



INVITATION FOR EXPRESSIONS OF INTEREST

FOR

ACQUISITION OF SHARES HELD BY IL&FS GROUP IN ONGC TRIPURA POWER COMPANY LIMITED

This refers to the advertisement issued in *The Economic Times* dated May 25, 2020 and *Maharashtra Times* dated May 25, 2020 regarding the proposed acquisition of shares held by IL&FS Energy Development Company Limited (“**IEDCL**”) and IL&FS Financial Services Limited (“**IFIN**”, collectively with IEDCL, referred to as the “**IL&FS Group**”) in ONGC Tripura Power Company Limited (“**OTPC**”).

Pursuant to the *Report on Progress and Way Forward* dated October 30, 2018, the *Second Report on Progress and Way Forward* dated December 02, 2018, and the *Third Report on Progress and Way Forward* dated December 17, 2018 and the addendum thereto dated January 15, 2019 and December 05, 2019 filed with the National Company Law Appellate Tribunal, New Delhi (“**NCLAT**”) on January 9, 2020 (as amended from time to time), the *Fourth Report on Progress and Way Forward* dated January 15, 2019, and the *Fifth Report on Progress and Way Forward* dated August 09, 2019 (collectively, “**Reports**”) submitted by Infrastructure Leasing & Financial Services Limited (“**IL&FS**”) to the Ministry of Corporate Affairs, Government of India, which in turn filed the Reports with the National Company Law Tribunal, Mumbai Bench (“**NCLT**”) and in terms of the order dated March 12, 2020 issued by the NCLAT, in order to monetise the investments made by the IL&FS Group in OTPC, expressions of interest (“**EOI**”) are invited for acquisition of 26% (twenty six per cent) stake held by the IL&FS Group in OTPC, subject to necessary approvals, including, the approval of the Board (*defined herein below*) and requisite corporate approvals of other relevant group companies (if applicable), approvals required under applicable law or from statutory authorities, and approval of the NCLT, under the overall supervision of Hon’ble Justice D.K. Jain (Retd.) (“**Potential Transaction**”).

The Potential Transaction and the process thereof are an integral part of the steps outlined in the Reports, and are expected to assist the board of directors of IL&FS appointed pursuant to the orders of the NCLT in October 2018 (“**Board**”), in part, in evolving the resolution plan(s) outlined in the Reports.

A. Background

OTPC operates a fully operational natural gas based 726.6 MW power plant located in Palatana (Tripura), supplying power to the energy deficit region of north east India. The plant is one of India’s largest gas-based power project, with credible sponsors and an experienced management team. In addition to the benefit of availability of local gas wells for drawing sufficient gas, OTPC also has load-center advantage, with access to the energy deficit north-eastern region of India as well as Bangladesh. OTPC has executed the State Support Agreement with Government of Tripura to set up the power project and receives support from the Ministry of Power for offtake tie-ups via state utilities. The business model is highly predictable, with 86.5% (eighty six point five per cent) of the capacity tied under long-term power purchase agreements, and gas sourced from Oil and Natural Gas Corporation Limited (“**ONGC**”) at fixed prices as well as fixed escalation through a long-term fuel supply agreement. The plant also has potential for expansion through addition of two 363.3 MW units for which majority approvals are already in place, so as to reach the total of 1,453 MW capacity. OTPC holds 26% (twenty six per cent) stake in North East Transmission Company Limited, which has developed 1325.6 ckt kms, 400 KV interstate transmission line in the north-eastern states of Assam, Meghalaya and Tripura, from the project site to the substation of Power Grid Corporation of India Limited.



Through IEDCL (holding 12.03% (twelve point zero three per cent) on a fully diluted basis) and IFIN (holding 13.97% (thirteen point nine seven per cent) on a fully diluted basis), the IL&FS Group collectively holds 26% (twenty six per cent) of the shareholding of OTPC on a fully diluted basis. The other shareholders of OTPC are: (i) ONGC (holding 50% (fifty per cent) on a fully diluted basis); (ii) India Infrastructure Fund-II (managed by Global Infrastructure Partners) (holding 23.5% (twenty three point five per cent) on a fully diluted basis); and (iii) Government of Tripura (holding 0.5% (zero point five per cent) on a fully diluted basis).

