

BID PROCESS DOCUMENT

for sale of

*73.59% Equity Shares & 66% Preference Shares and Settlement of
Lenders' outstanding dues in*

Jindal India Thermal Power Limited

1,200 MW (2 x 600 MW) Thermal Power Plant at Angul (Odisha)



(Strictly Private & Confidential)

Lead Bank



Punjab National Bank
Zonal Sastra Centre,
2nd Floor Rajendra Bhawan,
Rajendra Place,
New Delhi - 110008

Transaction Advisor



SBI Capital Markets Limited
3rd Floor, Sood Tower,
25 Barakhamba Road,
New Delhi - 110001

December 2020

CONTACT PERSONS

<p><i>SBI CAPITAL MARKETS LIMITED</i></p> <p>(A Subsidiary of State Bank of India) 3rd Floor, Sood Towers (East Tower), 25, Barakhambha Road, Connaught Place, New Delhi 110 001 Tel. +91-11 2341 8460</p> <p><i>Website: www.sbicaps.com</i></p>	<p>1) Mr. Mukesh Aggarwal Vice President, Project Advisory & Structured Finance Ph. 011- 2348 5303 e-mail: mukesh.aggarwal@sbicaps.com</p> <p>2. Mr. Ankit Goel Assistant Vice President, Project Advisory & Structured Finance Ph. 011-2348 5320 e-mail: ankit.goel@sbicaps.com</p>
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ABBREVIATIONS

AUM	: Asset Under Management
ARC	: Asset Reconstruction Company
BPD	: Bid Process Document
GOI	: Government of India
GST	: Goods & Services Tax
IB	: Interested Bidder(s)
FI	: Financial Investor
JITPL	: Jindal India Thermal Power Limited
MW	: Mega Watt
NBFC	: Non-Banking Financial Company
NDU	: Non-Disclosure Undertaking
PNB	: Punjab National Bank
PSU	: Public Sector Undertaking
RBI	: Reserve Bank of India
RFP	: Request for Proposal
SBICAPS	: SBI Capital Markets Limited
SI	: Strategic Investor
TPP	: Thermal Power Project
VDR	: Virtual Data Room

Chapter 1 –Proposed Transaction

- 1) Jindal India Thermal Power Limited (“**Company**” or “**JITPL**”) is a public unlisted company within the meaning of the Companies Act, 2013, having its corporate identity number U74999DL2001PLC109103 and registered office at Plot no. 2, Pocket C, 2nd Floor, Nelson Mandela Road, Vasant Kunj, New Delhi.
- 2) The Company is engaged in the business of generation and supply of power and is currently operating a 1,200 MW Thermal Power Project (TPP) having two units of 600 MW each, of sub-critical technology, near Derang Village, Angul District in the State of Odisha (“**Project**”). The Company had availed various credit facilities from a consortium of lenders (“**Lenders**”) led by the Punjab National Bank (“**PNB**” or “**Lead Bank**” or “**Lead Financial Institution**”) for setting up the Project. The Company has been facing financial difficulties and has not been able to timely service its debt obligations.
- 3) The Current Management of JITPL has submitted a binding settlement proposal to the Lenders (“**Primary Proposal**”). The Primary Proposal envisages a settlement amount of Rs 2,450 crore by way of an upfront amount of Rs. 1,080 crore and balance payment of Rs 1,370 crore over a period of 4 years, carrying fixed interest @ 9% p.a. payable monthly. Further, Company offers to transfer 10% equity shares to the Lenders after the last instalment of settlement amount at the end of 4 years along with replacing the outstanding Non-Fund Based Facilities with 4 years.
- 4) The Primary Proposal was discussed by the Lenders and Lenders now desire to establish the appropriateness of value submitted in the Primary Proposal through a ‘Swiss Challenge’ process with the Primary Proposal as the anchor bid or the base offer (“**Proposed Transaction**”). The Lenders / security trustee to the lenders hold 73.59% of the issued equity shares and 66% of the issued preference shares of JITPL and the Lenders, through this process, invite proposals for acquiring these shares along with rights over the debt owed by the Company to these Lenders, to the successful bidder.
- 5) Punjab National Bank being the Lead Financial Institution on behalf of Lenders has engaged SBI Capital Markets Limited (“**SBICAPS**” or “**Advisor**”) as Transaction Advisor for the Proposed Transaction.
- 6) The intent of the Proposed Transaction is to solicit Bids from Interested Bidders for the Proposed Transaction with the objective of value maximization for the Lenders. In the event that a Bid submitted pursuant to this BPD and the RFP provides a better value and satisfies the criteria set out under this BPD and the RFP and the same is acceptable to the Lenders (in their sole discretion), then the Interested Bidder submitting such a Bid shall be finalised and declared as the selected bidder by the Lenders (the “**Selected Bidder**”). The Lenders shall have the right, but not the obligation, to negotiate better terms with the Selected Bidder. Lenders shall offer an opportunity to the Company to better the above Bid in terms of the Swiss Challenge process. The Bidder (including the Company) whose Bid shall be declared as the successful Bid shall be the successful bidder (the “**Successful Bidder**”).

