall be provided including names of persons involved including names of the subsidiary/group company/entity or associate company Promoter company or Promoter group member/ director, persons involved, designation, charge/offence, ordering/investigating agency, status/outcome etc. with supporting/relevant documents to the satisfaction of UTJK. Any entity, which is disqualified from participating in the Transaction, shall not be allowed to remain associated with it or get associated merely because it has preferred an appeal against the order based on which it has been disqualified. The mere pendency of appeal will have no effect on the disqualification

8.10. Annexure 9: Undertaking by Parent

(To be executed in the event Sole Bidder meets Financial Criteria through Parent)

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

UNDERTAKING BY PARENT OF SOLE BIDDER

This UNDERTAKING ("Undertaking") is made on this day of, [●].

BY

M/s _____ [insert name of the entity] a [limited liability partnership OR company] incorporated under the laws of _____ [insert name of the country] and having its [Registered Office OR Principal Place of Business] at _____ (hereinafter called the ["Connected Company", which expression shall include its successors, executors and permitted assigns);

IN FAVOUR OF:

The Principal Secretary, Department of Commerce & Industry, UT administration of J&K (the "Administrative Ministry");

AND

Jammu and Kashmir Cements Limited (JKCL), a company incorporated under the Companies Act, 1956, bearing corporate identification number (CIN) XXXXXXXXX, having its registered office at XXXXXXXX ("JKCL" or the "Company").

We have read and understood the contents of the Advertisement and the Request for Proposal dated [●] ("RFP") and the undertaking and documents submitted by the Bidder pursuant to the RFP.

We confirm that we are the Parent of [●] [insert name of Bidder (Sole Bidder)] who is interested in bidding for the strategic disinvestment of 100% of equity shares of UT administration of J&K in JKCL and proposes to use our network to meet the Financial Criteria stipulated in the RFP dated [●].

We shall be jointly and severally liable along with the Bidder for any obligation of the Bidder (Sole Bidder) under the Definitive Agreements or any document and undertaking executed by the Bidder (Sole Bidder) pursuant to the Bid and Transaction or completion thereof. We will also sign / be parties to all Definitive Agreements as required;

All conditions prescribed in the RFP and the undertaking provided by the Bidder (Sole Bidder), including the criteria for qualification and disqualification shall be applicable to [Insert name of Parent] and we undertake to comply with all such conditions.

Yours sincerely,

For and on behalf of Connected Company:

Signature: (Authorized Representative and Signatory)

Name of the Person: [●]

Designation: [●]

8.11. Annexure 10: Bid Security in the form of Bank Guarantee

(Irrevocable and unconditional Bank Guarantee to be submitted by Bidder/ Lead Member of the Consortium)

B.G. No.

Dated:

Designated officer, _____ [UTJK]

UT administration of Jammu and Kashmir (hereinafter referred to as the “**UTJK**”, which expression shall unless it be repugnant to the subject or context thereof include its, successors and assigns) issued the Global Invitation for Request for Proposal for Disinvestment of Jammu and Kashmir Cements Limited (“hereinafter referred to as “**JKCL**”) dated MonthXX, 20XX (as amended) (hereinafter referred to as “**RFP**”) for accepting bids in relation to strategic disinvestment of 100% equity share capital of JKCL along with transfer of management control (hereinafter referred to as “**Transaction**”). Pursuant to the RFP and other related documents UTJK agreed to receive the Bid of.....[name of the Bidder / Lead Member], having its registered office at (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).

We [Name of the Bank] having our registered office at..... and one of its branches at(hereinafter referred to as the “**Bank**”), at the request of the Bidder, do hereby in terms of paragraph [•] Bid Security of the RFP document, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfilment and compliance of the terms and conditions of the RFP by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to UTJK an amount of INR 5,00,00,000 (Rupees Five Crore) (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 RFP as notified by UTJK through a written demand for invocation of the Guarantee.

Any such written demand made by UTJK stating that the Bidder is in default of the due and faithful fulfilment and compliance with the terms and conditions contained in the RFP shall be final, conclusive and binding on the Bank.

