

ESSAR POWER (JHARKHAND) LIMITED - IN LIQUIDATION

PROCESS MEMORANDUM

Invitation for Bids for E-Auction Under Swiss Challenge Mechanism for acquisition of Essar Power (Jharkhand) Limited - In Liquidation (“**Corporate Debtor**” / “**EPJL**” / “**Company**”) on a Going Concern Basis (excluding the assets of the Corporate Debtor lying at Syama Prasad Mookerjee Port, Kolkata (erstwhile Board of Trustees for the Port of Kolkata (“**KoPT**”)) through Private Sale Mode under the provisions of the Insolvency and Bankruptcy Code, 2016 (“**Code**”), the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (“**Liquidation Regulations**”) and an order dated December 11, 2024 of the Hon’ble National Company Law Tribunal, Principal Bench, New Delhi (“**NCLT**”).

The E-Auction is on an "As is where is", "As is what is", "Whatever there is" and "No recourse basis". The E-Auction is through Swiss Challenge Mechanism, based on an existing offer in hand (“**Original Bid**”) made by an investor (“**Original Bidder**”) and approved by the Stakeholders' Consultation Committee of the Corporate Debtor (“**SCC**”) and approved by the Hon’ble NCLT vide an order dated December 11, 2024.

Issued by:

Huzefa Fakhri Sitabkhan, Liquidator
Essar Power (Jharkhand) Limited - In Liquidation
IBBI Reg. No: IBBI/IPA-001/IP-P00031/2017-18/10115
Authorization for Assignment valid till December 19, 2024 (Applied for Renewal)

Huzefa Fakhri Sitabkhan has been granted a certificate of registration to act as an Insolvency Professional by the Insolvency and Bankruptcy Board of India, his Registration No. is IBBI/IPA-001/IP-P00031/2017-18/10115 and authorization for assignment is valid till December 19, 2024 (applied for renewal). The affairs, business, and property of Essar Power (Jharkhand) Limited - In Liquidation is being managed by Huzefa Fakhri Sitabkhan, being the Liquidator of EPJL, who acts as an agent of EPJL only and without personal liability.

Dated:

December 26, 2024
(Modified on January 21, 2025)

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Issued to All Bidders

Terms and conditions, deadlines, etc. for participating in the E-Auction Process under Swiss Mechanism are provided in the Process Memorandum. Process Memorandum is non-transferable.

Timelines, notifications, updates and other details for the E-Auction Process under Swiss Challenge Mechanism process are available on the website of the Company, i.e. <http://www.epjl.co.in/liquidation-process/> and on the following link www.eauctions.co.in.

Bidders desirous to submit their bid have to submit Bids on the E-Auction Portal www.eauctions.co.in.

DISCLAIMER

This document is issued by Huzefa Fakhri Sitabkhan, Liquidator, Essar Power (Jharkhand) Limited - In Liquidation (the “Corporate Debtor”, the “Company” or “EPJL”) for general information purposes, to provide general information only, without regard to specific objectives, suitability, financial situations and the requirements of any particular person. The purpose of this document is to set out the process for submitting bids under Swiss Challenge Mechanism for the acquisition of Essar Power (Jharkhand) Limited - In Liquidation (“Corporate Debtor”) on a Going Concern Basis (excluding the assets of the Corporate Debtor lying at KoPT) through Private Sale Mode in accordance with the Insolvency and Bankruptcy Code, 2016 (“IBC” / “Code”) read with the directions of the Hon’ble NCLT vide an order dated December 11, 2024. Nothing herein or in materials relating to the Process Memorandum is intended to be construed as legal, financial, accounting, regulatory or tax advice by the Liquidator. This Process Memorandum is personal and specific to only the current Auction Process Participant under Swiss Challenge Mechanism. Neither this Process Memorandum nor anything contained herein shall form the basis of, or be relied upon in connection with any contract, agreement, undertaking, understanding or any commitment whatsoever. This Process Memorandum does not solicit any action based on the material contained herein.

The information in this Process Memorandum, which does not purport to be comprehensive, is provided by the Company and has not been independently verified by the Liquidator. While this information has been prepared in good faith, no representation or warranty, expressed or implied, is or will be made and no responsibility or liability is or will be accepted by the Liquidator, the Company or by any of its officers, employees or agents in relation to the accuracy, fairness, authenticity or completeness of this Process Memorandum or any other written or oral information made available to any interested party or its advisers and any such liability is expressly disclaimed. In so far as the information contained in this Process Memorandum includes current or historical information, the accuracy, adequacy, authenticity, correctness, fairness, and completeness of such information cannot be guaranteed. By acceptance of this Process Memorandum, the Auction Process Participant shall be deemed to have acknowledged that it has not relied upon any representation and warranty made by the Liquidator. This document has not been filed, registered or approved and will or may not be filed, registered, reviewed or approved by any statutory or regulatory authority in India or any other jurisdiction.

This Process Memorandum and information contained herein or disclosed pursuant to the terms of this Process Memorandum or any part of it does not constitute or purport to constitute any advice or information in publicly accessible media and should not be printed, reproduced, transmitted, sold, distributed, or published by the recipient without prior written approval from the Liquidator. Distributing or taking / sending / dispatching / transmitting this Process Memorandum in certain foreign jurisdictions may be restricted by law, and Persons into whose possession this Process Memorandum comes should inform themselves about, and observe, any such restrictions. Neither the Liquidator, nor his professional advisors, affiliates, directors, employees, agents, representatives or managers of the process shall be liable for any damages, whether direct or indirect, incidental, special or consequential including loss of revenue or profits that may arise from or in connection with the use of this Process Memorandum, including for the Auction Process Participant not being selected as a Successful Bidder or on account of any decision taken by the Liquidator.

The Liquidator and / or the Company gives no undertaking to provide the recipient with access to any additional information or to update this Process Memorandum or any additional information, or to correct any inaccuracies in it which may become apparent, and they reserve the right, without giving reasons, at any time and in any respect, to amend or terminate the procedures set herein or to terminate negotiations with any Auction Process Participant. The issue of this Process Memorandum shall not be deemed to be any form of commitment on the part of the Liquidator or the Company to proceed with any transaction.

In addition to the provisions set out in this Process Memorandum, the Auction Process Participant shall be responsible for fully satisfying the requirements of the IBC and related Regulations as well as all laws in force that are or may be applicable to the applicant or the sale process and for obtaining requisite pre or post regulatory or other approvals, if any, that are or may be required under applicable law and nothing contained in this Process Memorandum shall be deemed to relieve, wholly or partially, directly or indirectly, the Auction Process Participant from compliance with the IBC and related Regulations as well as any other law in force, and / or any instrument having the force of law as may be applicable and nothing in this Process Memorandum shall be construed as, or operate either, wholly or in part, as exempting the Auction Process Participant from complying with all such laws, as are or may be applicable.

The Auction Process Participant shall take note of the fact that the assets of the Corporate Debtor (excluding the Assets lying at KoPT) which are put up on sale on a going concern basis through Swiss Challenge Mechanism are lying at two locations, namely, the plant site of the Corporate Debtor at Tori, Dist. Latehar, Jharkhand, and 1 Container Freight Stations (“CFS”) located, namely, Century JJP in Kolkata. Further, it is the responsibility of the Auction Process Participant to take adequate precautions and proper measures to commute to the site and to deal with any untoward situation, if the same arises, whether inside the plant site or the CFS location or in the vicinity of these locations, at any point of time during the entire process, including, but not limited to, at the time of inspection of assets and handover of the assets.

By procuring a copy of this Process Memorandum, the recipient accepts the terms of this disclaimer notice, which forms an integral part of this Process Memorandum and all other terms and conditions of this Process Memorandum. Further, no Person, including the Auction Process Participant shall be titled under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise to claim for any loss, damage, cost or expense which may arise from or be incurred or suffered on account of anything contained in this Process Memorandum or otherwise, including the accuracy, adequacy, authenticity, correctness, completeness or reliability of the information or opinions contained in this Process Memorandum and any assessment, assumption, statement or information contained therein or deemed to form part of this Process Memorandum, and the Liquidator, Company, and their advisors, affiliates, directors, employees, agents, representatives or managers do not have any responsibility or liability for any such information or opinions and therefore, any liability or responsibility is hereby expressly disclaimed. All necessary arrangements with respect to the dismantling of fabricated / movement / shifting of plant & machinery (ies) or any asset of the Company post the process should be taken care of solely by the Successful Bidder. All expenses incurred towards the dismantling of fabricated / movement / shifting of plant & machinery (ies) or any asset of the Company post the process should be borne solely by the Successful Bidder. The Liquidator shall not be held responsible / liable under any circumstances to pay any expenses including but not limited towards such movement of plant & machinery (ies) or any asset of the Company.