- 7) Upon selection in accordance with the terms of this BPD and the RFP, the Successful Bidder shall enter into Definitive Agreements with the Lenders and the Company or any other person, as the case may be, in relation to the Proposed Transaction.
- 8) The Proposed Transaction entails induction of a Strategic and/or Financial Investor ["Investor(s)" or "Interested Bidder(s)" or "IB"] in JITPL to take over the 73.59% equity shares and 66% preference shares in the Company, held by the Lenders/ security trustee on behalf of the Lenders. Interested Bidders may also consist of a consortium of interested investors.
- 9) This Bid Process Document ("BPD") contains the following:
 - a. Instructions for Investor(s) for submitting Non-Disclosure Undertaking ("NDU") and obtaining access to Virtual Data Room ("VDR")
 - b. Qualification Criteria
 - c. Format for NDU
 - d. Format for statement of legal capacity
 - e. Copy of Advertisement published in News Papers
- 10) Bidder shall be liable to be rejected by Lenders if Interested Bidders (or any member of the consortium) fail to meet financial or any other qualification criteria as given in Chapter 3 of this BPD; or for any other reason deemed fit, or without assigning any reason whatsoever.
- 11) On complying with instruction as under Chapter 1, Interested Bidders would be given access to the data room till bid submission date ("**Bid Date**") to review the documents pertaining to the Company to enable them to conduct due diligence of the Company.
- 12) Subsequently, a site visit (cost of which will be borne by the shortlisted Interested Bidders) may be scheduled to facilitate the Interested Bidders to assess the business of the Company. The modalities related to the visit and access to the data room for due diligence will be communicated to the shortlisted Interested Bidders separately, in due course.
- 13) The Proposed Transaction shall be on '*as is where is basis*'. The Interested Bidders shall carry out their own due diligence, independent assessment and appraisal of the Company and the Proposed Transaction. The Lead bank, Lenders or the Transaction Advisor or their consultants, agents, officials and employees make no representations or warranties in relation to the business of the Company or the Proposed Transaction and shall not be liable in any manner whatsoever.
- 14) The Interested Bidders would be required to give their binding bid ("Bid") on or before January 07, 2021 ("**Bid Due Date**"). The evaluation of the Bid shall be carried out by the Lenders in terms of the RFP and the Lenders reserve the right to accept/reject any and all offers with or without reasons. A committee may also be formed, at the discretion of the Lenders, comprising of member banks of the consortium along with external parties to evaluate the Bid and address any specific complexity in the Transaction.
- 15) Lenders/ Lead Bank reserves the right to modify/postpone/cancel or call off the Proposed Transaction without assigning any reason whatsoever. It also reserves the right to call for

any additional document/information from the Interested Bidders, which may be considered necessary without any liability to the Lenders /Lead Bank. It is clarified that no right whether legal or otherwise shall be created in favour of any of the Bidder merely on account of submission of the expression of interest and/or Bid pursuant to this BPD and the RFP.

- 16) Any clarification, if required, should be submitted in writing or by email to the persons set out in this BPD. The Lenders/Lead Bank/Transaction Advisor reserves the right not to respond to questions raised or provide clarifications sought, in their sole discretion. Nothing in this BPD shall be taken or read as compelling or requiring the Lenders/Lead Bank/Transaction Advisor to respond to any question or to provide any clarification. No extension of any time and date referred to in this BPD shall be granted on the basis or grounds that the Lenders/Lead Bank/Transaction Advisor has not responded to any question/ provided any clarification.
- 17) This BPD and all related communication and documents shall be subject to the terms of the RFP, which can clarify, modify or amend the process or requirements set out therein. In the event of any conflict, the terms of the RFP shall prevail.
- 18) The Interested Bidders acknowledges that this BPD (except NDU and Statement of Legal Capacity) is a legally non-binding document. In case of any dispute between the parties in respect of interpretation of the terms of the advertisement, this BPD or anything arising there from, such dispute or difference shall be referred to the Lead Bank and the Lead Bank shall adjudicate and decide the disputes, if any, between the parties and its decision in this regard shall be final, conclusive and binding on the parties. Any dispute which could not be resolved as per the process outlined in this Clause shall be subject to jurisdiction of the Courts at New Delhi (with exclusion of all other Courts) and governing law shall be laws of India.

