

[To be printed on the letter head of the Applicant]

July \_\_\_\_\_, 2019

To,

1. Infrastructure Leasing & Financial Services Limited (“**IL&FS**”)  
The IL&FS Financial Centre,  
Plot C22, G Block,  
Bandra Kurla Complex,  
Bandra East,  
Mumbai 400 051
2. IL&FS Energy Development Company Limited (“**IEDCL**”)  
The IL&FS Financial Centre,  
Plot C22, G Block,  
Bandra Kurla Complex,  
Bandra East,  
Mumbai 400 051

**Re:** Expression of Interest for the Acquisition of Stakes held by IL&FS Group in Under-Construction Wind Energy Assets dated [insert date of EOI letter submitted by the Applicant] (“**EOI**”) submitted by [insert name of the Applicant] (“**Receiving Party**”)

**Sub:** Acknowledgements, Confidentiality and Non-Disclosure Undertaking (“**Undertaking**”)

Dear Sir/ Madam,

1. We refer to the EOI submitted by us, in response to (i) the advertisements issued in *The Economic Times* dated July 8, 2019 and the *Maharashtra Times* dated July 8, 2019, and (ii) the invitation for expression of interest read with the preliminary teaser, available at [www.ilfsindia.com/ad/](http://www.ilfsindia.com/ad/), expressing our interest to participate in the process being conducted (the “**Process**”) for potential divestment of Identified Assets (*as defined below*) and receive confidential and proprietary information in relation to the Identified Assets, the opportunity, and the transaction(s) that may be contemplated in respect of the potential divestment thereof (“**Potential Transaction(s)**”).
2. This Undertaking is being furnished by us in consideration of the premise as set forth above. Vide this Undertaking, we, the Receiving Party, hereby agree, undertake, acknowledge and confirm that:
  - (a) The Receiving Party would be receiving Confidential Information (*as defined below*) in relation to: (i) Sipla Wind Energy Limited; and (ii) Mahidad Wind Energy Limited (collectively referred to as the “**Identified Assets**”); the Potential Transaction(s); and the Process, from IL&FS, IEDCL, the Identified Assets, their shareholders, affiliates, directors, officers, employees, agents or advisors (individually referred to as “**Disclosing Party**”, and collectively referred to as “**Disclosing Parties**”);
  - (b) “**Confidential Information**” includes: (i) all information, discussions, progress and status with respect to the Process and /or the Potential Transaction(s); (ii) all information, data, reports, analyses, advices, interpretations, studies, forecasts, records, documents and/or materials , whether made available in writing or electronically to the Receiving Party by the Disclosing Parties in relation to the Identified Assets, or the Potential Transaction(s) or the intended parties to the Potential Transaction(s) or becoming available to the Representatives (as defined below) of the Receiving Party; (iii) any financial, technical, business, operational, assets and liabilities related information, any analysis that integrally incorporates and/or discloses any Confidential Information; and (iv) any information exchanged between parties to the Potential Transaction(s), in respect of any Disclosing Party(ies), or documents reflecting or generated

from such information, and any information or document that the Disclosing Party considers confidential, but excluding information that:

- (i) at the time of supply to the Receiving Party is in the public domain or otherwise lawfully known to the Receiving Party;
- (ii) becomes lawfully available to the Receiving Party or its Representatives from a third party who to the best of the Receiving Party's knowledge does not owe any party an obligation of confidence in relation to such information;
- (iii) is independently developed by the Receiving Party or its Representatives without any reference to the Confidential Information, and without violating any obligations hereunder;  
or
- (iv) is approved for disclosure in writing by the Disclosing Parties or a Disclosing Party.

(c) The Confidential Information shall be shared only with affiliates or partners who shall be potentially participating in equity or debt funding and the directors, partners, officers, agents, employees or advisors (such as financial advisors, attorneys, bankers, consultants and accountants) of the Receiving Party/their affiliates/partners who need to know such information for the purpose of evaluating the Potential Transactions (collectively referred to as the "**Representatives**"), on a strictly "need to know" basis; provided, such Representatives are also similarly restricted by the confidential obligations and the conditions set forth in this Undertaking. The Receiving Party agrees that the Receiving Party will be responsible for any breach of the confidentiality and other terms of this Undertaking by any of the Receiving Party's Representatives;