In no circumstances shall the Auction Process Participant or its officers, employees, agents and professional advisers make any contact, direct or indirect, by any mode whatsoever, with the management, employees, customers, agents or suppliers of the Company until the Liquidator gives permission to do so in writing.

The assets of the Company are proposed to be sold on “As is where is basis”, “As is what is basis”, “Whatever there is basis”, “No recourse basis” and “On a Going Concern Basis” and the proposed sale of the Company does not entail transfer of any title except the title which the Company had on its assets as on date of transfer. The Liquidator does not take or assume any responsibility for any shortfall or defect or shortcoming in the moveable / immoveable assets of the Company.

The Auction Process Participant shall bear all its costs and charges associated with or relating to the preparation and submission of its bid including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Liquidator or any other costs incurred in connection with or relating to its bid. This Process Memorandum is not directly or indirectly transferable or assignable under any circumstances whatsoever.

TABLE OF CONTENTS

1. IMPORTANT INFORMATION
2. DEFINITIONS
3. INTRODUCTION
4. OVERVIEW OF THE COMPANY
5. ELIGIBILITY
6. SITE VISIT AND DISCUSSION MEETING
7. DUE DILIGENCE
8. ASSETS TO BE AUCTIONED AND RESERVE PRICE
9. HANDOVER PROCESS
10. FRAUDULENT AND CORRUPT PRACTICES
11. COST, EXPENSES AND TAX IMPLICATIONS
12. GOVERNING LAW AND JURISDICTION
13. TIMETABLE
14. MISCELLANEOUS
15. FORMATS
16. ANNEXURES

1. IMPORTANT INFORMATION

- 1.1 This Process Memorandum has been issued with the intent to carry out E-Auction under Swiss Challenge Mechanism for acquisition of Essar Power (Jharkhand) Limited - In Liquidation ("Corporate Debtor") on a Going Concern Basis (excluding the assets of the Corporate Debtor lying at KoPT) through Private Sale Mode under the provisions of the Insolvency and Bankruptcy Code, 2016 ("IBC" / "Code"), the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 ("Liquidation Regulations") and the directions of the Hon'ble NCLT vide an order dated December 11, 2024.
- 1.2 All information provided in this Process Memorandum should be read together with the provisions of the IBC and the Liquidation Process Regulations. In the event of a conflict between this Process Memorandum and the IBC or the Liquidation Process Regulations, the provisions of the IBC or the Liquidation Process Regulations, as the case may be, shall prevail.
- 1.3 The information contained in this Process Memorandum or subsequently provided to Bidders, whether verbally or in documentary or any other form by or on behalf of the Liquidator, is provided to Bidders on the terms and conditions set out in this Process Memorandum.
- 1.4 This Process Memorandum is neither an agreement nor an offer by the Liquidator to the prospective Bidders or any other person. The purpose of this Process Memorandum is to provide interested parties with information that may be useful to them in making their bids pursuant to this Process Memorandum. The assumptions, assessments, statements and information contained in the Process Memorandum may not be complete, accurate, adequate or correct. Each Bidder should, therefore, conduct its own investigations, due-diligence and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this Process Memorandum and obtain independent advice from appropriate sources.
- 1.5 Information provided in this Process Memorandum to the Bidders has been collated from several sources. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as complete. The Liquidator accepts no responsibility for the accuracy or otherwise for any statement contained in the Process Memorandum.
- 1.6 The Liquidator, makes no representation or warranty and shall have no liability to any person, including any Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this Process Memorandum or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the Process Memorandum and any assessment, assumption, statement or information contained therein or deemed to form part of this Process Memorandum or arising in any way from participation in this auction process.
- 1.7 The Liquidator also accepts no liability of any nature howsoever caused arising from reliance of any Bidder upon the statements contained in this Process Memorandum.
- 1.8 The Liquidator may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assess mentor assumptions contained in this Process Memorandum.
- 1.9 The issue of this Process Memorandum does not imply that the Liquidator is bound to select a Bidder or to appoint the Original Bidder or Challenger Bidder as the Successful Bidder for acquisition of Essar Power (Jharkhand) Limited - In Liquidation ("Corporate Debtor") on a Going Concern Basis (excluding the assets of the Corporate Debtor lying at KoPT) through Private Sale Mode and the Liquidator reserves the right to reject all or any of the Bidders or bids without assigning any reason whatsoever.

- 1.10 Each Bidder shall bear all its costs and charges associated with or relating to the preparation and submission of its bid and / or participation in the E-Auction under Swiss Challenge Mechanism, including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Liquidator or any other costs incurred in connection with or relating to its bid.
- 1.11 Linkstar Infosys Private Limited (“E-Auction Service Provider”) has been appointed as the E-Auction Service Provider. The sale shall be undertaken by the E-Auction Service Provider for and on behalf of the Seller through an online platform provided on the website portal of the E-Auction Service Provider (“Platform”). The details with respect to the E-Auction under Swiss Challenge Mechanism are as follows:

Type of Bid	E-Auction under Swiss Challenge Mechanism
Seller	Essar Power (Jharkhand) Limited - In Liquidation Through its Liquidator Mr. Huzefa Fakhri Sitabkhan
Website of E-Auction Service Provider	www.eauctions.co.in
E-Auction Service Provider	Linkstar Infosys Private Limited, 9-C, Vardan Exclusive, Near Vitthalbhai Patel Colony, Near Lakhudi Talavadi, Navrangpura, Ahmedabad - 380 014 Contact Person - Mr. Vijay Pipaliya Email id - admin@eauctions.co.in
Annexures	1. Annexure I - Bid Form (to be duly filled in and signed by the Bidder and uploaded) 2. Annexure II - Declaration by the Bidder (to be duly filled in and signed by the Bidder and uploaded along with the Bid form) 3. Annexure III - Technical Terms and Conditions of E-Auction under Swiss Challenge Mechanism
Special Instructions	This bidding is a serious matter dependent on various technical components and last-minute bidding may lead to lapses. Neither the E-Auction Service Provider nor the Liquidator will be responsible for any lapses on part of the Bidders.

- 1.12 The Auction Process Participant or Bidder are hereby being given brief background about the Company, where company petition was filed against the Company under Section 7 of the Insolvency and Bankruptcy Code, 2016. Further, vide Hon’ble National Company Law Tribunal, New Delhi, Principal Bench (“NCLT”) order dated January 03, 2020 liquidation proceedings are initiated against the Company.
- 1.13 All terms and conditions with respect to acquisition of Essar Power (Jharkhand) Limited - In Liquidation (“Corporate Debtor”) on a Going Concern Basis (excluding the assets of the Corporate Debtor lying at KoPT) through Private Sale Mode shall be governed by the directions of the Liquidator, Stakeholders’ Consultation Committee and the Hon’ble NCLT and in accordance with the provisions of applicable laws. As mandated by the NCLT, the Liquidator shall exercise all rights with respect to sale and it would be open to the Liquidator to appoint such experts, professionals or other persons, as the Liquidator might think necessary, so as to enable the sale of the properties.
- 1.14 This Process Memorandum is neither transferable nor assignable.
- 1.15 The Annexures to this Process Memorandum shall form an integral part hereof and this Process Memorandum shall always be read in conjunction with the Annexures hereto.
- 1.16 The title documents relating to the properties put up for auction shall be available on request to be made to the Liquidator at epjl.lq@gmail.com.

2. DEFINITIONS

“**Adjudicating Authority**” or “**NCLT**” shall mean the Hon’ble National Company Law Tribunal, Principal Bench, New Delhi.