Chapter 2 –Instructions for Bidders for VDR Access

- 1) Bidders are required to submit a non-refundable Bid Participation Fee of Rs. 5,00,000 (Rupees Five Lakhs) plus GST (current rate at 18%) in the form of electronic transfer (RTGS) or demand draft in favour of the Jindal India Thermal Power Limited as per the details mentioned below:

Account Name: Jindal India Thermal Power Limited – Escrow Account

Account Number: 2164002900001229

Branch: Punjab National Bank, Large Corporate Branch, Delhi (216400)

IFSC: PUNB0216400

Swift Code: PUNBINBBIFD

- 2) The Covering letter (Annexure 1) along with a duly filled, stamped, and signed Statement of Legal Capacity (Annexure 2), NDU (Annexure 3), the demand draft/ proof of electronic transfer (RTGS) and the financial credentials evidencing the eligibility of the Bidder certified by a chartered accountant, conforming to the conditions of this BPD shall be submitted at the office of SBI Capital Markets Limited (the address of which is given below) by post, courier or hand delivery (at the risk and cost of Interested Bidders) in a sealed envelope clearly marked and by emailing it to mukesh.aggarwal@sbicaps.com.

“Private and Confidential–Sale of 73.59% Equity and 66% Preference Shares in Jindal India Thermal Power Limited - [name, registered address of Interested Bidders]”

Designated Official:

Mr. Mukesh Aggarwal

Vice President

Project Advisory & Structured Finance

SBI Capital Markets Ltd.

3rd Floor, Sood Towers (East Tower),

25, Barakhamba Road

New Delhi -110001

Applications received by any other means will not be accepted.

Chapter 3 –Qualification Criteria

- 1) Interested Bidders can be Strategic Investors (SIs) and/ or Financial Investors (FIs). Eligibility Criterion for both SI and FI has been detailed below. SIs may include Corporates having experience in similar sectors with domestic or global experience or both. FIs may include Private Equity Funds, Investment Funds, ARCs etc. Please note that this is an indicative list and is not exhaustive and has been presented for illustration purposes only.
- 2) For the purposes of qualifying under financial capacity, financial strength of the Interested Bidder /Ultimate Parent/Parent/Group Company/ Affiliate can be used.
- 3) **“Affiliate”** with respect to any Person shall mean any other Person which, directly or indirectly: (i) Controls such Person; or (ii) is Controlled by such Person; or (iii) is Controlled by the same Person who, directly or indirectly, Controls such Person.
- 4) **“Control”** shall include the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner. Provided that a Person shall be deemed to be in control of another Person only if it holds at least 26% (twenty six percent) of voting/ownership rights.
- 5) Interested Bidders must meet following eligibility criteria:
 - A. In case the Bid is being submitted in Individual capacity

S.No.	Type	Net worth (Rs. Crore)
1.	Banks/NBFCs/ARCs/SCs	250
2.	Corporate	500
3.	Fund/FI	1,000 (AUM or committed funds available for investment / deployment in Indian companies as on 31.03.2020)

B. In case of Consortium of Bidders comprising Banks/NBFCs/ARCs/SCs/Corporates:

- Combined Net Worth of all consortium partners should be at least Rs. 500 crore as on March 31, 2020
- Net Worth of individual members of consortium should be at least Rs. 150 crore if it is a Banks/NBFCs/ARCs/SCs; otherwise, it should be at least Rs. 250 crore, if it is a Corporate
- Maximum number of Consortium partners is limited to 2 (Two).

C. In case of Consortium of Bidders comprising Banks/ NBFCs/ARCs/SCs/Corporates along with Funds/FIs:

- Net Worth of individual members of consortium should be at least Rs. 150 crore; if it is a Banks/NBFCs/ARCs/SCs; otherwise, it should be at least Rs. 250 crore if it is a Corporate
- Asset under management for Fund / FIs, should be at least Rs. 500 crore or committed funds available for investment / deployment in Indian companies should be at least Rs. 250 crore as on March 31, 2020.
- Maximum number of Consortium partners is limited to 2 (Two).

For the purposes of this BPD, net worth (the “Net Worth”) shall mean the aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write back of depreciation and amalgamation.

