

REQUEST FOR PROPOSAL

FOR

TRANSFER

OF

**SPECIFIED ASSETS ALONGWITH CERTAIN LIABILITIES OF
THE KISAN SAHKARI CHINI MILLS LTD., BISALPUR**

**REGISTRAR, CO-OPERATIVE SUGAR MILL SOCIETIES
UTTAR PRADESH**

DATE OF ISSUE

JUNE 25, 2009

DATE OF SUBMISSION OF FINANCIAL BID

SEPTEMBER 10, 2009



ADVISOR: IFCI LTD

Disclaimer and Important Notice

All information contained in this Request For Proposal (“**RFP**”) or subsequently provided in writing to persons to whom this RFP has been issued, (the “**Shortlisted Bidder(s)**”), by or on behalf of representatives of the Registrar/UPCSFFL or any of its employees or advisors (the “**Information**”), is provided to Shortlisted Bidder(s) on the terms and conditions set out in this RFP and also any other supplementary terms and conditions subject to which such Information is or may be provided.

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This RFP or any of its contents is not an agreement to sell any securities or any of the businesses or assets which is held by Mill to enter into an agreement or arrangement of any kind with any party, including without limitation, the Shortlisted Bidders.

This RFP does not, and does not purport to contain all the information and data each Shortlisted Bidder and / or their advisors may desire or require in reaching decisions as to their involvement to purchase the Mill under administrative control of UPCSFFL. Each Shortlisted Bidder should conduct its own investigations and analysis and should check the accuracy, reliability and completeness of the information in this RFP and obtain independent advice from appropriate sources. Shortlisted Bidders should form their own views as to what Information provided herein or separately is relevant to any decisions that they make and should make their own independent investigations in relation to any additional information that they may require.

The Information contained in this RFP or any other Information which may be provided to Shortlisted Bidders is subject to change without notice. Further, it should not be assumed that there shall be no deviation or change in any Information provided. Registrar/UPCSFFL may, in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the Information.

While this RFP has been prepared in good faith, neither Registrar/UPCSFFL, nor its employees or advisors or its employees make any representation or warranty, express or implied, or accept any responsibility or liability, whatsoever, in respect of any statements or omissions herein, or the accuracy, completeness or reliability of Information, and shall incur no liability under any law, statute, rules or regulations as to the accuracy, reliability or completeness of this RFP, even if any loss or damage is caused by any act or omission on the part of Registrar/UPCSFFL or its employees or advisors or its employees, whether negligent or otherwise.

This RFP has not been filed, registered or approved in any jurisdiction. Recipients of this RFP resident in jurisdictions outside India as well as those residents in India should inform themselves of, and observe any applicable legal requirements.

Registrar reserves the right to accept or reject any or all applications without assigning any reasons. Registrar and its representatives will not entertain any claim for any expenses whatsoever.

Definitions

In this Request for Proposal (**RFP**) document, unless the context otherwise requires, the following terms and expressions shall have the meanings assigned to them herein:

“Accounting Advisor” means Independent auditor appointed by Registrar to determine the Adjustment to the Bid Amount in accordance with Clause 2.6.2 of this Document;

“Accounting year” refers to any 12 month period usually followed by the Shortlisted Bidder or the members of the Consortium for the purpose of reporting its accounts;

“Act” means the Uttar Pradesh Co-operative Societies Act, 1965;

“Adjusted Bid Amount” means the Bid Amount arrived at after adjustment as per Clause 2.6.2

“Application” means Financial Bid as per Annexure 1;

“Applicant” means **Shortlisted applicants/bidder qualified at EOI cum RFQ stage based on EOI cum RFQ application.**

“Application Due Date” shall mean the date for the submission of the Financial Bids as laid down in Clause 3.6 herein;

“Application Validity Period” means, 180 days from the Application Due Date (including extensions of validity, if any);

“Bid Amount” means the amount offered in the financial proposal of a Shortlisted Bidder for purchasing the Specified Assets alongwith Certain Liabilities of Mill;

“Certain Liabilities” means the liabilities of **Mill** intended to be transferred to the Purchaser as detailed in Annexure 5 to RFP;

“Chapter”: means chapter of this RFP

“Clause or Clauses” means clause or clauses of this RFP;

“CIM” means the **Confidential Information Memorandum**” document;

“Consortium” means an association of Persons that have entered into or may enter into Memorandum of Understanding/ Joint Bidding Agreement to collectively participate in the selection process and to collectively undertake and execute the Transaction, if selected;

“EOI cum RFQ” means the ‘Expression of Interest cum Request for Qualification document’, made available on the websites: www.upsugarfed.org and/or www.upcane.org and/or www.ifcilttd.com, together with all its annexures as may be amended and modified from time to time;

“Expected Price” shall mean the value fixed for the Bid Amount as determined by the Registrar, to be the expected price, and declared to the Bidders prior to submission of their Financial Proposal (RFP):

“Final Installment/Payment Date” means the date of Final Payment i.e. Final Payment Due Date or Extended Final Payment Due Date as the case may be.

“Financial Proposal” means the Application submitted pursuant to this RFP;

“Financial Year” refers to the 12 month period ending March 31, i.e. from April 1 to March 31;

“GoUP” means the Government of Uttar Pradesh;

“Indian Rupees”, “Rupees” or “INR” mean the lawful currency of India;

“Information” means all information contained in this RFP related to this transaction or subsequently provided to the Shortlisted Bidder(s), whether verbally or in documentary form, by or on behalf of Registrar or the authorized representatives or any of their authorized employees or advisors;

“Intimation Date” means the date on which the Registrar intimates to the Successful Bidder regarding transfer of the specified assets alongwith certain liabilities after complying with the provisions of the applicable Acts, Rules and Special Rules;

“Inventory Balances” means the balances of inventory of Sugar, molasses, bagasse and alcohol.

“Mill” means the Kisan Sahkari Chini Mills Ltd., Bisalpur, which is registered under the Uttar Pradesh Co-operative Societies Act, 1965;

“Original Bidding Process” shall mean the Bid process which was carried out before resorting to the Swiss Challenge Method.

“Person(s)” means a Society, Company, Firm or Body whether incorporated or not;

“Purchaser/Successful Bidder” means the Shortlisted Bidder selected to purchase the Specified Assets alongwith Certain Liabilities of the Mill;

“RBI” means Reserve Bank of India;

“RFP or Request for Proposal” means this document which has been prepared to provide information about the process of Transfer of Specified Assets alongwith Certain Liabilities of the Mill to the Shortlisted Bidder on the basis the EOI cum RFQ released by Registrar, together with all its Annexures, as may be amended or modified from time to time;

“Registrar” means the person for the time being appointed as Registrar, Cane Co-Operative Societies under sub-section (1) of Section 3 of the Uttar Pradesh Co-operative Societies Act, 1965;

“Rules” means U.P. Co-operative Societies Rules, 1968;

“Sale Deed” means the transfer deed relating to the transfer of Specified Assets alongwith Certain Liabilities of the Mill;

“Settlement Date” means the date on which the entire remaining Bid Amount is paid;

“Signing Date” means the date on which the Transfer Agreement is to be executed between Mill/Registrar and the Successful Bidder;

“Shortlisted Bidder” means person(s) either solely or in a consortium, that have been short-listed by Registrar on the basis of their Technical Proposal as per the EOI cum RFQ;

“Specified Assets” means the assets of Mill intended to be transferred to the Purchaser as detailed in Annexure 5 to RFP;

“Special Rules” means the Uttar Pradesh Co-operative Sugar Mill Societies (Special Provision) Rules 2007;

“Stake/Interest” means proposed shareholding percentages of the Consortium members in the Special Purpose Vehicle (“SPV”) formed/ to be formed (at the time of signing of Transfer Agreement) for the purpose of this Transaction;

“State” means the State of Uttar Pradesh;

“Successful Bidder/Purchaser” means the applicant selected to purchase the Mill

“Swiss Challenge Method (SCM)” means the fresh bidding process/method as may be adopted by the Registrar as per Chapter 5;

“TDC” means the amount mentioned in clause 2.9 of this RFP;

“Technical Proposal” means the Application submitted by Shortlisted Bidders pursuant to EOI cum RFQ and invited by Registrar vide its public notice on June 25, 2009;

“Transaction” means the Transfer of Specified Assets alongwith Certain Liabilities of the Mill as detailed in Annexure 5 to RFP;

“Transaction Documents” means all the documents which are to be executed to effect the transfer of Specified Assets alongwith Certain Liabilities, viz. Transfer Agreement and Sale Deed;

“Transfer Agreement” means the agreement that shall be entered into between the Mill/Registrar and the Successful Bidder for the transfer of Specified Assets alongwith Certain Liabilities of the Mill, which is under administrative control of UPCSFFL;

“Union Government” means the Government of India;

“UPCSFFL” means Uttar Pradesh Cooperative Sugar Factories Federation Limited; having its registered office at 9-A, Rana Pratap Marg, Lucknow;

“Valuer(s)” means the agency or agencies appointed by Registrar to undertake valuation of the Specified Assets of the Mill as per Terms of Reference issued to them by Registrar;

The Meaning of the Terms which have not been defined in this RFP would carry the meaning as defined in **“EOI cum RFQ”**.