“**Applicable Laws**” means, all applicable laws, regulations, rules, guidelines, circulars, re-enactments, revisions, applications and adaptations thereto, judgments, decrees, injunctions, writs and orders of any court, arbitrator or governmental agency or authority, rules, regulations, orders and interpretations of any governmental authority, court or statutory or other body applicable for such transactions including but not limited to the IBC, Liquidation Regulations, Companies Act, 1956 / 2013 (as applicable), Competition Act, 2002, Transfer of Property Act, 1882, Sale of Goods Act, 1930, Foreign Exchange Management Act, 1999, whether in effect as of the date of this Process Memorandum or thereafter and each as amended from time to time.

“**Bid**” means, any bid or counter-bid submitted by the Bidders in terms of this Process Memorandum and in accordance with the provisions of IBC, Liquidation Regulations and other Applicable Laws;

“**Bidder**” or “**Auction Process Participant**” means, Person or Persons who submitted a bid as per the Process Memorandum; and shall include an Eligible Bidder, Qualified Bidder, Challenger Bidder or Successful Bidder, as the case may be, and as the context requires.

“**Challenger Bidder**” shall mean a Qualified Bidder who has submitted the highest bid in the E-Auction.

“**Control**” shall mean a Person holding more than 26% (twenty six percent) of the voting share capital in a company or the ability to appoint majority of the directors on the board of another company or the ability to control the management or policy decisions of another company, whether by operation of law or by contract or otherwise.

“**Counter Bid**” shall mean the highest bid submitted in the E-Auction Process by the Challenger Bidder

“**Eligible Bidder(s)**” shall mean an intending bidder who has submitted the eligibility documents and has been declared as the eligible bidder by the Liquidator after meeting the eligibility criteria as mentioned in the Process Memorandum.

“**IBC**” / “**Code**” shall mean Insolvency and Bankruptcy Code, 2016 and the related rules and regulations issued there under, as amended from time to time.

“**KoPT**” shall mean erstwhile Kolkata Port Trust which is currently known as the Syama Prasad Mukerjee Port Trust situated at Kolkata.

“**Liquidation Regulations**” means, the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016 as amended from time to time.

“**Liquidator**” means an insolvency professional appointed as liquidator in accordance with section 34 of the IBC.

“**Original Bid**” means the offer submitted by the Original Bidder to the Liquidator, which was approved by the SCC and subsequently, by the Hon’ble NCLT vide an order dated December 11, 2024.

“**Original Bidder**” means the person who had submitted the offer to the Liquidator for acquisition of the Corporate Debtor on a going concern basis (excluding the assets of the Corporate Debtor lying at KoPT) under Private Sale Mode through Swiss Challenge Mechanism and on such terms and conditions including but not limited to Right of First Refusal (RoFR) to the bid submitted by the Challenger Bidder which was approved by the SCC and subsequently, approved by the Hon’ble NCLT vide order dated December 11, 2024.

“**Person**” shall mean an individual, a partnership firm, an association, a corporation, a limited company, a trust, a body corporate, bank or financial institution or any other body, whether incorporated or not.

“Process Memorandum” means this document including all the appendices hereto, for the purposes of setting out the process for submission of a bid and selection of successful bid in accordance with the provisions of the IBC and shall include all supplements, modifications, amendments, alterations or clarifications there to issued in accordance with the terms hereof.

“Qualified Bidder(s)” shall mean a Bidder who has submitted the bid documents and the EMD and whose bid fulfils the eligibility criteria listed out in the Process Memorandum

“Right of First Refusal” means, the right available to the Original Bidder to match the Counter Bid received in the E-Auction Process under Swiss Challenge Mechanism, without any requirement to improve the bid.

“Successful Bidder” means, the Original Bidder or the Challenger Bidder who post the SCC Meeting is declared as the bidder whose bid is approved and who is declared by the Liquidator at the end of the process.

Capitalized terms used herein but not defined otherwise shall have meaning prescribed to them under the provisions of the IBC and the rules and regulations there under.

3. INTRODUCTION

- 3.1 The liquidation process for the Company has been initiated under the provisions of the IBC and the Liquidation Regulations by an order of the Hon’ble NCLT, New Delhi, Principal Bench effective from January 03, 2020. As per the said order, Huzefa Fakhri Sitabkhan has been appointed as the Liquidator.
- 3.2 The Liquidator endeavours to sell the Corporate Debtor on a Going Concern Basis (excluding the assets of the Corporate Debtor lying at KoPT) through Private Sale Mode in the manner specified under the Liquidation Regulations, any other rules, regulations, orders, circulars, directions or notifications or the like, issued pursuant to or under the IBC or the Liquidation Regulations, as the case may be, and as per directions, if any, of the NCLT in respect of the liquidation process of the Company and in the manner specified in this Process Memorandum.
- 3.3 The E-Auction under Swiss Challenge Mechanism would be conducted in the manner specified in the Liquidation Regulations, any other rules, regulations, orders, circulars, directions or notifications or the like, issued pursuant to or under the IBC or the Liquidation Regulations, as the case may be, and as per directions, if any, of the NCLT in respect of the liquidation process of the Company and in the manner specified in this Process Memorandum.
- 3.4 The Bidders are hereby being encouraged and advised to acquaint themselves with the provisions of the IBC and the Liquidation Regulations and any other rules, regulations, orders, circulars, directions or notifications or the like, issued pursuant to or under the IBC or the Liquidation Regulations, as the case may be.

4. OVERVIEW OF THE COMPANY

4.1 Brief Background:

Essar Power (Jharkhand) Limited (EPJL), promoted by the Essar Group, was in the process of setting up a 2 x 600 MW (1200 MW) Coal Based Thermal Power Plant Project at Tori, Tehsil: Chandwa, Dist. Latehar, State: Jharkhand. It is understood that the implementation of the project started during May 2010. The project was expected to be commissioned in phases by June 2013 and September 2013 respectively for Unit-I & Unit-II. The construction of the power plant has been stalled for the past 6 to 7 years. Some of the assets imported are lying at Syama Prasad Mookerjee Port (erstwhile “KoPT”) and Container Freight Station (“CFS”) of Century Plyboard India Limited located in Kolkata.

The Original Bidder has submitted an offer (“Original Bid”) to the Liquidator, approved by the Stakeholders Consultation Committee (SCC) for acquisition of the Corporate Debtor on a Going Concern Basis (excluding the assets of the Corporate Debtor lying at KoPT) through Private Sale Mode and under Swiss Challenge Mechanism with certain conditions with RoFR being available to the Original Bidder to match the highest bid / Counter Bid submitted by the Challenger Bidder. Pursuant to the Hon'ble NCLT order dated December 11, 2024, the Liquidator has been directed to proceed with the Private Sale Mode through E-Auction under Swiss Challenge Mechanism read with certain other conditions. The Original Bidder holds the Right of First Refusal (RoFR) against the highest bid / Counter Bid submitted by the Challenger Bidder. The entire process would be subject to the final approval of the Hon'ble NCLT.

This Process Memorandum is only for acquisition of the Corporate Debtor on a Going Concern Basis (excluding the assets of the Corporate Debtor lying at KoPT) through Private Sale Mode through E-Auction under Swiss Challenge Mechanism read with certain other conditions.

4.2 Current Status:

Currently, the Company is under liquidation process and no operations are being carried out.

5. ELIGIBILITY

Pursuant to Section 35 of the IBC, an Auction Process Participant shall not be eligible to submit a bid for purchase of the assets of the Company if it fails to meet the eligibility criteria set out in Section 29 A of the IBC (as amended from time to time).

As on date, as per Section 29 A, a person shall not be eligible to submit a bid, if such person, or any other Person acting jointly or in concert with such person -

- a. is an undischarged insolvent;
- b. is a wilful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949;
- c. has an account, or an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, classified as non-performing asset in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act 1949 and at least a period of one year has lapsed from the date of such classification till the date of commencement of the liquidation process of the corporate debtor:
Provided that the person shall be eligible to submit a bid if such person makes payment of all overdue amounts with interest there on and charges relating to non-performing asset accounts before submission of bid;
- d. Has been convicted for any offence punishable with imprisonment-
 - i. for two year or more under any Act specified under the Twelfth Schedule; or
 - ii. for seven years or more under any law for the time being in force
- e. is disqualified to act as a director under the Companies Act, 2013;
- f. is prohibited by the Securities and Exchange Board of India from trading in securities or accessing the securities markets;
- g. has been a promoter or in the management or control of a corporate debtor in which a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been made by the Adjudicating Authority under the IBC;
- h. has executed a guarantee in favour of a creditor in respect of a corporate debtor against which an application for insolvency resolution made by such creditor has been admitted under the IBC and such guarantee has been invoked by the creditor and remains unpaid in full or part;
- i. has been subject to any disability, corresponding to clauses (a) to (h), under any law in a jurisdiction outside India; or
- j. has a connected person not eligible under clauses (a) to (i).

