



## **KSK Mahanadi Power Company Limited**

CIN: U40300TG2009PLC064062

### **Works**

Near Nariyara Village,  
Akaltara Tehsil,  
Janjgir – Champa District,  
Chhattisgarh  
Tel (Site): 07817-284001

### **Registered Office**

8-2-293/82/A/431/A,  
Road No.22, Jubilee Hills,  
Hyderabad – 500 033  
Tel: +91-40-23559922-25  
Fax: +91-40-23559930

**Ref:** KMPCL-COMP, HYD/BKDH/2500101/AU/05/2023

**Date:** 19<sup>th</sup> October 2023

**Subject :** RFQ for carrying Secretarial Audit for KSK Mahanadi Power Company Limited.

Dear Sir,

We invite you to submit quotation for carrying out secretarial audit of KSK Mahanadi Power Company Limited.

The detailed tender document with scope of work, general terms & conditions are attached below.

You are requested to submit the offer by 18:00 hours of 26<sup>th</sup> October 2023.

Thanking you,

Yours sincerely,

For KSK MAHANADI POWER COMPANY LIMITED

AUTHORISED SIGNATORY.

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## 1. QUALIFICATION CRITERIA

- a) The bidder should be a partnership firm /proprietary firm of practicing company secretary incorporated in India.
- b) The bidder should have minimum post qualification experience of 15 years.

The bidder is mandated to submit job experience certificate for as mentioned above.

- c) In addition to the post job experience as mandated by clause 1(b), the bidder should be carrying out secretarial audit procedures of a minimum period of 2 years of a:
  - Thermal / Hydro / Renewable Power Plants/ Power Distribution for a minimum capacity of 600 MWs; or
  - Company having a turnover of INR 5,000 Cr or more basis the latest audited financial statement,

The bidder is mandated to submit experience certificate for secretarial audit assignments undertaken in the last two (2) years.

- d) The bidder should have a local office based in Hyderabad (preferred).
- e) The bidder or its associates<sup>1</sup> directly / indirectly should not be a party to any legal case against KSK Mahanadi Power Company Limited or its officials or have instituted any case in any forum in India against KSK Mahanadi Power Company Limited prior to the date of this RFQ (Ineligible Bidder hereafter). Any associate of Ineligible Bidder shall not be eligible to take part in this tender.
- f) The bidder(s) undertakes that they are not connected / related directly or indirectly with the erstwhile suspended board of directors of KSK Mahanadi Power Company Limited. Submitting the offer shall be an acknowledgement in this regard from the bidder(s).
- g) The bidder has to submit an undertaking that he has not worked on any assignments for KSK Mahanadi Power Company Limited in the last five (5) years before insolvency commencement date (3<sup>rd</sup> October 2019).
- h) The bidder should not have any legal case / compliance enquiry pending against him / firm / company. Further, the company / firm for which the bidder

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<sup>1</sup> Including group companies, affiliates, companies/ firms under same management or having common directors.



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has conducted the assignment during last three years should not be subject to any enquiry from the state regulated agencies.

The details of the requirements are as mentioned in this RFQ.

## 2. BID SUBMISSION:

2.1 We request you to e-mail your most competitive offer(s), quoting the rate for conducting secretarial audit in INR basis as per the requirement of this RFQ, to the following email id: [rp.kskmahanadi@gmail.com](mailto:rp.kskmahanadi@gmail.com) and [bhavya.g.garg@pwc.com](mailto:bhavya.g.garg@pwc.com)

2.2 Along with offer, the bidder(s) has to mandatorily submit an undertaking stating that they are not connected / related directly or indirectly with the erstwhile suspended board of directors of KSK Mahanadi Power Company Limited and they are not directly / indirectly related to the promoters of KSK Mahanadi Power Company Limited as per **Annexure – 1**.

2.3 The selected bidder has to mandatorily submit a disclosure as well as confidentiality undertaking as per **Annexure – 2** and **Annexure – 3**.