EOIs are sought by the Board from Applicants interested in the Potential Transaction. Consummation of any transaction pursuant to the process initiated by this EOI will be subject to necessary approvals, including, the approval of the Board and requisite corporate approvals of other relevant group companies (if applicable), approvals required under applicable law or from statutory authorities under the overall supervision of Hon'ble Justice D.K. Jain (Retd.), and approval of the NCLT. The Board has engaged **Arpwood Capital Private Limited** and **JM Financial Limited** to assist in the Potential Transaction.

B. Net Worth and related Eligibility Criteria

To be eligible to participate in the process being undertaken with respect to the Potential Transaction, Applicants must comply with the following criteria:

1) Financial Criteria

a) For Bodies Corporate:

Minimum net worth ("NW") of INR 150,00,00,000 (Rupees One Hundred Fifty Crores only) as per the audited balance sheet as of March 31, 2019 or later.

Note: The above-mentioned NW criterion is not an indication of reserve price of the Potential Transaction.

b) For Investment Funds, including Private Equity Funds:

- (i) Minimum assets under management in India of INR 600,00,00,000 (Rupees Six Hundred Crores only) as of March 31, 2019 or later; or
- (ii) Committed funds available for investment/ deployment in companies incorporated in India of at least INR 600,00,00,000 (Rupees Six Hundred Crores only), as of March 31, 2019 or later.

c) Notes on NW:

- (i) NW shall be computed in the manner set out in Section 2(57) of the Companies Act, 2013, as amended. For non-Indian entities, NW shall be calculated in accordance with applicable law in the country of registration of the Applicant.
- (ii) NW requirement can be met either by: (A) the Applicant; or (B) if the Applicant is a subsidiary with at least 51% (fifty one per cent) equity shareholding (on a fully diluted basis)

being held by the parent company or a promoter, then by such parent company or promoter, as the case may be, in each case on a consolidated basis.

- (iii) For calculation of NW, any compulsorily convertible instrument can also be included.
 - (iv) In case the Applicant is a consortium, then the NW requirement must be met based on a weighted average basis of the consortium members' stake in the consortium. Any Applicant may only be part of any 1 (one) Applicant consortium under the bid process.
 - (v) In case the Applicant is a newly incorporated special purpose vehicle, or individual(s), a chartered accountant's certificate/ bank certified bank account statement confirming the availability of sufficient funds meeting the minimum net worth criteria and sources thereof.
 - (vi) If the Applicant is not domiciled in India, the Applicant should convert all monetary amounts into Indian Rupees at the foreign exchange rate stipulated by the Reserve Bank of India (as of May 22, 2020)
 - (vii) NW has to be computed as per the latest audited balance sheet, which balance sheet date shall be for a financial year ending March 31, 2019 or later.
- d) Exemption to Indian Public Sector Enterprise

The criteria prescribed in this paragraph 1 (*Financial Criteria*) shall not apply to an Applicant which is an Indian Public Sector Enterprise, if such Indian Public Sector Enterprise submits a letter of support from the Central Government or any State Government (as the case may be) at the time of submission of its binding bid, as well be prescribed in the request for proposal in relation to the Potential Transaction.

For the purpose of this clause, "Indian Public Sector Enterprise" shall mean any government company as defined under the Companies Act, 2013 or a body corporate constituted or established under any Act of Parliament or any State Legislature.

2) Other Eligibility Criteria for all Applicants

- a) The Applicant has not have been debarred or restrained by any regulatory authority from making investments. If the Applicant is a consortium, none of the members of such consortium shall have been debarred or restrained by any regulatory authority from making investments;
- b) The Applicant has not been blacklisted by the Central or any State Government ministry/ agency for bidding in any Central or State Government projects/ contract in India and in its jurisdiction of incorporation and operations. If the Applicant is a consortium, none of the members of such consortium shall have been blacklisted by the Central or any State Government ministry/ agency for bidding in any Central or State Government projects/ contract in India and in its jurisdiction of incorporation and operations; and
- c) The Applicant or its 'Connected Person' are not ineligible under the provisions of Section 29A of the Insolvency & Bankruptcy Code, 2016 to participate in the Potential Transaction. If the Applicant is a consortium, none of the members of such consortium shall be ineligible under the provisions of Section 29A of the Insolvency & Bankruptcy Code, 2016 to participate in the Potential Transaction.