3. The Receiving Party agrees and undertakes that it shall, and it shall ensure that its Representatives shall:

- (a) keep confidential all Confidential Information provided to the Receiving Party, unless disclosure is required to satisfy the requirements of any law, legal process, court of competent jurisdiction or any governmental or regulatory agency having the authority to regulate any aspect of the Receiving Party's business. Provided that the Receiving Party may disclose only such Confidential Information that is strictly required to be disclosed to comply with a regulatory requirement, and to the extent legally permissible, the Receiving Party shall notify the Disclosing Parties of such requirements promptly, in advance of the disclosure, so that the Disclosing Parties may seek protective order(s) or other appropriate remedy to protect the secrecy of the Confidential Information;
- (b) use Confidential Information solely for the purpose of evaluating, negotiating or, if selected as the preferred applicant, carrying out the Potential Transaction(s);
- (c) not use the Confidential Information to cause an undue gain or undue loss to itself or any other person and comply with the principles stipulated under section 29(2) of the Insolvency and Bankruptcy Code, 2016 (as amended from time to time);
- (d) not engage with or solicit or attempt to solicit, in any manner whatsoever, any client or customer of the Identified Assets;
- (e) not, directly or indirectly:
  - (i) induce for employment, employ or engage as a consultant or independent contractor any employee of the Disclosing Party(ies) to leave his or her employment and/or terms of service with the applicable Disclosing Party, or in any way interfere with the relationship between the Disclosing Party and any such employee thereof;
  - (ii) induce or hire any person engaged by the Disclosing Party(ies), with whom the Receiving Party or any of its Representatives have been directly or indirectly introduced or otherwise had contact with in connection with the Potential Transaction(s), so long as such persons are employed or engaged by the applicable Disclosing Party, or upon cessation of such

employment or engagement with the applicable Disclosing Party, for a period of 6 months after such cessation, unless otherwise agreed by the applicable Disclosing Party in writing,

Provided that the aforesaid conditions do not prevent the Receiving Party from offering employment: (A) pursuant to a general solicitation or advertisement not specifically directed towards employees of the Disclosing Party(ies), in the news media of general circulation; (B) through a recruitment agency or other similar entities who have not been specifically instructed by the Receiving Party to solicit such employees of the Disclosing Party(ies); or (C) to persons who approach the Receiving Party on their own volition, without any solicitation by the Receiving Party or its Representatives.

4. Further, the Receiving Party acknowledges and agrees that:
  - (a) the Confidential Information disclosed under this Undertaking is delivered “**as is**” and the Disclosing Parties do not make any representation or warranty as to the accuracy, timeliness or completeness of the Confidential Information or its suitability for any particular purpose. The Disclosing Party shall not have any liability to the Receiving Party or its Representatives relating to or resulting from the use of the Confidential Information or any omissions or errors therein;
  - (b) the opportunity to participate in the Process or grant of access to Confidential Information cannot be construed:
    - (i) to grant any rights over the Identified Asset(s) to the Receiving Party or any person; or
    - (ii) to be a commitment or agreement by the Disclosing Parties to undertake or consummate any or all the Potential Transaction(s) with the Receiving Party or any other party; or
    - (iii) to refrain the Disclosing Party from consummating the Potential Transaction(s) or any transaction pertaining thereto with any other party.
5. The Receiving Party acknowledges and confirms that:
  - (a) the Confidential Information is the property of the relevant Disclosing Party;
  - (b) in case of any actual or suspected loss, theft, unauthorized disclosure, use or access of Confidential Information in breach hereof or other non-compliance with this Undertaking, to notify the Disclosing Party in writing (including electronically) (along with relevant details), and shall provide all reasonable assistance to the Disclosing Party in connection with any proceedings which the Disclosing Party may institute to protect such Confidential Information;
  - (c) in the event the Disclosing Parties decide not to proceed with the Potential Transaction(s) either with the Receiving Party or at all, the Receiving Party shall promptly return (if requested by the Disclosing Party) or destroy (if no such request is made) all physical copies of Confidential Information (and delete or make inaccessible all electronic copies thereof). Provided, that the Receiving Party may retain Confidential Information that is required to be retained by: (i) law, regulation, legal or judicial process or any governmental or regulatory authority or document retention policy; and /or (ii) tax, audit or compliance purposes with a prior intimation to the Disclosing Party.
6. The Receiving Party understands and agrees that monetary damages would not be sufficient remedy for any actual or threatened breach of this Undertaking by the Receiving Party or any of its Representatives and that, in addition to all other remedies available at law and/or in equity, the Disclosing Parties shall be entitled to seek equitable relief, including both preliminary and permanent injunctions and specific performance, as a remedy for any such actual or threatened breach of this Undertaking by the Receiving Party or any of its Representatives.
7. This Undertaking is governed by, and construed in accordance with, the laws of India and shall be subject to the exclusive jurisdiction of the courts of Mumbai, India.
8. This Undertaking comes into effect upon execution and the obligations set forth herein shall remain irrevocable and binding upon the Receiving Party until superseded in the definitive agreement(s),

if any, executed in respect of the Potential Transaction(s). Provided, the obligations of the Receiving Party or its Representatives in terms of Clause 3 shall be valid during the Process and till the expiry of 12 (twelve) months from the date of execution of this Undertaking.

For [*Applicant*]

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Signature

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

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