## 3. TERMS OF THE AGREEMENT:

The Agreement shall commence on the date of execution of Engagement Letter. The term to be valid for conducting secretarial audit procedures for **FY 2023-24**.

## 4. SCOPE OF WORK:

Scope of Secretarial Audit includes the examination of the company's legal and regulatory compliance, corporate governance framework, secretarial and procedural compliances, and overall compliance with applicable laws and regulations as detailed below in brief

- a) To examine the books, papers, minute books, forms and returns filed and other records maintained by the Company for every financial year according to the provisions of:
  - i. The Companies Act, 2013 (the Act) and the rules made there under;
  - ii. The Securities Contracts (Regulation) Act, 1956 ('SCRA') and the rules made there under;
  - iii. The Depositories Act, 1996 and the Regulations and Bye-laws Framed there under



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- iv. Foreign Exchange Management Act, 1999 and the rules and regulations made thereunder to extent of Foreign Direct Investment, Overseas Direct Investment and External Commercial borrowings
  - v. Any other laws as may be applicable specifically to the Company viz. Electricity Act, Factories act, Workmen Compensation Act and other labour laws
- b) To examine compliance of applicable clauses Secretarial Standards issued by The Institute of Company Secretaries of India. During the period under review the Company has complied with the provisions of the Act, Rules, Regulations, Guidelines, Standards, etc.
- c) To report that :
- I. The Board of Directors of the Company is duly constituted with proper balance of Executive Directors, Non-Executive Directors and Independent Directors.
  - II. The changes in the composition of the Board of Directors that took place during the period under review were carried out in compliance with the provisions of the Act.
  - III. Adequate notice is given to all directors to schedule the Board Meetings, agenda and detailed notes on agenda were sent at least seven days in advance, and a system exists for seeking and obtaining further information and clarifications on the agenda items before the meeting and for meaningful participation at the meeting.
  - IV. Majority decision is carried through while the dissenting members' views are captured and recorded as part of the minutes.
- d) To report that there are adequate systems and processes in the company commensurate with the size and operations of the company to monitor and ensure compliance with applicable laws, rules, regulations and guidelines.
- e) To report the details of specific events / actions having a major bearing on the company's affairs in pursuance of the above referred laws, rules, regulations, guidelines, standards, etc.

## 5. REMUNERATION :

The Professional fee for the assignment will be \_\_\_\_\_ ; plus the taxes without any out-of-pocket expenses.



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## **6. BILLING AND PAYMENT :**

- a) The bidder undertakes to complete the necessary compliance including timely issuance of invoice and /or other necessary documents.
- b) Payment shall be done after THIRTY days from the date of receipt of clear and correct digitally signed invoices. Invoice shall be raised after issuance of the report.
- c) No advance payment shall be released.

## **7. DELIVERABLES AND TIMELINE :**

The prospective secretarial auditor needs to furnish reports basis timelines as mutually agreed during execution of contract.

## **8. SETTLEMENT OF DISPUTES :**

The Contract shall in all respects to be construed and carried into effect and rights and liabilities of the Parties hereto shall be regulated according to the laws of India.

## **9. MUTUAL SETTLEMENT OF DISPUTES:**

Except where otherwise provided for in the Contract, other than excepted matters all question and dispute relating to any matter directly or indirectly connected with this Contract shall in the first place be resolved through mutual discussions, negotiations, deliberation and consultations between both the Parties.

## **10. CONFIDENTIAL AND PROPRIETARY INFORMATION:**

Each party acknowledges and agrees that any and all information emanating from the other's business, in any form, including but not limited to information relating to the disclosing party's past, present, or future research, development or business activities is "Confidential and Proprietary Information". Each party agrees that it will not, during or after the term of the contract, permit the duplication or disclosure of any such Confidential and Proprietary Information to any person (other than an employee, agent or representative of the other party who needs such information for the performance of the obligations hereunder), unless such duplication, use or disclosure is specifically authorized by the disclosing party in writing. "Confidential and Proprietary Information" is not meant to include any information which (a) is publicly available or is made publicly available by the disclosing party without



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restriction; (b) is rightfully received by the receiving party from third parties without accompanying secrecy obligations; (c) is already in the receiving party's possession and was lawfully received from sources other than the disclosing party; or (d) is independently developed by the receiving party. The secrecy of the Confidential and Proprietary Information disclosed pursuant to this letter of engagement shall be maintained for a period of three (3) years following disclosure thereof.