Signed Certificate from a chartered accountant / Statutory Auditor regarding Net Worth as per above mentioned methodology to be submitted based on Audited Financials not older than 1 year from date of submission.

- 6) State Entities/Public Sector Undertakings (PSU) can participate in the process / request for access of VDR free of cost and submit their bids till the last day announced for submission of Bids.

Other Conditions

(a) Financial credentials should be certified by a chartered accountant.

(b) The Interested Bidder including any partner of the consortium or a fund or a financial institution or a private equity investor or Group Company or Affiliate or a Chief Executive Officer (“CEO”) or any of the directors/ manager/ Key Managerial Personnel of the Bidder or their Affiliate should not have been charge-sheeted by any agency of the government or convicted by a court of law with regard to matters relating to security and integrity of the country.

(c) The Interested Bidder including any consortium partner or Group Company or Affiliate or CEO or any of the directors/ manager/Key Managerial Personnel of the Bidder or their Affiliate should not have been convicted by a court of law or indicted or any adverse orders should have been passed by a regulatory authority which could cast a doubt on the ability of the Bidder to undertake the Proposed Transaction or which relates to a grave offence that outrages the moral sense of the community in regard to matters other than matters related to the security and integrity of the country.

(d) No Interested Bidder applying or as a partner of a consortium, as the case may be, can be a part of another Bid except to the extent permitted under the BPD.

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(e) If any information becomes known after the Interested Bidder has been qualified, which information would have entitled Authorised Representative/ Lenders to reject the Bid of the Interested Bidder, the Lenders reserve the right to reject the Bid of such Interested Bidder at the time such information becomes known to the Authorised Representative/ Lenders. In the event the Interested Bidder is a consortium, the Lenders, would disqualify the entire consortium, even if it applied to only one partner of such consortium.

All Interested Bidders shall submit their credit information report, to the satisfaction of Lenders.

Annexure 1: Cover Letter

(To be typed on the letterhead of the Interest Bidder)

Reference No. _

Date _

To,

Mr. Mukesh Aggarwal
Vice President
Project Advisory & Structured Finance
SBI Capital Markets Limited
3rd Floor, Sood Towers (East Tower),
25, Barakhamba Road
New Delhi - 110001

Sub: OFFER FOR SETTLEMENT OF LENDERS' OUTSTANDING DUES TO JINDAL INDIA THERMAL POWER LIMITED AND SALE OF 73.59% EQUITY & 66% PREFERENCE SHARES OF JINDAL INDIA THERMAL POWER LIMITED (JITPL) under swiss challenge process

Sir,

This is with reference to the Advertisement dated [●] for settlement of Lenders' Outstanding Dues to Jindal India Thermal Power Limited and sale of 73.59% equity and 66% preference shares of Jindal India Thermal Power Limited (JITPL).

As specified in the Advertisement, we have read and understood the contents of the Bid Process Document (BPD) and are desirous of participating in the above sale process, and for this purpose:

We _____ (insert name of interested bidder) having its registered office at _____ (insert office address) are submitting non-refundable Bid Participation Fee of Rs. 5,00,000 (Rupees Five Lakh) plus GST in the form of electronic transfer (RTGS) or by way of a Demand Draft drawn in favor of the Jindal India Thermal Power Limited payable at New Delhi.

We, the undersigned Interested Bidder having read and examined in detail this Bid Process Document and the related information by the Lenders, are interested in submitting the bid in relation to the settlement of Lenders' outstanding dues to Jindal India Thermal Power Limited and acquisition of 73.59% equity shares and 66% preference shares of Jindal India Thermal Power Limited.

We confirm that we satisfy the Qualification Criteria set out in relevant sections of the BPD and the financial credentials evidencing the eligibility of the Bidder certified by the chartered accountant are attached herewith.

Details of our two authorized signatories are as below:

Name		
Designation		
Designated Email Id		
Contact Number		

We certify that in regard to matters including any matter relating to the security and integrity of the country (India), we have not been convicted by a Court of law or indicted or adverse orders passed by any regulatory authority which would cast a doubt on our ability to manage the Company if we are selected or which relates to a grave offence that outrages the moral sense of the community.

We further certify that in regard to matters relating to security and integrity of the country, we have not been charge-sheeted by any agency of the Government or convicted by a Court of Law for any offence committed by us or by any of our group concerns.

We further certify that no investigation by a regulatory authority is pending either against us or against our group concerns or against our Key Managerial Personnel.

We undertake that in case due to any change in facts or circumstances during the pendency of the sale process, if we incur any disqualification in terms of the BPD; we would intimate Advisor of the same immediately.