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Section I – Transaction Process

1. The Asset Transfer Process

1.1 ABOUT THE ASSET TRANSFER PROCESS

The Registrar intends to transfer the Specified Assets alongwith Certain Liabilities of the Mill under the administrative control of UPCSFFL to the Successful Bidder through Bidding Process. Accordingly, the Registrar invites Requests for Proposal from Shortlisted Bidders (without creating and/or conferring any rights or expectations whatsoever on those so invited and hereby disclaims all such rights and expectations, if any), subject to the conditions contained in this RFP, other relevant documents provided henceforth.

This RFP document is published on the website www.upcane.org or www.upsugarfed.org and/or www.ifcilttd.com for the perusal for the Shortlisted Bidders who are interested in purchasing Specified Assets alongwith Certain Liabilities of the Mill. The details of the Specified Assets and Certain Liabilities proposed to be transferred are given in Annexure 5 to RFP.

1.2 THE PROCESS

Registrar vide its public notice on June 25, 2009 has invited EOI cum RFQ and RFP proposal for Transfer of the Specified Assets along with Certain Liabilities of the Mill, details given in the Annexure 5 to RFP. The Applications against the said EOI cum RFQ shall be evaluated and Applicant(s) shall be shortlisted based on the evaluation of their Technical Proposal as mentioned in the EOI cum RFQ. The Shortlisted Bidders would be permitted to submit RFP.

1.3 THE SUBSEQUENT PROCESS

The Applicants shortlisted on the basis of EOI cum RFQ may access to the Data Room and Confidential Information Memorandum (CIM)

1.4 SUBMISSION OF FINANCIAL BID

The Shortlisted Bidders are expected to submit their RFP and Financial Bids by **14:00 hrs** (IST) on **the Application due date** as per instructions given in **Chapter 3** of this RFP. The Application shall be submitted to and at the following address:

The Registrar,
Cooperative Sugar Mills Societies, UP.
17, New Beri Road, Dali Bagh, Lucknow- 226 001
Uttar Pradesh

1.5 TIME SCHEDULE

The indicative timeline is as follows:

| S No | Activity | Deadline |
|------|---|--|
| 1. | Data Room Diligence and Site visits starts | 25/06/2009 |
| 2. | First Pre-bid meet at : Hotel Taj Man Singh, New Delhi-110 011 | 06/07/2009 (at 11.00 AM) |
| 3. | Weekly Clarification Meetings at the office of : The Registrar, Cooperative Sugar Mills Societies, UP. 17, New Beri Road, Lucknow- 226 001 (Uttar Pradesh) | Every Wednesday (from 11:30 AM to 1:30 PM) |
| 4. | Amendments to RFQ if required | 08/07/2009 |
| 5. | Deadline for Submitting the RFQ | 17/07/2009 |
| 6. | Short listing of applicant on RFQ | 22/07/2009 |
| 7. | Issue of Draft Transaction Documents to Shortlisted Bidders | 24/07/2009 |
| 8. | Management Meeting with the shortlisted bidders at the Office of: The Registrar, Cooperative Sugar Mills Societies, UP. 17, New Beri Road, Lucknow- 226 001 (Uttar Pradesh) | 27/07/2009 (at 11.30 AM) |
| 9. | Comments on draft Transaction Documents and the Second Pre-Bid Meeting at: Hotel Taj Residency, Gomti Nagar, Lucknow-226 010, Uttar Pradesh | 03/08/2009 (11.00AM) |
| 10. | Final RFP alongwith Final Transaction Documents to be placed on the website(s)/ sent to Shortlisted Bidders | August, 2009 |
| 11. | Deadline for Submitting the Financial Bids | 10/09/2009 |
| 12. | Opening of Financial Bids | To be announced |
| 13. | Release of Names of First Highest bidder (H1) and Second Highest Bidder (H2) | To be announced |
| 14. | Intimation to the Successful Bidder | To be announced |
| 15. | Commencement of Work by Accounting Advisor (for revaluing the Current Assets and Current Liabilities on Signing Date | To be announced |
| 16. | Signing of the Transfer Agreement with the Successful Bidder after Payment of Initial Payment amount and furnishing of Financial Guarantee by the Successful Bidder as per clause 2.3.1 | Intimation date + 15 days |
| 17. | Window of Negotiation and Interfacing between the Successful bidder and the workers/officers and information by Registrar to Successful Bidder about VRS allocation and its value. | To be announced |
| 18. | Submission of the Accounting Advisor's report as per clause 2.6.2 | Signing Date + 30 days |
| 19. | Second installment - Payment of First VRS amount as defined in clause 2.3.2 | Signing Date + 40 days |
| 20. | Final Payment Amount by the Successful Bidder and submission of Performance Guarantee as per clause 2.3.3 and 2.10 | signing Date +45 days |

NOTE: In case of any change in the timelines, the Shortlisted Bidders will be promptly informed by Registrar over telephone and E-Mail/Fax.

2. Terms of Transfer of Specified Assets

2.1 TRANSFER OF ASSET

The Registrar/Mill shall execute Transfer Agreement and Sale Deed with Successful Bidder to transfer the Specified Assets alongwith Certain Liabilities of Mill. The details of Specified Assets and Certain Liabilities to be transferred to the Successful Bidder are given at Annexure 5 to RFP. In case the Successful Bidder is a consortium, they will have to incorporate an SPV in the form of a company, with their respective share/Stake in consortium before signing of Transfer Agreement. The Transfer Agreement and Sale Deed will be executed in favour of SPV. The Lead Member will have minimum 51% Stake till the end of one calendar year from the date of execution of Sale Deed.

2.2 GOVERNING LAW/ JURISDICTION

This Transaction shall be governed by the laws of India only. All disputes arising out of the process for Transfer of the Specified Assets alongwith Certain Liabilities of the Mill shall be subject to the exclusive jurisdiction of the Courts at Lucknow, Uttar Pradesh, India.

2.3 BID AMOUNT AND PAYMENT SCHEDULE

The Shortlisted Bidders are required to submit an offer for the Bid Amount, i.e. amount they are willing to pay to acquire the Specified Assets alongwith Certain Liabilities of the Mill, as detailed in Annexure 5 to RFP. The current assets forming part of Specified Assets (excluding Inventories, balance as on 31/03/2009) as on 31/03/2009 and Inventories balances as on 30/06/2009 and current liabilities as on 31/03/2009 will be considered for Bid amount. The Bid Amount shall be payable by the Successful Bidder as follows:

| S. No. | Date | Description | Amount Payable |
|--------|---|---|---|
| 1. | Signing Date | Within 15 days from the Intimation Date | 25% of the Bid Amount + Transaction Development Cost (TDC) + Financial Guarantee for balance 75% of the Bid Amount valid for 90 days from Signing Date. |
| 2. | First VRS Payment Date | Within 40 days from the Signing Date | Cost of First VRS |
| 3 | Submission date for Performance Guarantee | Performance Guarantee valid for 18 months (Clause 2.10) to be submitted within 45 days from Signing Date. | Amount Rs. 7.00 crores |
| 4. | Final Installment Date | i. Within 45 days from the Signing Date without interest | i. 75% of the Bid Amount \pm difference between the Bid value and Adjusted Bid value |

| S. No. | Date | Description | Amount Payable |
|--------|------|---|--|
| | | ii. In case final payment is made beyond 45 days from the Signing Date but prior to 31 st March 2010, the Successful Bidder shall pay final installment along with interest amount @ SBI PLR plus 2% p.a. for the period from 46 th day till the date of final payment which shall not be beyond 31 st March 2010. | ii. 75% of the Bid Amount \pm difference between the Bid value and Adjusted Bid value + Interest amount. |

All payments shall be in the form of a Bank Draft drawn on any Scheduled Commercial Bank in favour of “**Registrar, Cane Co-operative Societies, Uttar Pradesh**” payable at Lucknow

2.3.1 Initial Payment

The Successful Bidder, within 15 days of intimation of selection, will be required to pay 25% of the Bid Amount along with the Transaction Development Cost (clause 2.9) and furnish Financial Guarantee from any Scheduled Commercial Bank for balance 75% of the Bid Amount in favour of the Registrar, Cane Co-operative Societies, Uttar Pradesh. The Bank Guarantee shall have validity period of atleast 90 days from Signing Date.