## **11. TERMINATION:**

The Contract shall be terminated by KMPCL by giving a seven (7) days' notice and without any compensation under the following circumstances including but not limited to:

- i. Bidder becomes insolvent; or
- ii. Bidder has been convicted of any crime which in KMPCL's reasonable judgment is likely to adversely affect the goodwill of KMPCL; or
- iii. Failure of Bidder to conduct the secretarial audit report and furnish the report thereon as per agreed time schedule; or
- iv. Bidder assigns the Contract to any third party without the consent in writing of KMPCL; or
- v. If any of the representations of the statements etc. made by the Bidder in connection with the Contract are incorrect or are found to be incorrect.

**Notwithstanding anything contrary mentioned above, in case of any sort of disputes arising under the Secretarial Audit Contract, the decision of the Resolution Professional of KSK Mahanadi Power Limited shall be final.**



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## ANNEXURE – 1

Date:-

To,  
Mr. Sumit Binani,  
Resolution Professional of  
KSK Mahanadi Power Company Limited,  
8-2-293/82/A/431/A, Road No:22, Jubilee Hills,  
Hyderabad, Telangana 500033

Dear Sir,

**Sub: Undertaking under the Insolvency and Bankruptcy Code, 2016 with regard to Related Party of Corporate Debtor**

In reference to the above submitted bid against the RFQ **KMPCL-COMP, HYD/BKDH/2500101/AU/05/2023** dated 19<sup>th</sup> October 2023 for carrying out secretarial audit as per scope of work mentioned above, we (“Bidder Name” and its Affiliate Company) state, submit and confirm that:

We are not related to KSK Mahanadi Power Company Limited (“KSK Mahanadi/ Corporate Debtor”) in any manner as per the definition of “Related Party” enshrined in the Insolvency and Bankruptcy Code, 2016 and rules and regulations framed thereunder (IBC), each, as amended from time to time. We confirm that there is no common Director on the Board of the Company and M/s. KSK Mahanadi Power Company Limited. We also confirm that we are not disqualified in any manner in terms of the provisions of Section 29A of the IBC.

This is for your kind information and records.

Thanking you,  
Yours sincerely,

Authorized Signatory

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**ANNEXURE – 2 (on the letter head)**

**STATEMENT OF DISCLOSURE**

1. I/We, \_\_\_\_\_ (“**Other Professional – Secretarial Auditors**”), appointed during corporate insolvency resolution process (“**CIRP**”) of **KSK Mahanadi Power Company Limited** hereby declare that pursuant to the Circular No. IP/005/ 2018 (“**Circular**”) issued by the Insolvency and Bankruptcy Board of India, dated 16 January 2018, we do not have/ have relationship with the following pursuant to clause 4 of the Circular. Refer para 2 below for details:

<b>S. No.</b>	<b>Parties</b>	<b>Relationship exists (Yes/ No)</b>	<b>Type of Relationship (to refer clause 2 below) [A/B/C/D/NA]</b>
A	<b>Insolvency Professional –</b> Sumit Binani		
B	<b>Corporate Debtor –</b> KSK Mahanadi Power Company Limited		
C	<b>Financial Creditors as below –</b>		
1.	Aditya Birla ARC Limited		
2.	Power Finance Corporation Limited		
3.	REC - Rural Electrification Corporation		
4.	ASREC (India) Ltd		
5.	UCO Bank		
6.	Bank of India		
7.	Prudent ARC Limited		
8.	Phoenix ARC Private Limited		