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 UTJK is disputed by the Bidder or not, merely on the demand from UTJK stating that the amount claimed is due to UTJK by reason of failure of the Bidder to fulfil and comply with the terms and conditions contained in the RFP including failure of the said Bidder to keep its Bid open during the Bid validity period as set forth in the said RFP and the decision of UTJK that the Bidder is in default as aforesaid shall be final and binding on us,

notwithstanding any differences between GOI and the Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other authority.

This Guarantee shall be irrevocable and remain in full force for a period of 180 days from the Bid Due Date or may need to be extended upon immediate intimation of the same to Bidder and shall be agreed to by the Bank and shall continue to be enforceable till all amounts under this Guarantee have been paid (“**Expiry Date**”).

We, the Bank, further agree that UTJK 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 RFP including, inter alia, the failure of the Bidder to keep its Bid open during the Bid validity period set forth in the said RFP, and

The Guarantee shall not be affected by any change in the constitution or winding up or insolvency or bankruptcy of the Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank with any other person.

In order to give full effect to this Guarantee, UTJK shall be entitled to treat the Bank as the principal debtor. UTJK 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 RFP or to extend time for submission of the Bids or the Bid validity period or the period for conveying acceptance of LoA to the Successful Bidder or the period for fulfilment and compliance with all or any of the terms and conditions contained in the RFP 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 RFP or the securities available to UTJK, and the Bank shall not be released from its liability under these presents by any exercise by UTJK 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 UTJK or any indulgence by UTJK to the said Bidder 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.

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.

We undertake to make the payment immediately on receipt of UTJK 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 authorized to receive the said notice of claim.

It shall not be necessary for UTJK 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 Government 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 unrealized.

We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of UTJK in writing.

The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorized and has full power to execute this Guarantee for and on behalf of the Bank.

For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to INR 5,00,00,000 (Rupees Five Crores only).

The Bank is liable to pay the Guaranteed Amount or any part thereof under this bank guarantee only and only if the UTJK serves upon the Bank a written claim or demand on or before the Expiry Date. [(Indicate date falling 180 days from the Bid Due Date)], unless extended in terms of this Guarantee.

All terms used in capital letters but not defined herein shall have meaning ascribed to them in RFP.

Signed and Delivered byBank

By the hand of Mr./Ms, itsand authorized official. (Signature of the Authorized Signatory)

Note:

- i. *Stamp Paper should be purchased in the name of Issuing Bank*
- ii. *Value of Stamp Paper shall be as per applicable norms*

8.12. Annexure 11: Statutory Auditor or independent chartered accountant's certificate for Financial Capacity

Certifying that Net Worth, as defined in Eligibility Criteria, along with a detailed calculation of the Net Worth. In case the latest audited annual accounts of Bidder are not available then the Bidder shall submit a certificate from its statutory auditor certifying the Net Worth along with the methodology used for calculating such Net Worth as applicable.)

On the Letterhead of the Statutory Auditor or independent chartered accountant (as applicable)

The certificate for fulfilment of Financial Criteria should clearly mention the following:

- The date of Net worth calculation for which Net worth details have been submitted
- That the Net worth calculation has been done in accordance with the stipulations under the Eligibility Criteria section of the RFP
- In case the Bidder/ Parent of Sole Bidder /Consortium Member are not required to prepare consolidated financial statements as a part of statutory requirements, the same should be mentioned in the certificate (in such a case, the standalone financial statements are to be used for assessment. However, the same would be accepted only if the certificate for fulfilment of Financial Criteria clearly mentions the non-requirement for preparation of consolidated financial statements)
- The certificate should clearly mention that the issuing authority is Statutory Auditor or independent chartered accountant (as applicable), for the Bidder/Consortium Member
- It should clearly specify the cross holdings among Consortium Members, if any
- The financial statements on the basis of which the Financial Criteria have been assessed correspond to accounting periods completed (each of not less than 12 months' duration) and are not based on partial periods
- The format should also clearly provide details on the PAT of the Bidder/ Parent of Sole Bidder /Consortium Member for the preceding five years as provided in the Eligibility Criteria section of the RFP