The Registrar/Mill will execute a Transfer Agreement with Successful Bidder after receiving 25% of the Bid Amount, TDC and Bank Guarantee of 75% of Bid Amount from Successful Bidder. Thereafter, the Successful Bidder will be handed over the possession of the Specified Assets alongwith Certain Liabilities of the Mill. The Purchaser shall endeavour to enter into a Memorandum of Understanding with employees embodying the employee related clauses of this RFP.

In case the Successful Bidder (H1) is not able to deposit 25% of the Bid Amount, Transaction Development Cost and the Financial Guarantee within the above stipulated time, the Successful Bidder will be disqualified from the bid process for the Transfer of Specified Assets alongwith Certain Liabilities of the Mill and the Bid Security including any other amount deposited by such Shortlisted Bidder will be forfeited by the Registrar. In such case, the offer of the second highest bidder (H2) may be considered to complete the process of Transaction.

2.3.2 Second Installment

The Purchaser will have to pay the Cost of First VRS within 40 days from the Signing Date (First VRS Payment Date) as follows:

Cost of First VRS = First VRS amount to be paid to Registrar (as per Clause 2.8)

2.3.3 Final payment

1. The following activities will also commence after Signing Date. The Registrar will receive report from previously appointed Accounting Advisor certifying the Adjusted Bid Amount, following on the Signing Date):
 - i. The difference in the values of the Current Assets forming part of Specified Assets (excluding Inventories balances as of 31/03/2009), between March 31, 2009 and the Signing Date, and Inventories Balances between June 30, 2009 and the Signing Date which shall be subtracted/ added to the Bid amount.
 - ii. The difference, if any, in the values of the Current Liabilities forming part of Certain Liabilities (specified in Annexure 5 to RFP), between March 31, 2009 and the Signing Date, which shall be subtracted/ added to the Bid amount.
 - iii. Value of scrap items not recorded in the books of account
2. As Final Payment, the Purchaser will be required to pay 75% of the Bid Amount along with adjustment for changes in value of Current Assets/Current Liabilities, specified in Annexure 5 to RFP as follows:

Final Payment Amount = 75% of the Bid Amount + [(Current Assets forming part of Specified Assets (excluding Inventories Balances) on Signing Date – such Current Assets as on March 31, 2009) + (Inventories Balances on Signing Date – Inventories Balances as of June 30, 2009) – (Current Liabilities forming part of Certain Liabilities on Signing Date – such Current liabilities as on 31/3/2009)] + value of scrap items not recorded in the books of account + Applicable interest amount as per clause mentioned below.

3. The Purchaser shall pay the final payment (the “**Final Payment Amount**”) within forty five (45) days from the Signing Date without interest amount (the “**Final Payment Due Date**”). In case final payment is made beyond 45 days from the Signing Date but before 31st March 2010, the Successful Bidder shall pay final installment along with the interest amount @ SBI PLR plus 2% p.a. for the period from 46th day till the date of final payment which shall not be beyond 31st March 2010 (the “**Extended Final Payment Due Date**”) Provided that the Purchaser will have to intimate whether he desires to opt for provision of Extended Final Payment Due Date by a notice in writing to be received by Registrar at least five working days prior to Final Payment Due Date alongwith extension of validity period of the Financial Guarantee till 15th May, 2010 with validity to invoke/exercise clause up to 30th June, 2009. The Financial Guarantee shall be released within 10 days of the receipt of Final Payment.
4. If the Successful Bidder/Purchaser defaults in payment at any stage or commits breach of any terms and conditions of RFP, the Financial Guarantee shall be invoked. In case the full payment is not received, the entire amount paid by the Successful Bidder/Purchaser up to that point, shall be forfeited, and the Transfer Agreement shall be cancelled. In such case, the Purchaser shall return back the possession of all the Specified Assets to the Registrar / Mill within 3 days of issuance of notice for cancellation of Transfer Agreement. In addition thereof the Registrar reserves the right to recover damages, if any, for any damage caused to the Specified Assets of the Mill. The process of selection of Purchaser may start denovo if the Registrar so decides.

5. After receipt of Final Payment and Performance Guarantee from the Successful Bidder, Sale Deed shall be executed in favour of Successful Bidder.

2.3.4 The Purchaser shall bear the applicable Stamp duty and other cost for execution of Transaction Documents.

2.3.5 Bid Security:

2.3.5.1 The Bidder shall submit Bid Security of Rs. 1,00,00,000/- (Rs. one crore) only in the form of Bank Draft in favour of **Registrar, Cane Co-operative Societies, Uttar Pradesh**, payable at Lucknow issued by any Schedule Commercial Bank.

2.3.5.2 The Bank Draft shall be valid for a period of 180 days and may be released in the following manner:

- i. For the Successful Bidder – Within 30 days from the date of final payment
- ii. For the Second Highest Bidder: It would be released on submission of the 25% bid amount by the First Highest Bidder (as detailed in Clause 2.3)
- iii. For Other Bidders: It would be released within 07 days on selection of First and Second Highest Bidders;

However in case the Registrar decides to adopt SCM (explained in chapter 5), the bid security for the Second Highest Bidder (H2) shall be released within 07 days from the intimation of SCM

2.4 FORFEITURE OF BID SECURITY

The entire bid security shall be forfeited in any of the following cases:

1. In case the Successful Bidder fails to deposit the 25% payment alongwith TDC within 15 days from the Intimation Date; or
2. If the Successful Bidder fails to submit Financial Guarantee for 75% of the bid amount; or
3. In case any Shortlisted Bidder withdraws its Financial Bid before the time provided for refund of security mentioned in clause 2.3.5.2; or
4. If the Shortlisted Bidder is disqualified as per Clause 4.4 after opening of the Financial Bid.

2.5 LIABILITIES TO BE RETAINED/SETTLED BY THE MILL

2.5.1 The Specified Assets of the Mill to be transferred to the Purchaser are encumbered against the loans given by the Banks/Institutions/Government. The Banks/Institutions have agreed to provide a No Objection Certificate (NOC) to release their charge against the assets immediately on clearance of their outstanding dues against the Mill prior to the transfer of Specified Assets to the Purchaser. Therefore, the Purchaser will be given the Specified Assets

of the Mill free from all encumbrances alongwith Certain Liabilities as enumerated at Annexure 5 to RFP.

2.5.2 The Mill will settle the liabilities in order of priority number (1) salary and wages or other payments, if any, due to the employees of the Mill; (2) security deposits of staff, if any; (3) borrowings held from Government or on the guarantee of Government and other secured loans, if any, in terms of Rule 171 of the U.P. Co-operative Societies Rules, out of the first installment of payment received from the sale of the assets and even after this any liability remains unpaid, that will be settled from the bridge loan to be received from the State Government.

2.5.3 After meeting the liabilities in terms of priority number (1) and (2) and priority number (3) Government guaranteed loans raised from Banks and Institutions, mentioned in Rule 171 of the U.P. Co-operative Societies Rules and secured loans, the balance proceeds from the sale of assets will be utilized to settle the deposits/loans of the Members of the Mill/Cane Growers given for expansion of the Mill.

2.5.4 If after settlement of liabilities, as above, by application of sale proceeds, any Government loan, SDF and Shakker Vishesh Nidhi given to the Mill and interest thereon remain unpaid in the Balance Sheet of the Mill, action will be taken by the State Government to write them off.

2.6 CURRENT ASSETS AND CURRENT LIABILITIES AND ADJUSTMENT TO BID AMOUNT

2.6.1 Current Assets and Current Liabilities –

The current assets and current liabilities, proposed to be transferred, as provided in the Annexure 5 to RFP will be considered for adjustment to the Bid Amount.

- 1 The Shortlisted Bidder should factor in the bid value the book value of Current Assets forming part of the Specified Assets (excluding Inventories Balances as of 31/03/2009)/ Current Liabilities as on 31 March 2009, as provided in the CIM and Inventories Balances as of June 30, 2009,
- 2 The value of the Current Assets/Current Liabilities and value of Scrap on the Signing Date shall be computed after the Signing Date by the Accounting Advisor appointed by Registrar (Adjusted Current Assets/Current Liabilities). The value of the Current Assets, Current Liabilities on the Signing Date shall be the book value except in respect of the Inventory balances items which shall be determined in accordance with the clause 2.6.2.

2.6.2 Adjustment to Bid Amount

The Bid Amount will be adjusted based on the value of the Current Assets and Current Liabilities on Signing Date as determined by the Accounting Advisor as per the following:

Adjusted Bid Amount = Bid Amount + [Current Assets forming part of Specified Assets (excluding Inventories Balances) on Signing Date – Current Assets forming part of Specified Assets (excluding Inventories Balances as on 31/03/2009)as on March 31, 2009] + (Inventories Balances as on Signing Date – Inventories Balances as on June 30, 2009) –

(Current Liabilities forming part of Certain Liabilities on Signing Date – Current Liabilities forming part of Certain Liabilities as on March 31, 2009) + value of scrap items not recorded in the books of account..