Explanation - For the purposes of this clause, the expression “connected person” means -

- i. Any person who is the promoter or in the management or control of the auction process participant; or
- ii. Any person who shall be the promoter or in management or control of the assets of the Company pursuant to sale thereof as part of the liquidation process of the Company; or
- iii. The holding company, subsidiary company, associate company or related party of a person referred to in clauses (i) and (ii)

Provided that nothing in clause (iii) of this Explanation shall apply to—

- (A) A scheduled bank;
- (B) An investment vehicle, registered foreign institutional investor, registered foreign portfolio investor, or a foreign venture capital investor, other financial sector regulator of a jurisdiction outside India where the terms shall have the meaning assigned to them in regulation 2 Foreign Exchange Management (Transfer or issue of Security by a Person Resident Outside India) Regulations, 2017 made under the Foreign Exchange Management Act, 1999; or
- (C) An asset reconstruction company registered with the Reserve Bank of India under section 3 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; or
- (D) An Alternate Investment Fund registered with the Securities and Exchange Board of India; or
- (E) Such categories of persons as may be notified by the Central Government.

The following forms, documents and authorizations are required to be submitted by the Bidder as part of the E-Auction Process under Swiss Challenge Mechanism on or before **January 09, 2025 (Thursday)** or on **January 27, 2025 (Monday)**, as the case may be, and as the context requires:

- a. KYC Documents of the Bidder
- b. Authority Letter / Power of Attorney / Board Resolution to sign and submit the documents (if applicable)
- c. Composition and Ownership Structure of the Bidder
- d. Confidentiality Undertaking by the Bidder (Format B)
- e. Affidavit and Undertaking by the Bidder (Format C)
- f. Letter of Authorization by the Bidder (Format D) alongwith Undertaking of Authorised Representative (Appendix to Format D)
- g. Additional Undertaking by the Bidder (Format E)

It is mandatory for the Auction Process Participants to submit the Format E, Format D and Appendix to Format D to seek permission for the site visit. The Auction Process Participant may use additional sheets to submit the information for its detailed response.

Additionally, at any stage of the E-Auction Process under Swiss Challenge Mechanism the Liquidator may ask for any documents from the Auction Process Participant to evaluate their eligibility. The Liquidator shall disqualify the Auction Process Participant for non-submission of the requested documents within the stipulated period of time. Basis the documents submitted, if the Auction Process Participant meets the eligibility criteria of the E-Auction Process under Swiss Challenge Mechanism then he / she / they will be declared as the Eligible Bidder, as per the timelines mentioned in clause 13.

Note: As per the modified Process Memorandum dated January 21, 2025, it is hereby clarified that any new Bidder who had not submitted the eligibility documents on or before January 09, 2025 will not be permitted to conduct the due diligence or site visit. However, the new Bidder can submit the eligibility documents and Annexures alongwith the earnest money deposit to participate in the auction process.

Documents to be submitted by the Auction Process Applicant

The Auction Process Applicant shall submit the duly filled and signed **Bid Application Form** attached vide **Annexure I**, the duly filled and signed **Declaration by Auction Process Applicant** attached vide **Annexure II** and the proof of submission of EMD to participate in the E-Auction Process under Swiss Challenge Mechanism.

6. SITE VISIT AND DISCUSSION MEETINGS

The inspection or the due diligence of the assets put up for E-Auction can be conducted only after the Auction Process Participant has been declared as the Eligible Bidder on or before January 10, 2025. The assets mentioned in the **Clause 8** can be inspected by the Eligible Bidders at *the plant site of the Corporate Debtor at Tori, Dist. Latehar, Jharkhand, and the Container Freight Stations (“CFS”) of Century Plyboards India Limited, namely, Century JJP located in Kolkata* by contacting Mr. Nikhil Sharma at +91 88285 76197 and emailing the Liquidator. The inspection will not be allowed without prior intimation of atleast 48 hours and only after being declared as the Eligible Bidder. The site visit permission will be granted after the Eligible Bidder has submitted the relevant documents and written intimation (completely filled Format E, Format D and Appendix to Format D) of atleast 48 hours to conduct site visit. The inspection of the assets will be conducted between **till January 25, 2025 (Saturday)** only for prospective bidders declared as Eligible Bidders and the site visit will only be permitted between **11:00 AM and 4:00 PM**.

If requested by the Eligible Bidder, the Liquidator may arrange for a discussion meeting at any time prior to the closure of the E-Auction Process under Swiss Challenge Mechanism. The Liquidator reserves the right to not arrange a discussion meeting for any reason whatsoever, irrespective of the request of the Auction Process Applicant. It is pertinent to note herein that any failure in the inspection process by any party / unsuccessful inspection / non-convening of the discussion meeting would not have any impact on the E-Auction Process under Swiss Challenge Mechanism and the conduct of the E-Auction under Swiss Challenge Mechanism is independent from the said points.

If requested by an Eligible Bidder, the Liquidator may arrange a site visit for such applicant at any time prior to the closure of the E-Auction Process under Swiss Challenge Mechanism. The details, terms and conditions with respect to the site visit shall be communicated to the relevant Eligible Bidder in advance. The Liquidator reserves the right to not arrange a site visit for any reason whatsoever, irrespective of the request of the Eligible Bidder and non-arrangement of the said site visit would not affect the E-Auction Process under Swiss Challenge Mechanism in any manner. **Further, the Auction Process Participant shall be responsible for all the costs incurred by it on account of its participation in the E-Auction under Swiss Challenge Mechanism, including any costs associated with participation in the discussion Meeting (if any) and handling charges (if any) to be paid to CFS at the time of inspection of assets during the site visit.**

Kindly note that the assets are lying in two different locations, i.e., the plant site of the Corporate Debtor at Tori, Dist. Latehar, Jharkhand, and 1 Container Freight Stations (“CFS”) of Century Plyboards India Limited, namely, Century JJP located in Kolkata and hence the Eligible Bidder is required to make necessary arrangements (not limited to four wheeler vehicle) for themselves during the site visit.

7. DUE DILIGENCE

The Liquidator shall provide assistance necessary for the conduct of due diligence by the Eligible Bidders. The information and documents, including but not limited to the list of assets including the financial assets and contingent assets, list of ongoing litigations by or against the Corporate Debtor and the underlying value in relation thereto (excluding the litigations in relation to the assets of the Corporate Debtor lying at KoPT) shall be provided by the Liquidator in good faith to the Eligible Bidders only. The Eligible Bidders may note that the Liquidator would not have verified any of the information, data or documents shared and shall not accept any responsibility or liability, whatsoever, in respect of any statements or omissions contained in the shared data. The due diligence of the Corporate Debtor and its assets can be done on or before **January 25, 2025** after being declared as the Eligible Bidder.

The sale is proposed on an “As is where is basis”, “As is what is basis”, “Whatever there is basis”, “No recourse basis” and “On a Going Concern Basis” and the proposed sale does not entail transfer of any title except the title which the Company had on its assets as on date of transfer. All statutory liabilities / dues / taxes / demands / claims / maintenance fee / electricity / water charges, etc., outstanding as on date or yet to fall due in respect of the relevant asset should be ascertained by the Auction Process Participant and would be borne by the Successful Bidder.

Kindly note that the computation of the customs duty, stamp duty or any other charges (whether the same is crystallised, uncrystallised, fixed, disputed or undisputed, matured or unmatured) is the sole responsibility of the Eligible Bidder / Qualified Bidder / Challenger Bidder or Successful Bidder, as the case may be and the Liquidator shall not be held responsible / liable under any circumstances to ascertain the customs duty, stamp duty or any other charges whether the same is crystallised, uncrystallised, fixed, disputed or undisputed, matured or unmatured) for the Eligible Bidder or the Qualified Bidder, as the case may be as the same needs to be paid by that the Original Bidder or Challenger Bidder, as the case may be, who will be declared as the Successful Bidder after the completion of the E-Auction Process under Swiss Challenge Mechanism.