8.13. Annexure 12: Format for Financial Bid

(To be typed on the letterhead of the Bidder/ Lead Consortium Member submitting the Bid)

Reference No. _____ Date _____

To,

XXXXXX

XXXXXX

Sub: PRICE BID FOR DISINVESTMENT OF JAMMU AND KASHMIR CEMENTS LIMITED
("JKCL")

Dear Sir/ Madam,

This Price Bid is submitted by _____ (Name of the Bidder/Lead Consortium Member) for the purchase of 100% equity shareholding of UT administration of Jammu and Kashmir in Jammu and Kashmir Cements Limited, pursuant to the RFP dated

Price Bid/Financial Bid: Our offer for the purchase of 100% Equity Shareholding of UT administration of Jammu and Kashmir in Jammu and Kashmir Cements Limited is INR _____ (<< in words >>) per equity share of JKCL aggregating to total value of INR _____ (<< in words >>).

The Price Bid is an unconditional and irrevocable offer that will be kept valid in accordance with the provisions of the RFP.

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 specified by UTJK.

Note:

- i. *All payments shall be made in Indian Rupees without any deductions. All payments shall be grossed up to account for any deductions whatsoever including for taxes (including withholding taxes), charges, fees, etc, if any*
- ii. *In the event of any difference between figures and words, the higher of the amounts indicated prevail.*
- iii. *The price quoted in this Price Bid shall be exclusive of stamp duty, registration fee, taxes and any other governmental / third party costs, fees, or charges, etc. in relation to the Transaction and all such cost shall be borne by Bidder over and above the Price Bid.*

- iv. *No commercial or technical conditions or clarification of any sort shall be indicated by the Bidder in this Price Bid. In case of any change in the format of Price Bid, the same may be summarily rejected by UTJK, without assigning any reason thereof*

Thanking you,

Yours sincerely

FOR AND BEHALF OF [Insert name of Bidder/ Lead Member]

_____(Signature, Name & Designation of the person authorized vide board resolution/power of attorney duly executed by such partners as authorized by the partnership deed governing such partnership dated [●]/any similar authorization)

FOR AND BEHALF OF [Insert name of Member-2]

_____(Signature, Name & Designation of the person authorized vide board resolution/power of attorney duly executed by such partners as authorized by the partnership deed governing such partnership dated [●]/any similar authorization)

FOR AND BEHALF OF [Insert name of Member-3]

_____(Signature, Name & Designation of the person authorized vide board resolution/power of attorney duly executed by such partners as authorized by the partnership deed governing such partnership dated [●]/any similar authorization)

FOR AND BEHALF OF [Insert name of Member-4]

_____(Signature, Name & Designation of the person authorized vide board resolution/power of attorney duly executed by such partners as authorized by the partnership deed governing such partnership dated [●]/any similar authorization)

8.14. Annexure13: Department of Investment and Public Asset Management (DIPAM) Guidelines

Annexure 13A: Guidelines for qualification of Bidders seeking to acquire stakes in Public Sector Enterprises through the process of disinvestment

No. 6/4/2001-DD-II
Government of India
Department of Investment and Public Asset Management
Block 14, CGO Complex
New Delhi.

Dated 28th September 2017.

OFFICE MEMORANDUM

Sub: Guidelines for qualification of Bidders seeking to acquire stakes in Public Sector Enterprises through the process of disinvestment

Government has examined the issue of framing comprehensive and transparent guidelines defining the criteria for bidders interested in PSE-disinvestment so that the parties selected through competitive bidding could inspire public confidence. Earlier, criteria like net worth, experience etc. used to be prescribed. Based on experience and in consultation with concerned departments, Government has decided to prescribe the following additional criteria for the qualification/ disqualification of the parties seeking to acquire stakes in public sector enterprises through disinvestment:

In regard to matters other than the security and integrity of the country, any conviction by a Court of Law or indictment/ adverse order by a regulatory authority that casts a doubt on the ability of the bidder to manage the public sector unit when it is disinvested, or which relates to a grave offence would constitute disqualification. Grave offence is defined to be of such a nature that it outrages the moral sense of the community. The decision in regard to the nature of the offence would be taken on case-to-case basis after considering the facts of the case and relevant legal principles, by the Government, 'Grave Offence' would include the below noted cases:

- Only those orders of SEBI are to be treated as coming under the category of 'Grave Offences' which directly relate to 'fraud' as defined in the SEBI Act and/or regulations.
- Only those orders of SEBI that cast a doubt on the ability of the bidder to manage the public-sector unit, when it is disinvested, are to be treated as adverse.
- Any conviction by Court of Law;

- In cases in which SEBI also passes a prosecution order, disqualification of the bidder should arise only on conviction by the Court of Law.

In regard to matters relating to the security and integrity of the country, any charge-sheet by an agency of the Government / conviction by a Court of Law for an offence committed by the bidding party or its Associate Company as defined in Companies Act, 2013 would result in disqualification. The decision in regard to the relationship inter-se between the concerns would be taken, based on the relevant facts and after examining whether the two concerns are substantially controlled by the same person/persons.

In both (a) and (b), disqualification shall continue for a period that Government deems appropriate.

Any entity, which is disqualified from participating in the disinvestment process, would not be allowed to remain associated with it or get associated merely because it has preferred an appeal against the order based on which it has been disqualified. The mere pendency of appeal will have no effect on the disqualification.

The disqualification criteria would come into effect immediately and would apply to all bidders for various disinvestment transactions, which have not been completed as yet.

Before disqualifying a bidder, a Show Cause Notice why it should not be disqualified would be issued to it and it would be given an opportunity to explain its position.

These criteria will be prescribed in the advertisements seeking Expression of Interest (EOI) from the interested parties. The interested parties would be required to provide the information on the above criteria, along with their Expressions of Interest (EOI). The bidders shall be required to provide with their EOI an undertaking to the effect that no investigation by a regulatory authority, which if decided against the bidder, may disqualify the bidder in terms of (a) & (b) above or the eligibility criteria prescribed in the EOI, is pending against them. In case any investigation is pending in case which if decided against the bidder, may disqualify the bidder in terms of (a) & (b) above on the eligibility criteria prescribed in EOI against the bidder other concern in which the bidder has substantial interest or against its CEO or any of its Directors/ Managers, full details of such investigation including the name of the investigating agency, the charge/ offence for which the investigation has been launched, name and designation of persons against whom the investigation has been launched and other relevant information should be disclosed, to the satisfaction of the Government. For other criteria also, a similar undertaking shall be filed along with EOI.

sd/-

(Aseem Kumar Jha)

Under Secretary to the Government of India

Annexure 13B: Participation of Central Public Sector Undertakings (PSUs)/Cooperative Societies controlled by the Government in disinvestment of other PSUs.

No. 4(32)/2002-MoDI
Government of India
Ministry of Disinvestment

Block No. 14, CGO Complex,
Lodi Road, New Delhi -110003.
Dated 18th September 2002

OFFICE MEMORANDUM

Sub: Participation of Central Public Sector Undertakings (PSUs)/Cooperative Societies controlled by the Government in disinvestment of other PSUs.

The undersigned is directed to say that the issue of participation of Central Public Sector Undertakings (PSUs) and Central Government owned Cooperative Societies in the disinvestment of other PSUs has been engaging the attention of the Government for the past some time. Government has examined this issue in the light of policy of the Government on Disinvestment.

2. After careful examination of the various issues, the Government of India has now decided that henceforth, as a general policy, Central Public Sector Undertakings and Central Government owned Cooperative Societies (i.e. where Government's ownership is 51% or more), should not be permitted to participate in the disinvestment of other PSUs as bidders. If in some specific case, any deviation from these restrictions is considered desirable in public interest, the Ministry/Department concerned may bring up an appropriate proposal for consideration of the Core Group of Secretaries on Disinvestment.

3. The Ministries/Department are requested to communicate the above decision of the Government to all the PSUs and the Cooperative Societies under their administrative control.

(T.S. Krishnamachari)

Deputy Secretary to the Government of India

Phone no. 436 8523

Fax No. 436 6524