The difference between the Adjusted Bid Amount and the Bid Amount will be settled alongwith the Final Payment amount.

2.6.2 Valuation of Stock

For the purposes of computing the Adjusted Bid Amount, valuation methodologies of the inventory items forming part of the Current Assets and scrap items on the Signing Date shall be as per Annexure 7. The difference between the Adjusted Bid Amount and the Bid Amount will be settled alongwith the Final Payment amount.

2.7 LEGAL PROCEEDINGS

There are legal proceedings pending before Courts and Forums relating to the Mill. The details of such proceedings are available in the Data Room and all Shortlisted Bidders are advised to undertake a thorough due diligence in the Data Room in relation to all legal proceedings and other legal matters pertaining to Mill.

2.8 EMPLOYEES

- (i) The details of the number of the Wage Board employees of the Mill and the Centralized Service staff posted in the Mill are provided in the CIM. These employees will be transferred alongwith Specified Assets to Purchaser.
- (ii) The Purchaser will be liable to provide reservation in employment or other matters as per the GoUP policies for private sector investments as applicable.
- (iii) The Purchaser should recognize that the GoUP in relation to its employment policies follows certain principles for the benefit of the members of the Scheduled Caste/ Scheduled Tribes, physically handicapped persons and other socially disadvantaged categories of society. The Purchaser shall use its best efforts to cause the Mill to provide adequate job opportunities for such persons. Further in the event of any reduction on the strength of the employees of the Mill in compliance with applicable labour laws, the Purchaser shall use its best efforts to ensure that the physically handicapped persons, Scheduled casts/Scheduled Tribes are retrenched at the end.
- (iv) All the Wage Board Employees of the Mill and Centralized staff posted at the Mill as on the Signing Date, except those employees who opt VRS, will be deemed to remain employees of the Purchaser at their existing terms with continuity of Service.
- (v) The prospective purchaser will provide Performance Guarantee of Rs.7.00 crores (Rs. seven crore) only to implement VRS-II and also sign a MOU with the unions of Labour/ Employees/Officers Association.

2.8.1 Wage Board Employees

The Wage Board employees shall have following options:

1. *First Voluntary Retirement Scheme (First VRS)* – The Wage Board employees of the Mill may opt for voluntary retirement wherein they will be paid as per GoUP norms according to their years of service performed/remaining. (Details of First VRS which is to be announced by the Registrar as per Annexure 2).
2. *Continue employment with Sugar Mill under New Management of Purchaser.* The Wage Board employees of the Mill who don't opt for VRS or who are not given VRS shall continue their service at the existing service conditions under the New Management of the Purchaser. No retrenchment of employees shall be undertaken by the Purchaser for at least one complete crushing season or one year from the Signing Date whichever is earlier (which shall however not be earlier than the implementation of the Second VRS)
3. *Second Voluntary Retirement Scheme (“the Second VRS”)* - Within one calendar year or after one crushing season from the Signing Date, whichever is earlier, the Wage Board employees shall be given an option to opt for Second VRS by the New Management. The terms of the Second VRS shall not be inferior to the then prevailing terms for the VRS scheme of the GoUP. The Purchaser shall be obligated to pay the VRS dues to such Wage Board employees who opt for the Second VRS.

2.8.2 Centralized Service Staff

The Centralized Service Staff deputed at Mill shall have following options:

1. *First Voluntary Retirement Scheme (the “First VRS”)* Centralised Service Staff posted at the Mill may opt for voluntary retirement or agree for the transfer of the services to the Purchaser under New Management. In case he/she opts for VRS he/she will be paid as per GoUP norms according to his/her years of service performed/remaining. (Details for First VRS which are to be announced by the Registrar as per Annexure 2).
2. *Continue employment under New Management of Purchaser:* The posted Centralized Service Staff who opts services with the Purchaser under New Management shall continue their service with continuity of service. Their pay will be revised in terms of the **Sixth** Pay Commission of the Government of India w.e.f. Signing Date. No retrenchment of Centralized Service Staff shall be undertaken by the Purchaser for at least one complete crushing season or one year from the Signing date whichever is earlier (which shall however not be earlier than the implementation of the Second VRS scheme provided below).
3. *Second Voluntary Retirement Scheme (the “Second VRS”)* Within one calendar year or after one crushing season from the Signing Date, whichever is earlier, the Centralized Service Staff transferred to the Purchaser under New Management shall be given an option to opt for Second VRS by the Purchaser.

The terms of the Second VRS shall not be inferior to the then prevailing terms for the VRS scheme of GoUP. The Purchaser is obligated to pay the VRS dues to such Centralized Service Staff who opt for the Second VRS.

2.8.3 Treatment of VRS amount for the Bid Value

The Purchaser should assume that the employees of the Mill, as on the Signing Date shall continue to remain employee of the Purchaser under New Management after the Transfer of the Specified Assets alongwith Certain Liabilities to Purchaser on the following conditions:

- i. Wage Board employees on existing service conditions and retirement benefits.
- ii. The Centralized Service staff as per pay scales of the 6th Pay Commission (effective from the date of signing of Transfer Agreement).
- iii. The employees of categories (i) & (ii) above shall be given the benefits of number of years of services performed in Mill/UPCSFFL, for calculation of all benefits including retirement benefits and VRS.
- iv. The terms of VRS offered by Purchaser will not be inferior to the then prevailing VRS policy of Registrar/ GoUP.

NOTE: The details of the GoUP VRS policies are provided in *Annexure 2*.

2.8.4 VRS Process

However, Registrar/UPCSFFL shall facilitate the issuance of the VRS to the employees of the Mill and to the staff deputed at the Mill and thereafter help the Purchaser to optimize the workforce being passed to the Purchaser in the following steps;

1. **Step 1:** The Mill/ Registrar shall announce the First VRS on Intimation Date (as per Annexure 2)
 - The employees can decide within 30 days from the date of announcement, if they would like to opt for VRS.
 - After, the closure of the First VRS, the Successful Bidder/ Purchaser shall be informed about the number of employees opting for VRS. This intimation shall be given after 3 days from the closure of VRS.
 - The Successful Bidder/Purchaser will be consulted to finalize Wage Board employees to whom the Purchaser is willing to offer the First VRS.
 - *The Purchaser is obligated to pay the VRS to such Centralized Service Staff posted / deputed at Mill who opt for the First VRS and do not agree to continue services under New Management.*
2. **Step 2:** First VRS amounts to be computed by Accounting Advisor/Registrar within 35 days from Intimation Date.
3. **Step 3:** Payment of the VRS amount (to be disbursed through Registrar/UPCSFFL) to be made by the Purchaser on the **First VRS Payment Date**.
4. **Step 4:** Disbursement of the VRS amount by Registrar/UPCSFFL to the employees to be given VRS within 21 days of the **First VRS Payment Date**.
5. **Step 5:** Lock-in of one crushing season or one calendar year whichever is earlier from the Signing Date the purchaser shall agree for the following terms for the remaining employees:
 - a. The Wage Board employees shall continue at the prevailing Wage Board rates

- b. The Centralized Service staff who have opted the services shall continue but as per pay scales not inferior to the 6th Pay Commission or prevailing Pay Scale (effective from the Signing Date).
 - c. No Retrenchment of Wage Board employees or Centralized Service staff will be permitted during this lock-in period
6. **Step 6:** After one crushing season, but within one calendar year from the Signing Date, the Purchaser will be bound to offer the Second VRS and the Purchaser will be bound to provide VRS benefits to all the employees who opt for VRS. The terms of the second VRS will not be inferior to the then prevailing VRS policies of GoUP for which Performance Guarantee would be furnished. The Second VRS shall be completed within 4 months from the date of offer of Second VRS.

2.8.5 Provident Fund (PF) and Gratuity

A PF Trust has been created at the Head Office of UPCSFFL whose members are centralized services employees. The Managing Director of UPCSFFL is the Chairman of the Trust. It is managed by a Board of 8 Trustees comprising 4 Trustees from the employer i.e. UPCSFFL and 4 members from the employees of the Centralized Services of UPCSFFL.

The PF Funds of the Centralized Services staff who opt for transfer of services to the Purchaser under New Management shall be transferred to the PF Trust of the Purchaser. In case, there is no Trust of the Purchaser, then the funds will be transferred to the PF Commissioner's account.

Regarding the employees of the Wage Board appointed by Mill, their PF records are maintained by respective Employees Provident Fund Trust (EPFT) at Mills or Regional Provident Fund Commissioners (RPFs) and their contribution is sent to the respective EPFT or RPFs. Upto the date of Signing Date, the PF dues of Wage Board employees and Centralized Staff shall be deposited by the Mill.

Gratuity will be paid by the Purchaser as and when it becomes due and payable to employees.