8. ASSETS TO BE AUCTIONED, RESERVE PRICE AND SWISS CHALLENGE MECHANISM

ASSET	BLOCK	RESERVE PRICE	EARNEST MONEY DEPOSIT	BID INCREMENT AMOUNT
Corporate Debtor as a Going Concern basis excluding the assets lying at Syama Prasad Mookerjee Port (Erstwhile KoPT) (Details of the list of Assets are Annexed with Process Memorandum)	Block 1	Rs.73,00,00,000/- (Indian Rupees Seventy-Three Crore only)	Rs.21,90,00,000/- (Indian Rupees Twenty-One Crore and Ninety Lakh only)	Rs.1,00,000/- (Indian Rupees One Lakh only)

8.1 Original Bid or Background of Reserve Price

The Original Bidder has submitted an offer (“**Original Bid**”) to the Liquidator, approved by the SCC for acquisition of the Corporate Debtor on a Going Concern Basis (excluding the assets of the Corporate Debtor lying at KoPT) through Private Sale Mode. Pursuant to the Hon'ble NCLT order dated December 11, 2024, the Liquidator has been directed to proceed with the Private Sale Mode through E-Auction under Swiss Challenge Mechanism with certain conditions. The Original Bidder holds the Right of First Refusal (“**RoFR**”) against the highest bid (“**Counter Bid**”) submitted by the Challenger Bidder in the E-Auction. The entire process would be subject to the final approval of the Hon'ble NCLT.

The Original Bidder has submitted the Earnest Money Deposit (“**EMD**”) of Rs.21,90,00,000/- (Indian Rupees Twenty-One Crore and Ninety Lakh only). The Original Bidder will not be part of the E-Auction process as he has the right to exercise RoFR as explained in Clause 8.4.

8.2 Earnest Money Deposit (“EMD”)

All Auction Process Participants shall provide, along with or prior to the submission of their bids, 30% of the Reserve Price for the block of asset as an Earnest Money Deposit, in favour of “Essar Power (Jharkhand) Limited - In Liquidation”, in one of the following forms:

- i. Bank Guarantee issued by any scheduled commercial bank in India (“**Bank**”) in favour of the Guarantee Beneficiary being Essar Power (Jharkhand) Limited - In Liquidation, which shall be in accordance with **Format A (Earnest Money - Bank Guarantee)** of this Process Memorandum; or
- ii. Direct deposit by way of the real time gross settlement system into the Designated Bank Account maintained by Essar Power (Jharkhand) Limited - In Liquidation, the details of which are provided below; or
- iii. Demand Draft issued by any scheduled commercial bank in India in favour of Essar Power (Jharkhand) Limited - In Liquidation (“**Earnest Money**”)

The non-interest-bearing Earnest Money, is to be paid by the Bidder prior to uploading the online bid form. The details of the Designated Bank Account are as under:

Account Number	000405122934
Beneficiary Name	Essar Power (Jharkhand) Limited - In Liquidation
Bank Name	ICICI Bank Limited
Branch	Nariman Point, Mumbai
IFSC Code	ICIC0000004

The details of any remittances in this regard shall be entered in the online form submitted by Bidder. The Bidder(s) shall remit the entire Earnest Money amount from one bank account only and to be owned by the Bidder.

Bidders shall preserve the remittance challan and shall produce the same in front of the Liquidator as and when demanded. All payment made by the Bidder under the E-Auction Process under Swiss Challenge Mechanism shall be intimated to the Liquidator at epjl.lq@gmail.com.

No interest will be paid to the Auction Process Participant in relation to such amount.

8.3 E-Auction Process

The Liquidator will issue User ID and Password to the Qualified Bidders after receipt of EMD, to enable participation in the e-auction, which will take place as per the timelines indicated in Clause 13 of this document. The bids, if any, to the Reserve Price / Original Bid shall start with a mark-up of at least Rs.1 lakh or its multiples above the Reserve Price and subsequent bids, if any, shall be at a mark-up of at least Rs.1 Lakh or its multiples above the previous bid. The Liquidator shall declare the highest counter bid as the Counter Bid and the highest bidder as the Challenger Bidder. Post conclusion of the E-Auction Process under Swiss Challenge Mechanism and declaration of the highest bid as the Counter Bid, no opportunity would be provided to the Challenger Bidder to increase the Counter Bid.

8.4 Process of RoFR

Upon declaration of the Challenger Bidder, the Liquidator shall approach the Original Bidder (who submitted the Original Bid) to exercise his Right of First Refusal (RoFR), if any, in the meeting of the Stakeholders Consultation Committee, wherein, the Original Bidder would be invited as a Special Invitee, which will be scheduled after the conclusion of the E-Auction Process to match the Counter Bid. The Original Bidder shall communicate its decision in the Stakeholder's Consultation Committee without seeking any extension of timeline. In case the Original Bidder exercises its RoFR and matches the Counter Bid, then the Liquidator shall declare the Original Bidder as the Successful Bidder. However, if the Original Bidder does not exercise its RoFR and does not match the Counter Bid, then, the Challenger Bidder shall be declared as the Successful Bidder by the Liquidator. A mail confirmation would be given for being declared as the Successful Bidder to the Challenger Bidder / Original Bidder, as the case may be by the Liquidator subsequent to the SCC meeting.

Notes:

1. It shall be the endeavour of the Liquidator to maximize the value of assets of the Corporate Debtor.
2. Details of the assets underlying within the block are annexed as separate attachment on www.eauctions.co.in.
3. Kindly note that the Bidders cannot place a bid for a block at a value below the reserve price.
4. Cognizance should be taken of the fact that the Liquidator does not give any assurance or warranty of the physical condition of the assets and their suitability for any sort of operation that the Bidder envisages.
5. Further, the Bidders can increase their bid by a minimum incremental amount as mentioned in the last column of the above table.
6. Challenger Bidder is not invited in the SCC meeting where the Original Bidder may or may not exercise its right to RoFR and shall raise no-objection whatsoever in this regard.
7. Challenger Bidder is well aware of the fact that his Counter Bid may or may not be declared as the successful bid as the Original Bidder may exercise his Right of First Refusal and eventually become the Successful Bidder.

8.5 Letter of Intent and Transaction Documents

The Successful Bidder shall be required to execute a letter of intent (LoI) provided by the Liquidator within a period of 3 days from the date of issuance of LoI, the terms of which shall be binding on the Successful Bidder.

The Successful Bidder would be required to pay the entire sale consideration within 10 (Ten) days from the date of issuance of LoI. The timeline for payment of entire sale consideration cannot be extended. In case, the full sale consideration is not paid within 10 (Ten) days from the date of the issuance of LoI, then the Liquidator shall have the right in consultation with the SCC, to forfeit the EMD / monies submitted in any form by Successful Bidder till that day and thereby, cancel the sale process.

Further, the Successful Bidder on the payment of entire sale consideration would be solely responsible for the security of said assets and other expenses / charges related to such assets. Therefore, subsequent to the payment of entire sale consideration and the approval received from the Hon'ble NCLT, the Successful Bidder would be required to take delivery of assets and collect them from its physical location at the earliest and without any undue delay and in compliance with the process mentioned below under clause 9 (Handover Process).

The Successful Bidder understands, agrees and confirms that the sale of the Corporate Debtor (excluding the assets of the Corporate Debtor lying at KoPT) on Going Concern Basis on Private Sale Mode under Swiss Challenge Mechanism, is subject to receipt of the Final Approval from the Hon'ble NCLT, Principal Bench, New Delhi.

8.6 Invocation of Bank Guarantee / Forfeiture of the Earnest Money Deposit

The Liquidator shall have the right to invoke the bank guarantee / forfeit the Earnest Money Deposit, by issuance of a written demand to the Bank in the circumstances set out in the Bank Guarantee.