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S. No.	Parties	Relationship exists (Yes/No)	Type of Relationship (to refer clause 2 below) [A/B/C/D/NA]
9.	IDBI Bank Ltd		
10.	India Infrastructure Finance Company (UK) Limited		
11.	RARE Asset Reconstruction Limited		
12.	Canara Bank		
13.	Punjab National Bank		
14.	Union Bank of India		
15.	State Bank Of India		
16.	Asset Reconstruction Company (India) Limited (ARCIL)		
17.	Punjab and Sind Bank		
18.	Housing and Urban Development Corporation Ltd.		
19.	Axis Bank Limited		
20.	Bank of Baroda		

2. Relationship as defined in clause 5 of the Circular shall mean any one or more of the four kinds of relationships at any time or during the three years preceding the appointment.

A. Where the Other Professional has derived 5% or more of his / its gross revenue in a year from professional services to the Related Party;

**Response to point A –**



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B. Where the Other Professional is a Shareholder, Director, Key Managerial Personnel or Partner of the Related Party;

**Response to point B –**

C. Where a relative (Spouse, Parents, Parents of Spouse, Sibling of Self and Spouse, and Children) of the Other Professional, as the case may be, has a relationship of kind A or B with the Related Party.

**Response to point C –**

D. Where the Other Professional as the case may be, is a partner or director of a company, firm or LLP, such as, an Insolvency Professional Entity or Registered Valuer, the relationship of kind A, B or C of every partner or director of such company, firm or LLP with the Related Party.

**Response to point D –**

3. I/We, \_\_\_\_\_ (“**Other Professional – Secretarial Auditors**”), appointed during corporate insolvency resolution process (“**CIRP**”) of **KSK Mahanadi Power Company Limited** hereby declare that pursuant to the Circular No. IP/005/ 2018 (“**Circular**”) issued by the Insolvency and Bankruptcy Board of India, dated 16 January 2018, we do not have/ have relationship with the following pursuant to clause 4 of the Circular. Refer para 2 below for details:

S. No.	Parties	Relationship exists (Yes/ No)	Type of Relationship (to refer clause 2 below) [A/B/C/D/NA]
A	<b>Prospective Applicants as mentioned below:</b>  1. Adani Power Limited.		

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<b>S. No.</b>	<b>Parties</b>	<b>Relationship exists (Yes/No)</b>	<b>Type of Relationship (to refer clause 2 below) [A/B/C/D/NA]</b>
	2. Consortium of Alchemist Asset Reconstruction Company Limited and Cygnet Projects Private Limited. 3. iLabs India Special Situations Fund. 4. Invent Assets Securitisation and Reconstruction Private Limited. 5. Jindal Poly Films Limited. 6. Jindal Power Limited. 7. Medha Servo Drives Private Limited. 8. Megha Engineering & Infrastructures Limited. 9. Power finance Corporation Limited. 10. Ridhhi Sidhhi Gluco Biols Limited. 11. RKG Asset Management LLP. 12. Vedanta Limited.		

4. Relationship as defined in clause 5 of the Circular shall mean any one or more of the four kinds of relationships at any time or during the three years preceding the appointment.

A. Where the Other Professional has derived 5% or more of his / its gross revenue in a year from professional services to the Related Party;

**Response to point A –**



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B. Where the Other Professional is a Shareholder, Director, Key Managerial Personnel or Partner of the Related Party;

***Response to point B –***

C. Where a relative (Spouse, Parents, Parents of Spouse, Sibling of Self and Spouse, and Children) of the Other Professional, as the case may be, has a relationship of kind A or B with the Related Party.

***Response to point C –***

D. Where the Other Professional as the case may be, is a partner or director of a company, firm or LLP, such as, an Insolvency Professional Entity or Registered Valuer, the relationship of kind A, B or C of every partner or director of such company, firm or LLP with the Related Party.