2.9 PAYMENT OF TRANSACTION DEVELOPMENT COST (TDC)

All the fees paid and payable by Registrar to Advisors, Legal Advisors, Accounting Advisor and Valuers and all other expenses incurred in connection with this Transaction shall be reimbursed by the Successful Bidder/Purchaser to the Registrar on Signing Date. The TDC payable will be estimated by the Registrar/UPCSFFL and intimated accordingly.

2.10 PERFORMANCE GUARANTEE

- (i) The Purchaser shall submit Performance Guarantees in the form of Bank Guarantee as prescribed in Format mentioned in Annexure-6 of this RFP equivalent to Rs.07 crores (Rs. seven crore) only to be valid for 18 months from the Final Installment Date issued by any Scheduled Commercial Bank in favour of Registrar, Cane Co-operative Societies, Uttar Pradesh.

- (ii) The Purchaser agrees that Registrar shall have unconditional and irrevocable right to invoke the Performance Guarantee in the event of Purchaser fails to implement Second VRS as laid down in clause 2.8 or does not comply with the terms and conditions as mentioned in this RFP Document.
- (iii) Performance Guarantee shall be released within one month after implementation of Second VRS as laid down in clause 2.8.
- (iv) The Performance Guarantee shall be worded in such a way as to be encashed from the issuing Bank without demur, immediately upon receipt of such written request from the Registrar.

2.11 INCENTIVES FOR THE SUCCESSFUL BIDDER

- a. The Registrar shall endeavour its best to facilitate the Purchaser to get the licence for production of Ethanol and Industrial Alcohol from the cane juice and molasses from GoUP subject to the completion of necessary formalities in this regard.
- b. The cane area of the Mill available in the crushing season 2008-09 shall be available to the Purchaser and the same would be available for subsequent crushing seasons from the Signing Date based on the assessment on year to year basis in accordance with the applicable laws. However, the aforesaid availability of the cane area shall be provided for the maximum period of 5 crushing seasons from the Signing Date.

2.12 EXPECTED PRICE

In order to promote transparency and competition, the Registrar has decided to inform / publish Expected Price for the Mills of UPCSFFL before the last date of submission of RFP.

3. Instructions for Submitting Financial Bid

3.1 ONE FINANCIAL BID PER SHORTLISTED BIDDER

Each Shortlisted Bidder is entitled to submit only one Financial Bid for purchase of the Specified Assets alongwith Certain Liabilities of the Mill and cannot be a party to more than one Financial Bid, whether by itself or as a part of a Consortium. Any Shortlisted Bidder found having made more than one Financial Bid for the Mill by itself or as a part of a Consortium shall be liable to be disqualified and will also lead to disqualification of the Consortium(s) of which it is a member.

3.2 LANGUAGE AND CURRENCY

The Application and all related correspondence and documents should be written in the English language. Supporting documents and printed literature furnished by Shortlisted Bidder with the Application may be in any other language provided that they are accompanied by True translations in the English language. Supporting materials, which are not translated into English, may not be considered. For the purpose of interpretation and evaluation of the Application, the English language translation shall prevail. The currencies for the purpose of the Application shall be the Indian Rupee (INR).

3.3 BID VARIABLE

The Bid Variable shall be the Bid Amount. The Bidders shall quote the Bid Amount i.e. amount they are willing to pay to purchase the Specified Assets alongwith Certain Liabilities of the Mill as detailed in Annexure 5 to RFP.

3.4 DOCUMENTS TO BE SUBMITTED BY SHORTLISTED BIDDERS

The APPLICATION (in duplicate) shall be submitted in separate sealed cover for the Mill containing following sealed envelopes:

Envelope 1:

Titled **“PRIVATE AND CONFIDENTIAL – FINANCIAL BID FOR PURCHASE OF SPECIFIED ASSETS ALONGWITH CERTAIN LIABILITIES OF THE KISAN SAHKARI CHINI MILLS LTD., BISALPUR,** (The envelope shall contain only Financial Bid as per the format enclosed as *Annexure -1.*)

Envelope 2:

1. A signed copy of the “Draft” Transfer Agreement and Draft Sale Deed” by the authorized signatory of the Shortlisted Bidder (to confirm the acceptance of the final draft of the Transfer Agreement and Sale Deed).
2. A refundable Bank Draft issued by any Scheduled Commercial Bank in India of Rs. 1,00,00,000/= (Rupees one crore) only as Bid security (Earnest Money) in favor of **“The Registrar, Cane Cooperative Societies, Uttar Pradesh.”** payable at Lucknow.

3. Foreign Investment Promotion Board (FIPB) /Secretariat for Industrial Approval (SIA) application, if required
4. Board Authorizations/Authorisation from Partners/Owner, in case of firm/owner, if required
5. Confirmation that documents (including Power of Attorney (POA), Board Resolutions including for Consortium formation as applicable/Consortium Agreement/MOU) which could not be submitted at the RFQ stage, has been submitted in accordance with the instructions given in the EOI cum RFQ.

3.5 FORMAT AND SIGNING OF APPLICATION

The cover envelope with its contents shall be clearly identified and addressed to:

The Registrar,
Cooperative Sugar Mills Societies, UP.
17, New Beri Road, Dali Bagh,
Lucknow- 226 001 (Uttar Pradesh)

The Application shall be typed or written in indelible ink and each page shall be signed by the Shortlisted Bidder (Signed in original not scanned). All the alterations, omissions, additions, or amendments made to the Application shall be initialed by the person(s) signing the Application.

The Shortlisted Bidder would provide all the information as per this RFP. Registrar may evaluate only those Applications that are received in the required format and complete in all respects.

3.6 APPLICATION DUE DATE

The Application containing the Financial Bid should be submitted at the address mentioned in clause 3.5 during office hours up to 14.00 hours on the Application due date, i.e. August 28, 2009. Applications submitted by either e-mail, facsimile transmission or telex would not be acceptable. Applications submitted after the time stated above will be rejected. Registrar/UPCSFFL will not be responsible for any delay, loss or non-receipt of the Application along with other documents sent by post/courier. Further, Registrar/UPCSFFL shall not be responsible for any delay in receiving the Application and reserves the right to accept/reject any or all Applications without assigning any reason thereof. Registrar may, at its sole discretion, extend the **Application Due Date** by issuing an Addendum.

3.7 MODIFICATIONS / SUBSTITUTION OF APPLICATIONS

No Application shall be allowed to be modified or substituted or withdrawn by the Shortlisted Bidder after the submission of RFP.

3.8 APPLICATION PREPARATION COST

The Shortlisted Bidder shall be responsible for all of the costs associated with the preparation of its Application as described in this RFP, including, without limitation, any and all costs,

directly or indirectly incurred in verifying, gathering and collating material, information and data, whether included in the information or not, or on securing the services of advisors and / or consultant, etc. Registrar/UPCSFFL will not be responsible or in any way liable, for such costs.

3.9 SHORTLISTED BIDDER WARRANTY AND REGISTRAR/UPCSFFL PRESUMPTION

It would be deemed that by submitting the Application, the Shortlisted Bidder warrants that it has:

1. Made a complete and careful examination of the RFP document; and
2. Independently verified all Information received in the CIM and Data Room during the due diligence.

And, it shall be further deemed that by submitting the Application to the Registrar, the Registrar is entitled to presume the existence of and rely on the aforesaid Shortlisted Bidder warranty.

Registrar/UPCSFFL shall not be liable for any wrongful presumption, mistake or error on the part of the Shortlisted Bidder in respect of the above or in respect of the selection process or Transaction generally.

3.10 AMENDMENTS TO RFP

At any time prior to the deadline for submission of Application, Registrar/UPCSFFL may, for any reason, whether at its own initiative or in response to clarifications requested by a Shortlisted Bidder, modify the RFP document by the issuance of addenda (the “Addenda or Addendum”, as the case may be). Any Addendum thus issued shall be made available by email to the e-mail address provided by the Shortlisted Bidder. The Addendum will be published at the website www.ifcilttd.com , www.upcane.org and www.upsugarfed.org

3.11 VALIDITY/ EXTENSION OF VALIDITY OF APPLICATION

Applications shall be valid for a period of 180 days from the **Application Due Date** (the “**Application Validity Period**”). Registrar reserves the right to reject any Application, which does not meet this requirement. In exceptional circumstances, 15 days prior to expiry of the original Application Validity Period, Registrar may request Shortlisted Bidders to extend the Application Validity Period for a specified additional period (a maximum of 90 days). If for whatsoever reason, any Shortlisted Bidder does not convey consent, to the extension of the Application Validity Period, its Application may not be considered by Registrar, and the Bid Security shall be refunded. Such consent shall be required to be communicated in writing before the expiry of the original Application Validity Period.