The Earnest Money furnished can be forfeited at any time, upon the occurrence of any of the following events:

- a) if any of the conditions under this Process Memorandum are breached by the Bidder or in case the Bidder is found to have made any misrepresentation; or
- b) if the Bidder who is declared as the Eligible Bidder or the Successful Bidder, is found to be ineligible to submit the bid under Section 29 A of the IBC (as amended from time to time) or is found to have made a false or misleading declaration of eligibility under Section 29 A of the IBC (as amended from time to time) at any point of time before the issuance of sale certificate; or
- c) if collusion is found between the bidders, or the corporate debtor's related parties and bidders, or the creditors and the bidder, as specified in Regulation 33(3) of the Liquidation Regulations at any point of time before the issuance of sale certificate; or
- d) if the Bidder is identified as the Successful Bidder and it fails to extend the validity of the Earnest Money through the bank guarantee or does not accept the Letter of Intent issued by the Liquidator; or
- e) if the Successful Bidder fails to make the complete payment as per the terms of the Letter of Intent issued by the Liquidator; or

The Guarantee Beneficiary shall have the right to invoke the Earnest Money Deposit given in the form of a bank guarantee for a period of 30 (Thirty) days from the last date of the EMD Validity Period and, the Earnest Money can be invoked at any time, if any of the conditions under the Letter of Intent or Process Memorandum are breached.

8.7 Adjustment of Earnest Money Deposit of the Successful Bidder

The Earnest Money Deposit shall be set-off against or used as part of the consideration that the Successful Bidder proposes to offer in relation to the E-Auction Process under Swiss Challenge Mechanism, unless expressly indicated as such by the Successful Bidder.

In case the process fails due to unforeseen circumstances (to be determined by Liquidator in consultation with SCC) and not on fault of any Bidder, then the Earnest Money paid by such Bidder shall be returned (without interest) to such Bidder within 30 (Thirty) days of the date of closure of the E-Auction Process under Swiss Challenge Mechanism.

However, if a Bidder, who submits the bid and participates in E-Auction but fails to give the highest bid for the asset in the E-Auction and does not emerge to be a Challenger Bidder / Successful Bidder, then the Earnest Money Deposit paid by the Bidder shall be returned (without interest) within 30 (thirty) days of the date of closure of the E-Auction Process under Swiss Challenge Mechanism.

8.8 Default by Successful Bidder and its Consequences

In the event that the Successful Bidder withdraws from the process, the Liquidator / Guarantee Beneficiary shall have the right to invoke / encash the Earnest Money Deposit furnished by the Successful Bidder and / or any monies received till date. The amount received pursuant to the invocation / encashment of the Earnest Money and / or any monies received, shall be kept with Essar Power (Jharkhand) Limited - In Liquidation. If the Successful Bidder does not execute the Lol within the timelines stipulated, the Liquidator / Guarantee Beneficiary shall have the right to invoke the Earnest Money submitted by the Successful Bidder as well as reject the bid submitted by it and thereby re-run the E-Auction Process under Swiss Challenge Mechanism.

9. HANDOVER PROCESS

The Liquidator will be filing an Application before the Hon'ble NCLT for the purpose of seeking directions for implementing the sale of the Corporate Debtor as a going concern (excluding the assets of the Corporate Debtor lying at KoPT) on a Private Sale Mode to the Successful Bidder. However, the handover of assets or any other relevant information of the Company shall commence only after the Final Approval Order is received by the Liquidator from the Hon'ble NCLT. The Successful Bidder may after the payment of the entire sale consideration, request to deploy its security personnel at the plant site at Tori only, at its own cost who will be reporting to the security personnel of the Liquidator till the Final Approval Order is received by the Liquidator from the Hon'ble NCLT. Any material movement from the plant site and the CFS location will be strictly prohibited till the Final Approval Order is received.

On receipt of Final Approval Order, the Liquidator will issue a sale certificate to the Successful Bidder and handover the Company on a going concern basis (excluding the assets of the Corporate Debtor lying at KoPT) which includes all the assets at the plant site of the Corporate Debtor at Tori, Dist. Latehar, Jharkhand, 1 Container Freight Stations ("CFS") to the Successful Bidder. The treatment of any reliefs, waivers or liabilities will be in accordance with the Final Approval Order of the Hon'ble NCLT.

All necessary arrangements with respect to the loading / unloading movement / shifting of plant & machinery (ies) or any asset of the Company post the Final Approval Order should be taken care solely by the Successful Bidder. All expenses incurred towards the dismantling / de-fabrication / movement / shifting of plant & machinery (ies) or any asset of the Company should be borne solely by the Successful Bidder. Further, the Successful Bidder will do such other acts or deeds that are necessary or essential to affect the sale including but not limited to taking necessary steps and actions to substitute the name of the Corporate Debtor with the name of the Successful Bidder in all the litigations pending or be initiated / instituted by or against the Corporate Debtor (except the litigation in relation to the assets of the Corporate Debtor lying at KoPT). The Successful Bidder shall be responsible for all the taxes, duties and expenses that may be applicable or arise either in present or in future in relation to the Corporate Debtor and its assets. The Liquidator shall not be held responsible / liable under any circumstances to pay any expenses including but not limited towards such movement of plant & machinery (ies) or any asset of the Company.

The Successful Bidder shall, at its own cost and expense, undertake all necessary, appropriate efforts and best safety measures to prevent accidents or untoward situation at any of the locations. The Successful Bidder shall be solely responsible and liable for non-compliance of any of the safety measures and delays, implications, injuries, fatalities, and compensation arising out of such or similar situations of incidents.

The Successful Bidder, at its own expense, shall defend, indemnify and hold harmless the Corporate Debtor, Liquidator and its consultants from any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees and alternative dispute resolution costs, for any personal injury, bodily injury, sickness, disease or death and for any damage to or destruction of any property or asset, occurred due to the act or omission by or on behalf of the Successful Bidder or any person appointed by the Successful Bidder, during the handover process at the plant site of the Corporate Debtor at Tori, Dist. Latehar, Jharkhand, and 1 Container Freight Stations ("CFS") at Kolkata.

10. FRAUDULENT AND CORRUPT PRACTICES

The Auction Process Participant shall observe the highest standard of ethics during the E-Auction Process under Swiss Challenge Mechanism and subsequently during the closure of the E-Auction Process under Swiss Challenge Mechanism and declaration of Successful Bidder. Notwithstanding anything to the contrary, contained in this Process Memorandum, or in the Letter of Intent, the Liquidator shall reject a bid, revoke the Letter of Intent, as the case may be, without being liable in any manner whatsoever to the E-Auction Process under Swiss Challenge Mechanism, if the Liquidator, at his discretion, determines that the Auction Process Participant has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the E-Auction Process under Swiss Challenge Mechanism or has, undertaken any action in respect of such process which results in the breach of any Applicable Law including the Prevention of Corruption Act, 1988 or such amendment thereto. In such an event, the Guarantee Beneficiary may invoke the Earnest Money, or any monies received, without prejudice to any other right or remedy that may be available to the Liquidator / Guarantee Beneficiary under this Process Memorandum or Applicable Law.

For the purposes of this Clause the following terms shall have the meaning herein after respectively assigned to them:

"coercive practice" shall mean impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person's participation or action in the E-Auction Process under Swiss Challenge Mechanism;

"corrupt practice" shall mean (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the E-Auction Process under Swiss Challenge Mechanism (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Liquidator or the Company, who is or has been associated or dealt in any manner, directly or indirectly with the E-Auction Process under Swiss Challenge Mechanism or arising there from, before or after the execution thereof, at anytime prior to the expiry of 1(one) year from the date such official resigns or retires from or otherwise ceases to be in the service of the Liquidator or the Company, shall be deemed to constitute influencing the actions of a person connected with the E-Auction Process under Swiss Challenge Mechanism; or (ii) engaging in any manner whatsoever, during the E-Auction Process under Swiss Challenge Mechanism or thereafter, any person in respect of any matter relating to the Company, who at anytime has been or is a legal, financial or technical adviser of the Liquidator or the Company, in relation to any matter concerning the E-Auction Process under Swiss Challenge Mechanism;

"fraudulent practice" shall mean a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the E-Auction Process under Swiss Challenge Mechanism;

“**restrictive practice**” shall mean forming a cartel or arriving at any understanding or arrangement among the Auction Process Applicants with the objective of restricting or manipulating a full and fair competition in the E-Auction Process under Swiss Challenge Mechanism; and

“**undesirable practice**” shall mean (i) establishing contact with any person connected with or employed or engaged by the Liquidator with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the E-Auction Process under Swiss Challenge Mechanism; or (ii) having a Conflict of Interest.

The Bidder shall not involve himself or any of his representatives in price manipulation of any kind directly or indirectly by communicating with other Bidders.