C. Guidelines for the Submission of EOI

Interested Applicants must submit:

- a) duly executed EOIs in the format set out in **Annexure A**;
- b) a profile of the Applicant (as per the prescribed format attached herein as **Annexure B**);
- c) proof of authorization for the execution of the EOIs (such as resolution of the board of directors or similar authorizing body);
- d) latest audited financial information or chartered accountant's certificate/ bank certified bank account statement, as applicable;
- e) computation of NW;
- f) In the case of companies/ partnerships/ LLPs/ trust/ consortium, copy of:
 - (i) Certificate of incorporation issued by the Registrar of Companies;
 - (ii) Articles of Association/ Memorandum of Association/ Partnership Deed/ other incorporation/ constitutional documents, as may be applicable;
 - (iii) Proof of registered office address (in the case of Company) (electricity bill/ telephone bill/ certificate of incorporation/ lease or rent Agreement);
 - (iv) Copy of PAN/ TAN; and
 - (v) Board Resolution authorizing participation in the Potential Transaction as set out in **Annexure C**.

Such submission shall be made by e-mail to ilfs.otpc@ilfsindia.com, with a copy to ilfs.otpc@arpwood.com and ilfs.otpc@jmfl.com.

Emails should clearly set out the subject as “*Expression of Interest for Acquisition of Shares held by IL&FS Group in ONGC Tripura Power Company Limited*” and should be submitted no later than **5 PM Indian Standard Time, June 8, 2020**.

D. Other information

- a) Unless any changes or modifications to this invitation for EOI are uploaded on www.ilfsindia.com/ad/, the terms of this invitation for EOI shall be final and binding on all Applicants.
- b) If, at any time during the process relating to the Potential Transaction, IL&FS determines (at its sole discretion) that any Applicant does not fulfill any of the above conditions, then IL&FS shall have the right to immediately cease to engage with such Applicant without providing any reasons or incurring any liability whatsoever.



- c) IL&FS reserves the right, at its sole discretion, to reject all or any of the EOIs, without providing any reasons or incurring any liability whatsoever.
- d) IL&FS reserves the right to suspend, terminate or modify the process for the Potential Transaction, without providing any reasons or incurring any liability whatsoever.
- e) The Applicant shall maintain confidentiality of the information received as part of the process relating to the Potential Transaction and shall not use such information to cause any undue gain or undue loss to itself or any other person.
- f) Eligible Applicants shall be determined by IL&FS at its sole discretion and will be intimated in due course. Such eligible Applicants will be: (i) required to execute a non-disclosure undertaking/ agreement in a prescribed format with IL&FS, the IL&FS Group and OTPC; and (ii) provided an information memorandum containing details of the opportunity, the proposed transaction structure, the request for proposal and other information in relation to the Potential Transaction in the virtual data room.
- g) This invitation for expression of interest is governed by the laws of India and the courts at Mumbai shall have exclusive jurisdiction.



Annexure A

Format of Expression of Interest

[On the letter head of the Applicant]

Date: [●], 2020

To

The Board of Directors,

Infrastructure Leasing & Financial Services Limited (“IL&FS”).

Subject: INVITATION FOR EXPRESSIONS OF INTEREST FOR THE ACQUISITION OF SHARES HELD BY IL&FS GROUP IN ONGC TRIPURA POWER COMPANY LIMITED

Respected Directors,

We refer to the advertisement issued in *The Economic Times* dated May 25, 2020 and *Maharashtra Times* dated May 25, 2020, and the invitation for Expression of Interest available at www.ilfsindia.com/ad/, regarding the proposed acquisition of 26% (twenty six per cent) stake held by IL&FS Energy Development Company Limited and IL&FS Financial Services Limited (collectively referred to as the “IL&FS Group”) in ONGC Tripura Power Company Limited (“**Potential Transaction**”).

We hereby confirm that we are desirous of participating in the Potential Transaction, and would like to submit this expression of interest (“EOI”).