We however, understand and acknowledge Lenders/ Lead Bank right to decide whether or not to qualify our proposal without assigning any reason whatsoever and without any liability.

The Statement of Legal Capacity and Non-Disclosure Agreement as per formats given in the relevant annexures of the BPD, duly signed/ executed by us are enclosed.

Yours faithfully,

Authorized Signatory
For and on behalf of IB

Enclosure:

1. Statement of Legal Capacity
2. Non-Disclosure Undertaking
3. Demand Draft/ proof of electronic transfer (RTGS); and
4. financial credentials

Annexure 2: Statement of Legal Capacity
(To be forwarded on the letterhead of the IB)

Reference No. _

Date __

Mr. Mukesh Aggarwal Vice President
Project Advisory & Structured Finance
SBI Capital Markets Ltd.
3rd Floor, Sood Towers (East Tower),
25, Barakhamba Road
New Delhi -110001

**Sub: OFFER FOR SETTLEMENT OF LENDERS' OUTSTANDING DUES TO JINDAL
INDIA THERMAL POWER LIMITED AND SALE OF 73.59% EQUITY SHARES & 66
PREFERENCE SHARES OF JINDAL INDIA THERMAL POWER LIMITED**

Sir,

This is with reference to the Advertisement dated [●] for Settlement of Lenders' Outstanding Dues to Jindal India Thermal Power Limited and Sale of 73.59% equity shares & 66% preference shares of Jindal India Thermal Power Limited".

We have read and understood the contents of the BPD and the Advertisement and pursuant to this hereby confirm that:

We satisfy the Qualification Criteria laid out in the BPD.

We agree that _____ (insert individual's name and designation) will act as our representative on our behalf and has been duly authorized to submit the NDU and Affidavit. Further, the authorized signatory is vested with requisite powers to furnish such letter and authenticate the same.

Yours faithfully

Authorized Signatory
For and on behalf of the Interested Bidder

Annexure 3: Non-Disclosure Undertaking

This **NON DISCLOSURE UNDERTAKING** (hereinafter referred as “**Undertaking**”) is made on this _____ day of _____ 2020 (hereinafter referred as “**Effective Date**”) by:

-----, a company incorporated under the Companies Act, 1956 and having its registered office at ----- (hereinafter referred to as the “**Receiving Party**”, which expression shall, unless repugnant to or inconsistent with the context or meaning thereof mean and include its successors and permitted assigns);

IN FAVOUR OF

Jindal India Thermal Power Limited, a company incorporated under the Companies Act, 1956 and having its registered office at Plot no. 2, Pocket C, 2nd Floor, Nelson Mandela Road, Vasant Kunj, Delhi 110070, India (hereinafter referred to as the “**Company**” or “**JITPL**”, which expression shall, unless repugnant to or inconsistent with the context or meaning thereof mean and include its successors and permitted assigns);

AND

PUNJAB NATIONAL BANK a body corporate constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and having its Head Office Corporate Office at Plot No. 4, Sector-10, Dwarka, New Delhi-110075, India and acting through its Zonal Sastra Center, 2nd Floor, Rajendra Bhawan, Rajendra Place, New Delhi-110008, acting as the lead bank on behalf of the Lenders (hereinafter referred to as “**PNB**” or “**Lead Bank**” which expression shall, unless repugnant to or inconsistent with the context or meaning thereof mean and include its successors and assigns);

AND

SBI Capital Markets Limited, a company incorporated under the provisions of the Companies Act, 1956 and having its registered office at 202 Maker Tower ‘E’, Cuffe Parade, Mumbai 400005 and regional office at 3rd Floor, Sood Towers (East Tower), 25, Barakhamba Road, New Delhi -110001 (hereinafter referred to as the “**SBICAPS**” which expression shall, unless repugnant to or inconsistent with the context or meaning thereof and mean include its successors and permitted assigns);

JITPL, PNB and SBICAPS shall be collectively referred to as the “**Disclosing Parties**” and individually as a “**Disclosing Party**” as the context may require.

WHEREAS:

- A. SBICAPS is engaged in the business of, inter alia, investment banking, project advisory and financial services.
- B. JITPL is engaged in the business of, inter alia, implementation and operation of 1,200 MW (2x600 MW) Thermal Power Project (TPP) in the State of Odisha, India (“**Project**”).
- C. The Receiving Party is engaged in the business of [●].