The Bidder shall not divulge either his bid or any other details provided to him by the Liquidator or during the due diligence process in respect of the asset to any other party. Prior to conduct of due diligence / site visits, the Liquidator may require the Bidder to execute confidentiality agreement with the Company / Liquidator.

11. COSTS, EXPENSES AND TAX IMPLICATIONS

The Auction Process Participant shall be responsible for all the costs incurred by it on account of its participation in the E-Auction Process under Swiss Challenge Mechanism, including any costs associated with participation in the discussion Meeting (if any) and handling charges (if any) to be paid to Syama Prasad Mookerjee Port (Erstwhile KoPT) at the time of inspection of assets during the site visit, etc. The Liquidator shall not be responsible in any way for such costs, regardless of the conduct or outcome of the E-Auction Process under Swiss Challenge Mechanism.

For purpose of abundant clarity, it is hereby clarified that the Auction Process Participant is expected to make its own arrangements including accommodation for the discussion Meeting (if organized) or Site Visit and all costs and expenses incurred in that relation shall be borne by the Auction Process Participant.

All necessary arrangements with respect to the dismantling / loading / unloading / of fabricated / movement / shifting / of plant & machinery (ies) or any asset of the Company post the E-Auction Process under Swiss Challenge Mechanism should be taken care of solely by the Successful Bidder. All expenses incurred towards the dismantling of fabricated / movement / shifting / of plant & machinery (ies) or any asset of the Company post the E-Auction Process under Swiss Challenge Mechanism should be borne solely by the Successful Bidder. The Liquidator shall not be held responsible / liable under any circumstances to pay any expenses towards such movement of plant & machinery (ies) or any asset of the Company. Further, the Successful Bidder shall bear all expenses for the safety of labourers / employee deployed by him at the site for dismantling, loading, unloading, etc.

The Auction Process Participant shall not be entitled to receive re-imburement of any expenses which may have been incurred for carrying out of due diligence, search of title to the assets and matters incidental thereto or for any purpose in connection with the E-Auction Process under Swiss Challenge Mechanism.

All taxes applicable (including customs duty, stamp duty implications and registration charges) on sale of assets whether arise in present or in future would be solely borne by the Successful Bidder, which inter alia including but not limited to the following:

- i. The sale may or may not attract customs duty, GST, TDS, TCS, etc. as per relevant laws;
- ii. Successful Bidder shall bear all the necessary expenses like applicable customs duties / additional duty / transfer charges, fees, etc. for transfer of property (ies) in his / her name;
- iii. Payment of all statutory / non-statutory dues, taxes, rates, assessments, charges, fees, etc. owed by EPJL to anybody in respect of the Property(ies) shall be sole responsibility of Successful Bidders;
- iv. Successful Bidder has to bear the cess or other applicable tax, i.e., Excise, VAT, GST, TDS, etc.
- v. Successful Bidder will also be responsible for evaluating completeness of applicability of taxes in India at the time of closure, and will be responsible for paying all such taxes

It is expressly stated that the Liquidator does not take or assume any responsibility for any dues, statutory or otherwise, of the Company, including such dues, if any, which may affect transfer of the liquidation assets in the name of the Successful Bidder and such dues, if any, will have to be borne / paid by the Successful Bidder.

Further, it is expressly stated that the Liquidator does not take or assume any responsibility for any cost of the Successful Bidder, including operational and legal cost, if any, which may arise.

The Auction Process Participant shall be responsible for fully satisfying the requirements of the IBC and Auction related Regulations as well as all Applicable Laws that relevant for the sale process. The Successful Bidder shall be responsible for obtaining requisite regulatory or statutory or third-party approvals, no-objections, permission, or consents, if any, that are or may be required under Applicable Law for purchasing the relevant assets.

12. GOVERNING LAW AND JURISDICTION

This Process Memorandum, the E-Auction Process under Swiss Challenge Mechanism and the other documents pursuant to the Process Memorandum shall be governed by the laws of India and any dispute arising out of or in relation to the Process Memorandum or the E-Auction Process under Swiss Challenge Mechanism shall be subject to the exclusive jurisdiction of the Adjudicating Authority, courts and tribunals at New Delhi, India.

13. TIMETABLE

The following timetable shall apply to the process memorandum. The timetable may be amended by the Liquidator through issuance of an addendum to the process memorandum.

Sr. No.	Event	Timeline (Days)
1.	Public Announcement of E-Auction under Swiss Challenge Mechanism for Sale of the Corporate Debtor (excl. the Assets lying at KoPT) on a Going Concern Basis under Private Sale Mode	December 26, 2024 January 21, 2025 (Addendum)
2.	Opening of Bidding Portal	December 26, 2024
3.	Submission of Eligibility Documents	By January 09, 2025
4.	Declaration of Eligible Bidders	On or before January 10, 2025
5.	Due Diligence and Site Visits (only for Eligible Bidders)	Till January 25, 2025 (Extended from January 18, 2025)
6.	Last Date to submit the EMD and Bid Forms	January 27, 2025 (Extended from January 20, 2025)
7.	E-Auction on Portal	January 29, 2025 3 PM to 4 PM
8.	Declaration of the Challenger Bidder and Counter Bid	Subsequent to the completion of E-Auction Process
9.	Holding SCC Meeting and Invitation to Original Bidder to Exercise RoFR	Subsequent to the completion of E-Auction Process
10.	Announcement of Successful Bidder	January 29, 2025
11.	Issuance of Letter of Intent (LoI)	January 29, 2025
12.	Payment of Balance Consideration by Successful Bidder	February 10, 2025
13.	Filing of Application before Hon'ble NCLT seeing final approval for the Sale of the Corporate Debtor (excl. the Assets lying at KoPT) on a Going Concern Basis under Private Sale Mode	Post Receipt of Entire Sales Consideration
14.	Refund of Earnest Money to Unsuccessful Bidders	February 27, 2025

14. MISCELLANEOUS

The Assets of the Corporate Debtor on a Standalone Basis is to be sold on “As is where is basis”, “As is what is basis”, “Whatever there is basis” “No recourse” basis and “On Going Concern Basis”. The proposed sale of the Assets / Company does not entail transfer of any title except the title which the Company had on the assets as on date of transfer. The Liquidator does not take or assume any responsibility for any shortfall or defect or shortcoming in the moveable / immoveable assets of the Company.

If any Bidder conceals any material information or makes a wrong statement or misrepresents facts or makes a misleading statement in its Bid, in any manner whatsoever, found to be ineligible to submit bid under Section 29A of the Code read with Regulation 33(3) of the Liquidation Regulations, the Liquidator reserves the right to reject such Bid and / or cancel the Letter of Intent (if issued) and forfeit the Earnest Money Deposit. The Bidder shall be solely responsible for such disqualification based on its declarations in the Bid.

FORMAT A
EARNEST MONEY - BANK GUARANTEE

(To be on non-judicial stamp paper of appropriate stamp duty value relevant to place of execution)

To,
Huzefa Fakhri Sitabkhan, Liquidator
Essar Power (Jharkhand) Limited - In Liquidation
Think Capital Insolvency Professionals LLP
1011-1012, Dalamal Tower, Free Press Journal Marg,
211, Nariman Point, Mumbai - 400 021