3.12 QUESTIONS AND CLARIFICATIONS

Queries for clarifications relating to this RFP document may be submitted to the following at least 7 days before the Application Due Date and with a mandatory copy to the Advisor as mentioned at no. 2 below. However, Registrar/UPCSFFL retains the right not to answer any or all of the clarifications/queries:

1. The Registrar,
Cooperative Sugar Mills Societies, UP.
17, New Beri Road, Dali Bagh
Lucknow- 226 001 (Uttar Pradesh)
Phone: 0522-2205320/2204295
Fax: 0522-2204163
Email: ak40_sinha@rediffmail.com

2. Mr. S. P. Arora
Chief General Manager
Corporate Advisory Services
IFCI Ltd.
5, Park Road, Regency Plaza, Lucknow (Uttar Pradesh)
Phone: 0522-2239066-610
Mob: 09990725903; Fax: 0522 – 2239057
E Mail: sp.arora@ifcilt.com, td.kalra@ifcilt.com

3.13 DUE DILIGENCE (DATA ROOM RULES)

The Data Rooms have already been set up by the Registrar/UPCSFFL and the Shortlisted Bidders will be provided access to the Data Room facility to carry out due diligence of the Mill.

The rules of Conduct in Data Room and the Due Diligence are mentioned in *Annexure 4*. There are Four Data Rooms - two each at Lucknow and New Delhi. The Data Rooms shall be available at the following locations:

1. UP Ganna Sansthan,
11, Buttler Road (Tilak Marg),
Lucknow (Uttar Pradesh)

2. IFCI Ltd.,
Regency Plaza, 4th Floor,
5, Park Road, Opp. Civil Hospital, Lucknow (Uttar Pradesh)

3. S. Jalan & Co.,
Advocates & Solicitors,
B-6, Ground Floor, Greater Kailash Enclave-I,
New Delhi-110 048

4. IFCI Ltd.,
IFCI Tower,
61, Nehru Place, New Delhi - 110 019.

4. Evaluation of Application

4.1 OPENING AND EVALUATION OF APPLICATIONS

1. A Committee duly constituted by Registrar would open the Applications at 15.00 hours on August 28, 2009 or any extended date by the Registrar. Shortlisted Bidders can depute their representatives at the address mentioned in Clause 1.4 for witnessing the opening of the Financial Bid.
2. Members present of the above Committee and Advisors may authenticate each Financial Bid envelope without opening it by signing on the envelopes. Thereafter the signatures of each present Bidder will be taken on each envelope.
3. The signed Financial Bids (Envelop 1) envelopes thereafter shall be placed carefully by the Committee in a third envelope which shall thereafter be sealed and authenticated by the members of above Committee and the Bidders present.
4. Thereafter Envelope 2 shall be opened by the Advisor and Legal Advisor to the Transaction, before the above Committee. The Advisor and Legal Advisor will scrutinize the documents and certify their responsiveness.
5. Test of Responsiveness – The Applications not having any of the documents required in Envelope 2 in Clause 3.4 will be considered unresponsive and this may lead to rejection of the Application and the Financial Bids for the same may not be considered. The Financial Bids of only those Shortlisted Bidder whose applications are found to be complete and satisfactory may be opened for further evaluation.
6. The opening of envelopes (excluding envelop-1) will continue, if necessary in more than one session sometimes spreading over more than one day,

4.2 FINANCIAL BID OPENING

1. The sealed envelopes containing Financial Bids (Envelop-1) (on which signatures of members of above Committee and the Shortlisted Bidders had been obtained) will be scrutinized by the Registrar to ensure that they have not been tampered with.
2. Then the sealed envelopes containing the Financial Bids (Envelop-1) (on which signatures of members of above Committee and the Shortlisted Bidders had been obtained) will be opened and signature of the members of aforesaid Committee and the Shortlisted Bidders shall be obtained on the reverse of the Financial Bids.
3. Thereafter, the Shortlisted Bidders and Advisors withdraw from the meeting and the Registrar makes its recommendations on whether or not to accept the highest bid in view of the Expected Price based on the following:
 - 3.1 Two highest Financial Bids (H1 & H2) of the Shortlisted Bidders shall be considered for the eventual transfer of the Specified Assets alongwith Certain Liabilities of the Mill. In case the first highest bidder prefers to withdraw from the

process, the offer of the second highest bidder (H2) may be considered for the Transaction.

- 3.2 In case any Shortlisted Bidders withdraws its Financial Bid before the time provided for release of security, its Bid Security will be forfeited.
 - 3.3 In case same amount of the highest bid for the Mill is quoted by more than one Shortlisted Bidder, the Registrar may ask them to submit fresh sealed bid on the same date, which should not be lesser than the original bid. Decision would be taken based on fresh bids so submitted.
4. H1 and H2 will be informed as per provisions of Special Rules.
 5. The Successful Bidder, finally selected by the Mill/Registrar will be intimated over email.
 6. If Single Financial Bid is received in respect of any Mill, even if it is above the expected price, the Registrar may adopt the SCM for discovery of realistic Value.

4.3 DISQUALIFICATION

4.3.1 Notwithstanding anything to the contrary contained in this RFP document and without prejudice to any of the rights or remedies of the Registrar, the Registrar shall be entitled in its sole discretion to determine that a Shortlisted Bidder is to be disqualified at any stage of the process for Transfer of the Specified Assets alongwith Certain Liabilities of the Mill, and its participation in the Transaction Process and/or its **RFP** and subsequent submissions be dropped from further consideration for any of the reasons including without limitations those listed below:

1. The Shortlisted Bidders or in case of a Consortium, any member of the Consortium has made, incorrect, misleading or false representations in the forms, statements and attachments submitted, whether intentionally or unintentionally; or
2. If the **RFP** submitted by the Shortlisted Bidder is in any respect inconsistent with, or demonstrate any failure to comply with, the provisions of the RFP; or
3. Failure to comply with other material requirement of this RFP; or
4. If the Financial Bids submitted by the Shortlisted Bidder is inconsistent with the requirements of this RFP in any respect; or
5. Registrar is not satisfied with sources of funds/ownership structure of the Shortlisted Bidder; or
6. Failure to comply with the reasonable request of Mill/Registrar in relation to this process/Transfer Agreement; or
7. Breach of the Confidentiality Agreement (Non Disclosure Agreement) by the Shortlisted Bidder or the Consortium or any member of a Consortium; or

8. If it is discovered at any time that the Shortlisted Bidder or the Consortium or any member of a Consortium is subject matter of winding up or insolvency or other proceedings of similar nature; or
9. Any information regarding the Shortlisted Bidder which becomes known to UPCSFFL/ Registrar/Advisor and which is detrimental to Transaction. and/or the interests of Registrar; or
10. Initiation or existence of any legal proceedings, by or against the Shortlisted Bidder in respect of the Registrar/UPCSFFL, which proceeding may be prejudiced by the participation of the Shortlisted Bidder in the Transaction process, e.g. inspection by the Shortlisted Bidder of the case files of the Registrar/UPCSFFL of matters filed against that Shortlisted Bidder; or
11. Any restrictions or limitations has been put on the Shortlisted Bidder or any member of the Consortium pursuant to any regulatory or statutory guidance to participate in the Transaction process; or
12. The Shortlisted Bidder and in case of Consortium, any member or any person responsible for managing its affairs, has been convicted for an offence under any legislation designed to protect the members of the public from financial loss due to dishonesty, incompetence or malpractice; or
13. Any Shortlisted Bidder or a consortium which has been disqualified from participating in the disinvestment process either by Government of India or any of the State/Union Territory Governments; Mere pendency of an appeal against the Order of disqualification if any passed by the Government of India or any of the State/ Union Territory will not be considered while determining the issue of disqualification of shortlisted bidder, will have no effect on the disqualification.
14. If information becomes known after the Shortlisted Bidder has been qualified at any stage to proceed with the Transaction which would have entitled Registrar to reject or disqualify the relevant Shortlisted Bidder/consortium, Registrar reserves the right to reject or disqualify the concerned Shortlisted Bidder/Consortium at the time, or at any time, such information becomes known to the Registrar. Where such party is a member of Consortium, Registrar may disqualify the Consortium, even if it applies to only one member of the Consortium;
15. Each Applicant is entitled to submit only one Financial Bid per Mill and cannot be a party to more than one Financial Bid, whether by itself or as a part of a Consortium for the same Mill. Any Applicant found having made more than one Financial Bid per Mill by itself or as a part of a Consortium for the same Mill(s) shall be disqualified and will also lead to disqualification of the Consortium(s) of which it is a member.

4.3.2 Decision of the Registrar that one or more of the events specified above have occurred shall be final and conclusive.

4.4 RIGHT TO ACCEPT ANY APPLICATION AND TO REJECT ANY OR ALL APPLICATIONS

1. Notwithstanding anything contained in this RFP, Registrar reserves the right to accept or reject any Application and to annul the Transaction and reject any or all Applications /proposals, at any time without any liability or any obligation for such acceptance, rejection or annulment, without assigning any reasons.
2. Registrar reserves the right to reject any Application, if at any time, the Shortlisted Bidder does not respond promptly and thoroughly to requests for supplemental information required for the evaluation of the Application.