- D. For development and operation of the Project, JITPL has availed various credit facilities from a consortium of lenders (“Lenders”) led by PNB. The Company has been facing financial difficulties mainly on account of sectoral issues due to which it has not been able to service its debt obligations.
- E. JITPL has, submitted a one-time settlement proposal to the Lenders, as a full and final settlement of the dues owed to the Lenders.
- F. Lenders are desirous of establishing the appropriateness of value submitted by JITPL in the proposal though a ‘Swiss Challenge’ process by inviting bids from interested parties (“Bid Process”) by offering the sale of 73.59% of equity shares and 66% preferential shares of JITPL and settlement Of Lenders’ outstanding dues to Jindal India Thermal Power Limited (“Proposed Transaction”). SBICAPS has been mandated by the Lead Bank/ Lenders of JITPL, to act as Transaction Advisor. The Receiving Party is one such interested party. In order to provide the necessary information to enable the interested party to participate in the Bid Process, the Disclosing Parties and the Disclosing Party Authorised Persons shall be sharing information with the Receiving Party. In this regard, the Receiving Party has agreed to furnish this Undertaking on the terms and conditions provided herein below.

NOW, THEREFORE, this Undertaking witnesseth as under:

1. DEFINITIONS

1.1 “**Affiliate**” with respect to any Person shall mean any other Person which, directly or indirectly:
(i) Controls such Person; or (ii) is Controlled by such Person; or (iii) is Controlled by the same Person who, directly or indirectly, Controls such Person.

1.2 “**Bid Process**” shall have the meaning ascribed to the term in Recital F.

1.3 “**Confidential Information**” means the information disclosed or submitted to the Receiving Party by a Disclosing Party and/ or the Disclosing Party Authorised Persons in written, representational, electronic, verbal or other form and includes all financial, technical, operational, legal, commercial, staff, management and other information, data and know-how, including all information relating to the business, assets, affairs, products, services, assets, costs, terms of trading, customers, suppliers, employees and financial statements and any other information disclosed or submitted in relation to the Bid Process from the Effective Date or thereafter including without limitation to information disclosed on the data room set-up/ to be set-up in relation to the Bid Process, information on the contents of this Undertaking, bid/process document(s) in relation to the Bid Process, agreement(s) to be executed between the Receiving Party and the Lenders or their representatives and analyses, compilations, studies and other documents prepared by the Receiving Party, its Representatives, a Disclosing Party and the Disclosing Party Authorised Persons or which contain or otherwise reflect or are generated from any Confidential Information.

1.4 “**Disclosing Party Authorised Persons**” means (a) the Representatives of the Disclosing Party and (b) the Lenders.

1.6 “**Representative**” of any Party means its Affiliate, or the Party's or its Affiliates' any officer, employee, director, advisor, affiliate, partners (including general partners and managing partners), associates, managers, attorneys, agent, consultant, investor, potential financing source, or any other person concerned or other person acting on its behalf.

2. NON DISCLOSURE

2.1 Confidential Information disclosed/ divulged by a Disclosing Party and the Disclosing Party Authorised Persons to the Receiving Party and its Representatives will be received and treated by the Receiving Party and its Representatives as strictly confidential and the Receiving Party shall not, without the prior written consent of the Disclosing Parties or as expressly permitted herein, disclose or make available to any other person, or use or allow others to disclose or use, the Confidential Information in any manner whatsoever other than for the sole purpose as described in clause 2.3 below.

2.2 Notwithstanding the provisions of Clause 2.1 above, the Receiving Party may disclose the Confidential Information disclosed under this Undertaking to its Representatives on a strict "need to know" basis, for the sole purpose of enabling assessment and evaluating the Bid Process subject to such Representative being bound by the confidentiality obligation hereunder and the obligations under applicable laws. The Receiving Party shall be responsible for any breach of the terms of this Undertaking by any of the Representatives it has disclosed the Confidential Information to.

2.3 The Receiving Party and its Representatives shall exercise no lesser security or degree of care than it applies to its own Confidential Information of an equivalent nature, but in any event not less than the degree of care which a reasonable person with knowledge of the confidential nature of the information would exercise.

2.4 The Receiving Party shall ensure that all Confidential Information is kept safe and secured at all times and is protected from unauthorised access, use, dissemination, copying, theft or leakage.

2.5 The Confidential Information shall not be copied or reproduced by the Receiving Party or its Representatives at any time except on a “need basis” for the purpose of evaluation of the for the purposes of the Bid Process.

2.6 The Receiving Party and its Representatives shall at no time, discuss with any person, other than as permitted under this Undertaking, the Confidential Information, or any other matter in connection with, or arising out of, the discussions or negotiations in relation to the Bid Process.