We confirm that we have understood the terms and conditions applicable to the submission of EOI. We confirm and undertake that the information furnished by us in this EOI and supporting documents is true, correct, complete, and accurate.

We confirm that we fulfil each of the ‘eligibility criteria’ mentioned in the invitation for EOI for proposed acquisition of 26% (twenty six per cent) stake held by the IL&FS Group in ONGC Tripura Power Company Limited. Please find attached our profile along with the documents (and details of the eligible consortium, if any) in support of our submission.

[Our net worth as per the last audited balance sheet dated [●] is [●].] OR [Our minimum assets under management in India as of [●] is [●]] OR [Our committed funds available for investment/ deployment in companies incorporated in India as of [●] is [●]].

We agree, acknowledge and declare that:

- (a) the person signing this EOI and other supporting documents is an authorized signatory who is supported by necessary board resolutions/ authorization letter of the applicant (*as enclosed*);
- (b) we have not been debarred or restrained by any regulatory authority from making investments;
- (c) we have not been blacklisted by the Central or any State Government ministry/ agency for bidding in any Central or State Government projects/ contracts;



- (d) we are not ineligible under the provisions of Section 29A of the Insolvency & Bankruptcy Code, 2016 to participate in the Potential Transaction process; and
- (e) we shall maintain confidentiality of the information received as part of the process relating to the Potential Transaction (“**Process**”) and shall not use such information to cause any undue gain or undue loss to itself or any other person.

[We agree, acknowledge and declare that:

- (a) The person signing this EOI and other supporting documents is an authorized signatory who is supported by necessary board resolutions/authorization letters of each of the members of the consortium (*as enclosed*);
- (b) The Applicant and none of members of the consortium has been debarred or restrained by any regulatory authority from making investments;
- (c) The Applicant and none of the members of the Applicant is ineligible under the provisions of Section 29A of the Insolvency & Bankruptcy Code, 2016 to participate in the process relating to the Potential Transaction;
- (d) The Applicant and each of the members of the consortium shall maintain confidentiality of the information received as part of the process relating to the Potential Transaction (“**Process**”) and shall not use such information to cause any undue gain or undue loss to itself or any other person.]¹

With respect to the Potential Transaction, we agree and confirm to IL&FS that:

- (a) we are aware that the consummation of any transaction pursuant to the process initiated by this EOI will be subject to necessary approvals, including, the approval of the board of IL&FS and requisite corporate approvals of other relevant group companies (if applicable), approvals required under applicable law or from statutory authorities, and approval of the National Company Law Tribunal;
- (b) if we do not meet any of the eligibility criteria throughout the Process, then IL&FS shall have the right, exercisable at its sole discretion, to forthwith terminate our involvement in the Process and the Potential Transaction. We will promptly intimate IL&FS of any material adverse change or any ineligibility in respect of the conditions set out in the Invitation for EOI issued by IL&FS, including any developments that impact our ability to complete the transaction envisaged in the Potential Transaction, as envisaged pursuant to the Process;
- (c) IL&FS reserves the right to request for additional information or clarification(s) from us for the purposes of the EOI and we shall promptly comply with such requirements;
- (d) IL&FS reserves the right to determine at its sole discretion, whether or not we are eligible for the Potential Transaction and may reject the EOI submitted by us without assigning any reason or without incurring any liability whatsoever;

■ _____

¹ Applicable for consortiums



- (e) we have provided, and will provide, all information and data during the Process, in a manner that is true, correct, accurate and complete and no such information, data or statement provided by us is (nor, when provided, will it be) inaccurate or misleading in any manner; and
- (f) IL&FS reserves the right to suspend, terminate or modify the process under this EOI or subsequent steps at any time, without providing any reasons or incurring any liability whatsoever.

Yours sincerely,

On behalf of [*insert name of Applicant*]

Signature:

Name of Signatory: [*insert details*]

Designation: [*insert details*]

Contact No.: [*insert details*]

E-mail ID: [*insert details*]

Address: [*insert details*]

Enclosures:

1. profile of the Applicant;
2. authority letter *or* board resolution;
3. latest audited financial information *or* chartered accountant's certificate/ bank certified bank account statement, as applicable;
4. computation of NW;
5. certificate of incorporation issued by the Registrar of Companies;
6. Articles of Association/ Memorandum of Association/ Partnership Deed/ other incorporation/ constitutional documents, as may be applicable;
7. proof of registered office address (in the case of Company) (electricity bill/ telephone bill/ certificate of incorporation/ lease or rent Agreement); and
8. copy of PAN/ TAN.