4.5 CONFIDENTIALITY

Information relating to the examination, clarification, evaluation, and recommendation in relation to the qualified Shortlisted Bidder shall not be disclosed to any person not officially concerned with the process for transfer of Specified Assets alongwith Certain Liabilities of the Mill. The Registrar will treat all information submitted as part of Application in confidence and would require all those who have access to such material to treat the same in confidence. The Registrar will not divulge any such information unless it is ordered to do so by any authority that has power under law to require its disclosure or it is required to disclose under any provision of law. The Registrar however reserves the right to make public disclosure of the names of the Shortlisted Bidder.

5. Swiss Challenge Method

In order to promote transparency in competitive bidding process and facilitate price discovery of assets, Swiss Challenge Method (SCM) allows third parties to make better offers for assets during a designated period with simple objective to discourage frivolous Bidders or to avoid bidding below the Expected Price. Then accordingly, the original Bidder gets the right to counter-match (“Right to first refusal”) any superior offer given by a third party.

Swiss Challenge Method (SCM) will be adopted for identifying the true realizable value of the Sugar Mills, in case the Financial Bid received is below the Expected price but above 50% of the Expected Price fixed for the Mill.

If single financial bid is received in respect of any Mill, even if it is above the expected price, Registrar may adopt SCM for discovery of realistic Value:

5.1 Swiss Challenge Method

1. In case the highest financial bid received for purchase of Mill is below the Expected Price but above 50% of the Expected Price, the Registrar may apply Swiss Challenge Method (SCM). The Highest Financial Bid (H1) would continue to remain valid till the conclusion of the SCM process. The Registrar, under SCM, would issue a public notice inviting fresh bids for the sale of Mill. The highest financial bid received shall be disclosed and a period of 30-45 days would be given for due diligence and submission of fresh bids. The fresh bids under the SCM process cannot be less than the disclosed highest financial bid received. All original bidders excluding the original highest bidder shall also be eligible to submit fresh bids under the SCM process.
2. As per SCM, the original highest bidder shall have the right of first refusal to matching the highest financial bid received in the fresh bidding process under the SCM. In case the right of first refusal is not exercised by the original highest bidder (H1), the highest bidder in fresh bidding process (Challenger) under SCM shall have the right to purchase the Mill. The original highest bidder (H1) would have to exercise the right of first refusal within a period of 15 days from the date of receipt of notice from the Registrar. In case no fresh bid is received under the SCM process, the Registrar may consider the bid of the original highest bidder even though it is lower than the Expected Price.
3. In case the highest bidder (H1) in fresh bidding under SCM refuses to purchase the Mill, after original highest bidder has not exercised his right of first refusal, the bid security of the highest bidder in fresh bidding (Challenger) under SCM shall be forfeited.

Section II – Annexures

ANNEXURE 1: FINANCIAL BID

(on the letter head of Shortlisted Bidder/Lead member of consortium)

To
The Registrar,
Cooperative Sugar Mills Societies, UP.
17, New Beri Road, Dali Bagh,
Lucknow- 226 001
Uttar Pradesh

Sub: Financial Bid For Purchase of the Specified Assets alongwith Certain Liabilities of the(Name of the Mill)

Sir,

I/We have perused the CIM and other details and am/are interested in purchasing the Specified Assets alongwith Certain Liabilities of theMill as detailed in Annexure 5 to RFP.

We have read and understood the entire contents of this RFP and it would be deemed that by submitting the Application, we warrant that we:

1. Have made a complete and careful examination of the RFP document; and
2. Have independently verified all Information received in the CIM and during the due diligence including those relating to Clause 2.8.
3. Undertake to abide by all the conditions of this RFP including those laid down in clauses in Chapter 2.

Our offer for the Purchase of the Specified Assets alongwith Certain Liabilities of the Mill is Rs. (i.e., in words Rupees.....).

Our offer is inclusive of all:

- i. Taxes including service tax
- ii. Incidentals and overheads
- iii. Travelling and related expenses

This offer is valid for a period of 180 days from the **Application Due Date**.

Witnesses Signature

Name :
Address :

Signature of Authorised Person

Name :
Address:
Phone No.:
Mobile No.
Email:

ANNEXURE 2: REGISTRAR/GoUP VRS POLICY

SAILENT FEATURES OF V.R.S. AS PER G.O.NO. 1420SC/18-2-2008-345/95TC dt 18-07-2008, 2199SC/18-2-2008-345/95TC dt. 22-07-08 & 2200SC/18-2-2008-345/95TC dt. 22-07-08

1. This Scheme is applicable to all the Wage Board Permanent / Seasonal employees/workers and employees/officers of Centralized Services who have been permanently appointed at the Mill.
2. The following benefits shall be admissible to the employee who opted VRS:-
 - a) Amount lying in P.F. account of the employee.
 - b) Encashment of earned leave lying in the account of the employees as per rules..
 - c) Gratuity payable to the employees as per Payment of Gratuity Act.
 - d) As per terms and conditions of applicable service rules amount payable to the employees in lieu of notice for 01 month or 03 months as the case may be.
 - e) Each permanent / seasonal employee who opted VRS will be entitled to get Compensation as under :-

i. PERMANENT EMPLOYEE:-

Amount equivalent to one and half month salary at a time of VRS for every completed year of service. (Salary means basic salary plus D.A.). **OR**

At the time of VRS, amount of salary payable to the employees for remaining period of service. Whichever is less.

ii. SEASONAL EMPLOYEES :-

Amount equivalent to 22 Days salary for every completed Crushing Season of service. (Salary means basic salary plus D.A.). **OR**

At the time of VRS, amount equivalent to 15 Days salary payable to the employees for remaining period of service. Whichever is less.

3. For computation of amount of compensation period of one month shall be equivalent 30 days.
4. In addition, retired employee and his family shall be entitled for traveling allowance as per entitlement up to the place of permanent residence.

ANNEXURE 3: AUTHORIZATION LETTER

(on the letter head of Shortlisted Bidder/Lead member of consortium)

To
The Registrar,
Cooperative Sugar Mills Societies, UP.
17, New Beri Road,
Lucknow- 226 001 (Uttar Pradesh)

Sub: Authorization of the Due Diligence Team

Sir,

- 1) Kindly refer to your letter no. dated inviting us for the Request for Proposal (RFP) stage of the process. In this context we are required to undertake Due Diligence & Site visits of the..... (name of the Mill) under the administrative of UPCSFFL We undertake to abide by the Data Room rules as per annexure 4 of RFP.

Due Diligence Team

- 2) We authorise the following persons to visit the data room allocated to us and review the information as a part of the due diligence exercise.

- 1)
- 2)
- 3)
- 4)

Site Visit Team

- 3) We authorise the following persons to visit..... (Name of the Mill) under the administrative control of UPCSFFL and review the information as a part of the due diligence exercises.

- 1)
- 2)
- 3)
- 4)

We request you to provide any assistance and your full cooperation in the due diligence exercise.

Signature of Authorised Person

Name:
Address:

ANNEXURE 4: DATA ROOM RULES

The rules made available in the EOI cum RFQ

ANNEXURE 5: SPECIFIED ASSETS AND CERTAIN LIABILITIES OF THE SUGAR MILL TO BE TRANSFERRED TO PURCHASER

I. SPECIFIED ASSETS

All assets **excluding** the following, if appearing in the audited/unaudited Balance Sheet of the Mill as on 31/3/2009:

| | |
|--------|---|
| 1. | Investments |
| 2 | Certain Current Assets, as follows: |
| (i) | Cash in hand |
| (ii) | Bank Balance including interest Receivables |
| (iii) | Balance with Post Office/Saving Instruments |
| (iv) | Sundry Debtors pertaining UPCSFFL and other factories under its control |
| (v) | Debit Balance/Deposits of UPCSFFL and other factories under its control |
| (vi) | Pending Claims for levy price differentials |
| (vii) | Buffer Stock/Subsidy Claim Receivables |
| (viii) | TDS on Deposits |
| (ix) | Income Tax Receivable |
| (x) | Insurance Claim Receivables |
| (xi) | Service Tax Receivables |
| (xiv) | Advances/Interest Receivables to other Cooperative Factories |

The Mill/Society shall utilize/recover/settle the above as per Rule 171 of the U.P. Co-operative Societies Rules.

II. CERTAIN LIABILITIES

The **Following current liabilities** appearing in audited/unaudited Balance Sheet of the Mill as on 31/3/2009 **are intended to be transferred** to the Purchaser:

| | |
|------|---|
| i. | Sundry Creditors for Purchases/Supplies |
| ii. | Sundry Contractors & Suppliers |
| iii. | Sundry Debtors (Credit Balance) |
| iv. | Earnest Money & Security Deposits |
| v. | Purchase Tax/Entry Tax Payable |
| vi. | SDF Loan Recovery from Growers |

In addition to the above liabilities, following liabilities are also intended to be transferred to the Purchaser:

- (a) Suppliers & contractors related future contractual obligations/liabilities.
- (b) All Contingent Liabilities including liabilities relating to sales tax, VAT, income tax, excise duty, service tax & other legal matters pending with court relating to land compensation, labour, etc. or cases filed later on; (Refer Balance Sheet Notes)
- (c) Liabilities pertaining to employees retirement dues, such as gratuity, etc.