***Response to point D –***

\_\_\_\_\_

Authorized Signatory of \_\_\_\_\_

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

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

Entity Identification Number: \_\_\_\_\_

Entity PAN: \_\_\_\_\_

Date: \_\_\_\_\_



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## ANNEXURE – 3 (on the stamp paper of INR 500)

### CONFIDENTIALITY UNDERTAKING

This confidentiality undertaking has been signed by \_\_\_\_\_, having its office at \_\_\_\_\_ and acting through Mr./Ms. \_\_\_\_\_, the authorized signatory/authorized representative (“**Secretarial Auditor / [insert name of the Audit Firm]**”, which expression shall, unless repugnant to the context, include its successors in business, administrators in business, administrators, liquidator and assigns or legal representative) in favour of Mr. Sumit Binani, an insolvency professional having registration no. IBBI/IPA-001/IP-N00005/2016-17/10025 on \_\_\_ day of \_\_\_\_\_, 2023 in his capacity as the Resolution Professional of KSK Mahanadi Power Company Limited (hereinafter referred to as “**RP**”).

WHEREAS KSK Mahanadi Power Company Limited, a company registered under Companies, Act, 1956 (hereinafter referred to as “**Corporate Debtor**”) is under corporate insolvency resolution process *vide* an order of the National Company Law Tribunal, Hyderabad Bench (“**NCLT**”) dated 03.10.2019 and further via the order dated 09.06.2020 and 16.06.2020, Mr. Sumit Binani has been appointed as the RP of the Corporate Debtor.

**THEREFORE, I/We \_\_\_\_\_ hereby declare and undertake as follows:**

1. I/We declare and undertake that I will not divulge any information disclosed to me by the RP (or any other person on behalf of the RP) including any financial information of the Corporate Debtor, or any other information made available to me by the RP (including CoC minutes, information memorandum, resolution plans as and when received) through oral, electronic or written communication or through any other mode, and the same shall constitute “**Confidential Information**”. Any information or documents generated or derived by the recipients of Confidential Information that contains, reflects or is derived from any Confidential Information shall also be deemed as Confidential Information.
2. I/We, further unconditionally and irrevocably undertakes and declares that:
  - (a) the Confidential Information shall be kept confidential by me and shall be used solely as allowed under the Code;
  - (b) I/We shall not use the Confidential Information to cause any undue gain or undue loss to itself or any other person;



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- (c) I/We shall comply with all provisions of law (applicable to it) for the time being in force relating to confidentiality and insider trading in relation to such Confidential Information;
    - (d) I/We shall protect any intellectual property of the Corporate Debtor which it may have access to provided or made available by the RP (or any other person acting on behalf of the RP);
3. Notwithstanding anything to the contrary contained herein, the following information shall however not be construed as Confidential Information:
  - (a) information which, at the time of disclosure to me was already in the public domain;
  - (b) information which, after disclosure to me becomes publicly available without any breach of this confidentiality undertaking;
  - (c) information that is received by me from a third party which is not in breach of its confidentiality undertaking; and
  - (d) information that is required to be disclosed by me (and to the extent required to be disclosed) pursuant to the requirements of applicable laws, or order of a judicial authority or administrative authority or the guidelines of a regulatory/ administrative authority.
4. Nothing in this confidentiality undertaking shall have the effect of limiting or restricting any liability arising as a result of fraud or willful default.
5. I/We hereby acknowledge and agree that in the event of breach or threatened breach of the terms of this confidentiality undertaking, the RP and the Corporate Debtors shall be entitled to all remedies available under law or equity. Damages may not be an adequate remedy for a breach of this confidentiality undertaking and the RP and the Corporate Debtors shall be entitled to the remedies of injunction, specific performance, and other equitable relief for a threatened or actual breach of this confidentiality undertaking.
6. This confidentiality undertaking and any dispute, claim or obligation arising out of or in connection with it shall be governed by and construed in accordance with Indian laws and the courts at Hyderabad, Telangana shall have exclusive jurisdiction over matters arising out of or relating to this confidentiality undertaking.



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7. The confidentiality undertaking shall be in conjunction to any other undertakings provided by me to the RP.

By

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(Name and Designation)  
Authorized Signatory