2.7 The Receiving Party shall protect any intellectual property of the Company which it may have access to.

3. EXCEPTIONS

The Receiving Party's obligations hereunder, shall not apply to Confidential Information if the same and to the extent:

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3.1 at the time of its disclosure, is in public domain or which after disclosure becomes part of public domain through no fault of the Receiving Party or its Representatives and without violation of any provisions of applicable laws; or

3.2 was, lawfully and without any breach of this Undertaking, was known or in the possession of the Receiving Party prior to its disclosure, as evidenced by the records of the Receiving Party; or

3.3 has been developed independently by the Receiving Party without reference to or reliance on the Confidential Information, as evidenced by the record of the Receiving Party.

4. NON DISCLOSURE OF TRANSACTION

4.1 Unless disclosure is required under applicable laws, court orders or any order from a regulatory or governmental authority or as permitted under Clause 2.2 above, it is agreed that without the prior written consent of the Disclosing Parties, the Receiving Party shall not disclose and direct its Representatives not to disclose to any person or entity (a) that the Confidential Information has been made available to the Receiving Party or its Representatives, (b) that discussions or negotiations are taking place concerning a possible transaction or (c) any terms, conditions or other facts with respect to any such possible transaction, including the status thereof.

4.2 The Receiving Party understands and acknowledges that the Confidential Information is being provided by the Disclosing Parties and/ or the Disclosing Party Authorised Persons without any representation or warranty, express or implied, as to the accuracy or completeness of the Confidential Information.

5. COMPELLED DISCLOSURE

The Receiving Party may disclose Confidential Information to the extent necessary pursuant to applicable laws, regulation, court order, or other legal process, or is required by rules of any stock exchange on which shares or other securities of the Receiving Party are listed, provided that the Receiving Party shall to the extent legally permissible:

- I. provide written notice of such disclosure requirement to the Disclosing Parties, with the full details of the requirement, the nature and extent of the disclosure and any other information that may be considered relevant in that regard;
- II. use commercially reasonable endeavours to co-operate with the Disclosing Parties and the Disclosing Party Authorised Persons, have due regard to their views and take such steps as may be reasonably recommended by them in order to enable them to mitigate the requirement for or the scope of such disclosure;
- III. use commercially reasonable endeavours to co-operate with the Disclosing Parties and the Disclosing Party Authorised Persons, if they decide to commence any legal or other proceedings (at the expense of JITPL) to challenge the validity of the requirement to disclose the Confidential Information. Provided that the Receiving Party shall not be required to participate in any litigation;
- IV. in the event such disclosure is not avoided or that the Disclosing Parties waives compliance with the provisions hereof, (a) ensure that any disclosure is made to the minimum extent

legally advised by Receiving Party's counsel as required in order to comply with applicable law and no more; (b) to the extent practicable, exercise commercially reasonable efforts to gain assurances as to protection of the confidentiality of disclosed information from the body to whom the information is to be disclosed where such assurance is easily forthcoming, and where disclosure is by way of public announcement use commercially reasonable efforts to consult with and seek to agree the wording with the Disclosing Parties in advance.

6. PROPERTY OF CONFIDENTIAL INFORMATION

All Confidential Information disclosed or made available shall be and shall remain the property of JITPL.

7. RETURN OR DESTRUCTION OF CONFIDENTIAL INFORMATION

Within fifteen (15) days of being so requested in writing by a Disclosing Party, the Receiving Party shall return or destroy the Confidential Information and all copies thereof, save for such copies as may be required to be retained by legal, statutory or regulatory requirements of whatsoever nature. If requested in writing by a Disclosing Party, promptly confirm in writing to the Disclosing Party in writing that the deletion or destruction of Confidential Information in compliance with this paragraph has been undertaken.

8. INJUNCTIVE RELIEF

Without prejudice to any other rights or remedies that the Disclosing Parties and Disclosing Party Authorised Representatives may have, the Receiving Party agrees and acknowledges that in the event of a breach or threatened breach by the other of the provisions of this Undertaking, money or damages may not be an adequate remedy for a breach of any of the provisions of this Undertaking and it is reasonable that the Disclosing Parties and Disclosing Party Authorised Representatives shall be entitled to the injunctive relief, specific performance and other equitable relief for any threatened or actual breach of the provisions of this Undertaking.