The Bidder will be provided indicative details related to contingent liabilities in the Data Room. Further details will be available at Mill level for detailed due diligence.

ANNEXURE 6: FORMAT FOR PERFORMANCE GUARANTEE

**PERFORMANCE GUARANTEE BOND
(See Clause 2.10 of RFP)**

IN consideration of the Registrar, Cane Cooperative Societies, Uttar Pradesh, 17, New Beri Road, Luncknow-226 001(hereinafter called "Registrar") having agreed to exempt _____ (hereinafter called "the said Applicant(s)") from the demand under terms and conditions of an Agreement, datedmade between _____ and _____ (hereinafter called "the said Agreement"), for payment of the Security Deposit of Rs. _____ (Rupees only) for the due fulfillment by said Applicant(s) of RFP related terms and conditions and employee related conditions contained in the said Agreement and the Request For Proposal, on production of Bank Guarantee for Rs.7,00,00,000/- (Rupees Seven crores only). We, _____ (**indicate the name of Bank**), (hereinafter referred to as "the Bank") at the request of _____/ Applicant(s)/ do hereby undertake to pay to the Registrar an amount not exceeding Rs.7,00,00,000/- (Rupees seven crores only) against any loss or damage caused to or suffered by or that would be caused to or suffered by the Registrar by reason of any breach by the said Applicant(s) of any of the terms and conditions contained in the said Agreement.

2. We, _____(**indicate the name of Bank**) do hereby undertake to pay the amounts due and payable under this guarantee without any demur, merely on a demand from the Registrar stating that the amount claimed is due by way of loss or damage caused to or suffered by or that would be caused to or suffered by the Registrar by reasons of breach by the said Applicant(s) of any of the terms or conditions contained in the said Agreement or by reason of the Applicant(s)' failure to perform the said Agreement. Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding Rs.7,00,00,000/- (Rupees seven crores only) .

3. We undertake to pay to the Registrar any money so demanded notwithstanding any dispute or disputes raised by the Applicant(s) in any suit or proceeding pending before any Court or Tribunal or Arbitrator relating thereto, our liability under this present being absolute and unequivocal.

The payment so made by us under this Bond shall be a valid discharge of our liability for payment hereunder and the Applicant(s) shall have no claim against us for making such payment.

4. We _____(indicate the name of Bank) further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of the Registrar under or by virtue of the said agreement have been fully paid and its claim satisfied or discharged or till the Registrar certifies that all the terms and conditions of the said Agreement, have been fully and properly carried out by the said Applicant(s) and accordingly discharges this guarantee. Unless a demand or claim under this guarantee is made on us in writing on or before the

_____ (indicate date - 12 months from the date of
Final Installment Payment by the Applicant), we shall be discharged from all liabilities under
this guarantee thereafter.

for
Signature of Authorised signatory
Designation
Seal of the Bank

Dated theday of.....
(indicate the name of Bank)

ANNEXURE 7: VALUATION POLICY FOR INVENTORY AS ON SIGNING DATE.

- a. Inventory of Sugar:
 - i. Levy Sugar: At control price fixed by Govt. of India
 - ii. Free Sugar: At average value of price of sugar in last 15 days from the Signing Date.
 - iii. Free Sugar of 2006-07 and 2007- 08 shall be valued at the price less by Rs. 35/- per year per quintal from the Market price of 2008-09 production.
 - iv. Free Sugar grading M (Medium) and S (Small) to be valued by difference of Rs. 10 per quintal.
 - v. Moist and Slight Moist Sugar: To be valued at the price which is lower by Rs. 15/- quintal and Rs. 10/ - quintal respectively from price estimated as above.
 - vi. Sugar in Process: Sugar in process is converted into achievable white sugar and same shall be valued at average value of price of sugar in last 30 days from the Signing date.
 - vii. Brown Sugar: Sugar in process is converted into achievable white sugar and same shall be valued at average value of price of sugar in last 30 days from the Signing date.
- b. Inventory of Molasses: To be valued at last sold price in the current financial year.
- c. Stores and Spares : Cost of purchases as per Book Value
- d. Inventory of Bagasse: Last selling price during the current financial year, and if same is not available the average selling price of nearby three cooperative sugar mills.
- e. Inventory of Press Mud: At last selling price.
- f. Scrap etc: Last selling price during the current financial year, and if same is not available the average selling price of nearby three cooperative sugar mills.

ANNEXURE 8: FINANCIAL GUARANTEE FOR BID AMOUNT
(Clause 2.3.1 of RFP)

B. G. No. -----Dated: -----

Whereas the Registrar, Cane Cooperative Societies, Uttar Pradesh, 17, New Beri Road, Luncknow-226 001(hereinafter called "Registrar") has invited Expression of Interest cum Request for Qualification (**EOI cum RFQ**) and Request for Proposal (**RFP**) dated 25 June 2009 for Transfer of Specified Assets and Certain Liabilities of its 24 Sugar Mills and after Bidding Process, declared M/s / Consortium of M/s., M/s..... and M/s. (**Purchaser**) as the successful bidder for the purchase ofSugar Mill;

And whereas REGISTRAR and the Purchaser intend to enter into a Slump Sale Agreement (**the said Agreement**) in respect of the sale of the assets of the Mill along with certain liabilities by way of slump sale;

Purchaser And whereas under the terms and conditions of the RFP , the Purchaser is required to make initial payment of 25% of the bid amount plus Transaction Development Cost to REGISTRAR and to furnish a Bank Guarantee (Financial Guarantee) for the balance 75% of the bid amount in favour of REGISTRAR; **And whereas**, the Purchaser has requested(**Bank**) to provide the Guarantee as above on behalf of purchaser in favour of REGISTRAR and the Bank at the request of the Purchaser hereby provides the following guarantee in favour of REGISTRAR for an amount of Rs.____ Crore, representing 75% of the bid amount. We, _____ (the Bank)_____ having our registered/ corporate office at _____ and a branch office at _____, at the request of _____ the Purchaser do hereby undertake to pay to the REGISTRAR an amount not exceeding Rs. _____ (Rupees only) in the event of any breach by the said Purchaser of any terms and conditions contained in the said Agreement, including default in payment of balance 75% of the bid amount to REGISTRAR.

We the Bank do hereby undertake to pay the amounts due and payable under this guarantee without any demur, merely on a demand from REGISTRAR stating that the amount claimed is due by way of loss or damage caused to or would be caused to or suffered by REGISTRAR by reason of breach by the said Purchaser of any of the terms or conditions contained in the said Agreement or by reason of the Purchaser's failure to pay the balance 75% of the bid amount. Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding Rs. _____ (Rupees only).

We undertake to pay to the REGISTRAR any money so demanded notwithstanding any dispute or disputes raised by the Purchaser in any suit or proceeding pending before any Court or Tribunal or Arbitrator relating thereto, our liability under these presents being absolute and unequivocal.

The payment so made by us under this guarantee bond shall be a valid discharge of our liability for payment hereunder and the Purchaser shall have no claim against us for making any further payment.

We further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for payment of the monies due and the performance of the said Agreement by the Purchaser and that it shall continue to be enforceable till the balance bid amount and or interest overdue, if any and all dues of the REGISTRAR under or by virtue of the said Agreement have been fully paid and its claims are fully satisfied, and REGISTRAR certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said Purchaser and accordingly discharges this guarantee. Unless a demand or claim under this guarantee is made on us in writing on or before the _____¹ we shall be discharged from all liability under this guarantee thereafter.

We further agree with REGISTRAR that REGISTRAR shall have the fullest liberty without our consent and without effecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Agreement or to extend time of performance by the said Purchaser from time to time or to postpone for any time from time to time any of the powers exercisable by REGISTRAR against the said Purchaser and to forbear or enforce any of the terms and conditions relating to said Agreement and we shall not be relieved from our liability by reason of any such variation or extension being granted to the said Purchaser or for any forbearance, act or commission on the part of REGISTRAR or any indulgence by REGISTRAR to the said Purchaser or by any of the such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have effect of so relieving us.

This guarantee will not be discharged due to any change in the constitution of the Bank or the Purchaser.

We lastly undertake not to revoke this guarantee during its currency except with the previous consent of REGISTRAR in writing.

Dated this _____ day of _____, 2009____
for and on behalf of (the Bank)

(Authorised Signatory)
Designation
Seal of the Bank

¹ 75 days from the date of Slump Sale Agreement