Annexure B
Profile of the Applicant

Sl. No.	Applicant's Profile	Details
1.	Category	<i>Please tick below</i> Partnership Firm (_____) Corporate (_____) Consortium (_____) Private Equity (_____)
2.	Country/ State of incorporation	
3.	Name of the Applicant	
4.	Details of authorized representative/ individual(s) who will serve as the point of contact/ communication on behalf of the applicant <u>Designation</u> <u>Address</u> <u>Landline / Mobile</u> <u>Email</u>	
5.	PAN No. (if applicable) <i>(Please enclose a photocopy of PAN Card of applicant and Joint holder)</i>	
6.	Year of establishment	
7.	Net Worth of the Applicant	



NET WORTH CALCULATION: (For Consortium)

Description	Lead Consortium Member	Consortium Member 1	Consortium Member 2	Total Net Worth
Total Net worth				
% Holding				
Effective Net worth				



Annexure C

Board Resolution (in case of Company)

CERTIFIED TRUE COPY OF THE EXTRACT OF THE RESOLUTION PASSED BY THE BOARD OF DIRECTORS OF [●] (“Board”) IN ITS MEETING HELD ON AT.....

“RESOLVED THAT pursuant to the provisions of the Companies Act, 2013 and compliance thereof and as permitted under the memorandum and articles of association of the company, approval of the Board be and is hereby granted to the company to submit expression of interest (“EOI”) pursuant to the advertisement issued in dated, [●], 2020, regarding proposed acquisition of 26% (twenty six per cent) stake held by IL&FS Energy Development Company Limited and IL&FS Financial Services Limited (collectively referred to as the “IL&FS Group”) in ONGC Tripura Power Company Limited (“Potential Transaction”);

RESOLVED FURTHER THAT [name] [designation] and [name] [designation], be and are hereby jointly and/ or severally authorized to act as our authorized bidder representative for all purposes of the process in relation to the Potential Transaction, including the following:

- (a) to submit the EOI;
(b) to provide clarification in relation to the EOI as may be required by Infrastructure Leasing & Financial Services Limited (“IL&FS”);
(c) to undertake due diligence in relation to the Potential Transaction, including legal, technical and financial, and for that purpose to appoint suitable consultants;
(d) to participate in the process related to the Potential Transaction;
(e) to participate in further negotiations in relation to the Potential Transaction;
(f) to comply with all terms and conditions during and after the process for the Potential Transaction;
(g) If selected as an eligible applicant by IL&FS, then it shall comply and execute all such documents as may be required IL&FS in relation to the Potential Transaction.

RESOLVED FURTHER THAT [name] [designation] and [name] [designation], be and are hereby jointly and/or severally authorized to finalize and execute all such documents, declarations, letters,



agreements and writings and take such action as may be further necessary in relation to the Potential Transaction.

RESOLVED FURTHER THAT the common seal of the company be affixed on all the deeds or instruments in respect of the Potential Transaction to which the seal of the company is required to be affixed in accordance with its memorandum and articles of association, in the presence of **[insert name], [insert designation]** and **[insert name], [insert designation]**, of the company, who shall also sign the same:

Certified true copy

For

..... Director

Notes:

- 1) This certified true copy should be prepared on the letterhead of the company, signed by the company secretary/ Director.
- 2) The contents of the format may be suitably re-worded indicating the identity of the entity passing the resolution.
- 3) This format may be modified only to the limited extent required to comply with the local regulations and laws applicable to a foreign entity submitting this resolution. For example, reference to Companies Act, 2013 may be suitably modified to refer to the law applicable to the entity submitting the resolution. However, in such case, the foreign entity shall submit an unqualified opinion issued by the legal counsel of such foreign entity, stating that the board resolutions are in compliance with the applicable laws of the respective jurisdictions of the issuing company and the authorizations granted therein are true, valid and legally binding on the company making the bid.