9. NO LICENSES

Nothing contained herein shall be construed as granting or conferring any rights by license or otherwise in any Confidential Information. It is understood and agreed that neither party solicits any change in the organization, business practice, service or products of the other party, and that the disclosure of Confidential Information shall not be construed as evidencing any intent by a party to purchase any products or services of the other party nor as an encouragement to expend funds in development or research efforts. Confidential Information may pertain to prospective or unannounced products. Receiving Party agrees not to use any Confidential Information as a basis upon which to develop or have a third party develop a competing or similar product.

10. AUTHORITY

The Receiving Party hereby represents and warrants that it has the requisite power and authority to execute, deliver and perform its obligations under this Undertaking.

11. TERM :

This Undertaking shall remain valid and binding on the Parties until 2 years year from the Effective Date of this Undertaking or signing of definitive agreement, whichever is earlier.

12. GOVERNING LAW

This Undertaking shall be governed by and construed in accordance with the laws of India and the courts in New Delhi shall have exclusive jurisdiction.

13. MISCELLANEOUS

13.1 This Undertaking constitutes the entire agreement amongst the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, representations, and understandings, whether written or oral, except obligations imposed by law which shall be deemed a part of this Undertaking. This Undertaking may not be amended except in writing signed by all the parties hereto. No failure or delay by any party in exercising any right hereunder or any partial exercise thereof shall operate as a waiver thereof or preclude any other or further exercise of any right hereunder. The invalidity or unenforceability of any provision of this Undertaking shall not affect the validity or enforceability of any other provisions of this Undertaking, which shall remain in full force and effect. Nothing in this Undertaking shall be implied, except as required under statute.

13.2 The terms and conditions of this Undertaking shall inure to the benefit of and be binding upon the successors and permitted assigns of the Parties. The obligations under this Undertaking shall not be assigned or otherwise transferred in whole or in part by either party without the prior written consent of the other parties.

IN WITNESS WHEREOF, this Undertaking has been executed by the duly authorized representatives of _____.

By: _____

Name:

Designation:

Annexure 4: Advertisement



INVITATION FOR BIDS

1. Bids are invited from investors / consortium of investors having adequate capability as per qualification criteria for sale of 73.59% Equity Shares & 66% Preference Shares and Settlement of Lenders’ outstanding dues to Jindal India Thermal Power Limited (“**JITPL**” or “**Company**”).
2. JITPL, a public unlisted company within the meaning of the Companies Act, 2013, having its corporate identity number U74999DL2001PLC109103 and registered office at Plot no. 2, Pocket C, 2nd Floor, Nelson Mandela Road, Vasant Kunj, New Delhi, has set up and operating 1,200 MW (600 MW x 2) Thermal Power Project of sub-critical technology near Derang village, Angul District in the State of Odisha.
3. The Lenders & security trustee to the lenders of JITPL hold 73.59% of the issued equity shares and 66% of the issued preference shares of JITPL and the Lenders now propose to sell these shares alongwith rights over the debt owed by the company to these Lenders, in the manner desired by the successful bidder.
4. The Lenders have already received a binding proposal from the Company to settle the dues of the Lenders and on such basis the Lenders propose to invite bids from the other interested investors to test the competitiveness of the binding proposal already received, under a **Swiss Challenge Process**.
5. SBI Capital Markets Limited (“**SBICAPS**”) has been mandated by Punjab National Bank, the Lead Bank, on behalf of consortium of Lenders, as the Transaction Advisor for the proposed stake sale.
6. Any interested party may refer to the Bid Process Document (BPD) uploaded on www.sbicaps.com. Further, an interested bidder may submit their request to participate in the transaction by executing and submitting a Non-Disclosure Undertaking (NDU) (Annexure 3 of BPD) along with non-refundable bid participation fee of 5 Lac as per the details provided in BPD.
7. Upon submission of requisite documents and receipt of bid participation fee, interested bidder shall be provided access to data room containing RFP (containing the detailed terms and conditions for participation in the bid process) and other relevant documents.
8. Interested bidders would be required to submit their bid as per the format and procedure provided in the RFP, latest by 5:00 p.m. on January 07, 2021, along with Bid Guarantee of Rs. 25 Crore (Rupees Twenty Five Crore).
9. In case of any clarifications, please contact the following:

Contact Person	Telephone No.	E-mail ID
Mr. Mukesh Aggarwal (VP, SBICAP)	+91-11-23485303	mukesh.aggarwal@sbicaps.com
Mr. Ankit Goel (AVP, SBICAP)	+91-11-23485320	ankit.goel@sbicaps.com

Note: Lenders reserve the right to cancel or modify the process without assigning any reason and without any liability. This is not an offer document. Applicants should regularly visit the above website to keep themselves updated regarding clarifications / amendments/time-extensions, if any.