WHEREAS

- A. [Insert name of the Bidder] incorporated in [India] / [insert name of country where guarantor is incorporated] under the [Companies Act, [1956 / 2013]] / [insert name of legislation under which the entity is incorporated] with corporate identity number [●], whose registered office is at [insert address] (“**Bidder**”) is required to provide an unconditional and irrevocable bank guarantee for an amount equal to Rs.21,90,00,000 (Indian Rupees Twenty-One Crore and Ninety Lakhs only) in accordance with the terms of the process memorandum dated December 26, 2024 (modified on January 21, 2025)(“**Process Memorandum**”) issued by the Liquidator seeking submission of bids for assets of Essar Power (Jharkhand) Limited - In Liquidation.
- B. This bank guarantee is required to be issued in favour of the Beneficiary, pursuant to the terms of the Process Memorandum.
- C. We, [insert name of the bank] having our registered office at [insert address] (“**Bank**”) at the request of the Bidder do here by undertake to pay to the Beneficiary at Mumbai an amount not exceeding Rs.21,90,00,000 (Indian Rupees Twenty-One Crore and Ninety Lakhs only) to secure the obligations of the Bidder under the Process Memorandum on demand from the Beneficiary on terms and conditions herein contained.
1. Now therefore, the Bank hereby issues in favour of the Beneficiary this irrevocable and unconditional payment bank guarantee (“**Guarantee**”) on behalf of the [Insert name of the Bidder] for an amount.
 2. The Bank for the purpose here of unconditionally and irrevocably undertakes to pay to the Beneficiary without any demur, reservation, caveat, protestor recourse, immediately on receipt of first written demand made by the Beneficiary, a sum not exceeding the aggregate amount of Rs.21,90,00,000 (Indian Rupees Twenty-One Crore and Ninety Lakhs only).
 3. This Guarantee shall be valid and binding on the Bank upto and including Earnest Money Validity Date / EMD Validity Period, i.e., February 29, 2025 and shall in no event be terminable by notice or any change in the constitution of the Bank or the Beneficiary, by any other reasons whatsoever and our liability hereunder shall not be impaired or discharged by any extension of time or variations or alternations made, given, or agreed with or without our knowledge or consent, by or between parties to the respective agreement.
 4. The Bank hereby expressly agrees that the demand made on it under this Guarantee shall be conclusive evidence of that such payment is due and the Bank shall not require any proof in addition to the written demand from Beneficiary, made in any format, raised at the above-mentioned address of the Bank, in order to make the said payment to the Beneficiary.

5. The Bank shall make payment hereunder notwithstanding any objection by [Insert name of the Bidder] and / or any other person or any dispute(s) raised by the [insert name of the Bidder] in any suit or proceeding pending before any court or tribunal relating thereto and the Bank's liability under this present being absolute and unequivocal. The Bank shall not require the Beneficiary to justify the invocation of this Guarantee, nor shall the Bank have any recourse against the procurer(s) in respect of any payment made hereunder.
6. This Guarantee shall be interpreted in accordance with the laws of India and the courts and tribunals at New Delhi shall have exclusive jurisdiction. The Bank represents that this Guarantee has been established in such form and with such content that it is fully enforceable in accordance with its terms as against the Bank in the manner provided herein.
7. This Guarantee shall not be affected in any manner by reason of merger, amalgamation, restructuring, liquidation, winding up, dissolution or any other change in the constitution of the Bank.
8. This Guarantee shall be a primary obligation of the Bank and accordingly the Beneficiary shall not be obliged before enforcing this Guarantee to take any action in any court or arbitral proceedings against the Bidder, to make any claim against or any demand on the Bidder or to give any notice to the Bidder or to exercise, levy or enforce any distress, diligence or other process against the Bidder. The Bank waives any such right to that extent.
9. The Bank further unconditionally agrees with the Beneficiary that the Beneficiary shall be at liberty, without Bank's consent and without affecting in any manner the Bank's obligations under this Guarantee, from time to time:
 - (i) Vary and / or modify any of the terms of the Process Memorandum;
 - (ii) Extend and / or postpone the time of performance of the obligations of the Bidder under the Process Memorandum; or
 - (iii) For bear or enforce any rights exercisable by the Beneficiary against the Bidder under the terms of the Process Memorandum

And the Bank shall not be relieved from its liability by reason of any such act or omission on the part of the Beneficiary or any indulgence by the Beneficiary to the Bidder or other thing whatsoever which under the law relating to sureties would, but for this provision, have the effect of relieving the Bank of its obligations under the Guarantee.

10. The Bank here by agrees and acknowledges that the Beneficiary shall have a right to invoke this Guarantee either in part or in full, as it may deem fit.
11. Our liability under this Guarantee is restricted to Rs. Rs.21,90,00,000 (Indian Rupees Twenty-One Crore and Ninety Lakhs only) and it shall remain in force until Earnest Money Validity Date / EMD Validity Period, i.e., February 29, 2025, with an additional claim period of 30 (thirty) days thereafter.
12. Failure to re-issue or extend this Guarantee in accordance with Clause 11 above shall entitle the Beneficiary to invoke this Guarantee.

In witness where of the Bank, through its authorized officer, has set its hand and stamp on this Day of at

Witness:

1.

Signature

Name and Address.

Name:

2.

Designation with Bank Stamp

Name and Address

Attorney as per power of attorney No.....

For:

..... [Insert Name of the Bank]

Banker's Stamp and Full Address:

Dated thisday of.....20....

Note: The Stamp paper should be in the name of the Bank.

FORMAT B

CONFIDENTIALITY UNDERTAKING BY THE PROSPECTIVE BIDDER

(To be on non-judicial stamp paper of appropriate stamp duty value relevant to place of execution)

Date: _____

To,
Huzefa Fakhri Sitabkhan, Liquidator
Essar Power (Jharkhand) Limited - In Liquidation
Think Capital Insolvency Professionals LLP,
1011-1012, Dalamal Tower, Free Press Journal Marg,
211, Nariman Point, Mumbai - 400 021.

Sub: Confidentiality Undertaking by the Prospective Bidder under the Insolvency and Bankruptcy Code, 2016.

This Confidentiality Undertaking has been signed by _____ [Insert name of the Prospective Bidder] having its office at _____ [Insert address] acting through Mr. _____ [Name of person authorised of Prospective Bidder], the authorized signatory / authorized representative ("**Prospective Bidder**"), which expression shall, unless repugnant to the context, be deemed to include its successors, assigns or legal representative) in favour of Mr. Huzefa Fakhri Sitabkhan, an Insolvency Professional having registration no. IBBI/IPA-001/IP-P00031/2017-18/10115.

WHEREAS Essar Power (Jharkhand) Limited - In Liquidation, a company registered under Companies, Act, 1956 (thereafter referred as the "**Corporate Debtor**") is undergoing Liquidation vide Hon'ble NCLT Principal Bench, New Delhi ("**NCLT**") order dated January 03, 2020 ("**Liquidation Order**"). Vide the said Liquidation Order, Mr. Huzefa Fakhri Sitabkhan, an Insolvency Professional registered with Insolvency and Bankruptcy Board of India having Registration No. IBBI/IPA-001/IP-P00031/2017-18/10115 has been appointed as Liquidator ("**Liquidator**") and has been taking appropriate steps and measures for realizing the assets of the Corporate Debtor as articulated in the provisions of the Insolvency and Bankruptcy Code, 2016 ("**Code**") read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 ("**Liquidation Regulations**").

WHEREAS the Liquidator has issued sale notice dated December 26, 2024 (modified on January 21, 2025), inviting prospective bidders for the purpose of submission of bid through E-Auction Process under Swiss Challenge Mechanism which is scheduled to be held on January 29, 2025 in respect of sale of the Corporate Debtor on a going concern basis (excluding the assets of the Corporate Debtor lying at KoPT) which is governed by the provisions of Process Memorandum dated December 26, 2024 (modified on January 21, 2025) ("**Process Memorandum**") and provisions of the Code read with Liquidation Regulations.

WHEREAS the Liquidator is required to share certain data, information, records and documents in relation to the Corporate Debtor and its assets that is put up for sale including but not limited to providing an access at the project site of the Corporate Debtor for site inspection in order to facilitate the prospective bidder in their due diligence. The said information, documents and records including an access at the project site of the Corporate Debtor for site inspection shall be permitted to the prospective bidder only after receiving an undertaking from each of the prospective bidder to the effect that such prospective bidder shall maintain confidentiality of all the information received from the Liquidator or its persons and also during the course of due diligence and E-Auction Process under Swiss Challenge Mechanism and shall not use such information to cause an undue gain or undue loss to itself or any other person and comply with the requirements under Process Memorandum and the provisions of the Code read with Liquidation Regulations.

Therefore, the Prospective Bidder hereby declares and undertakes as follows:

1. The Prospective Bidder shall not involve itself or any of his representatives in price manipulation of any kind directly or indirectly by communicating with other bidders.

2. The Prospective Bidder shall not divulge either his bid or any other details and information provided to him by the Liquidator or other details received during the due diligence process and E-Auction Process under Swiss Challenge Mechanism in respect of the assets to any other party.
3. The Prospective Bidder shall not divulge any part of the information, or any other data shared by the Liquidator or its persons during the due diligence process and E-Auction Process under Swiss Challenge Mechanism, through oral or written communication or through any mode to anyone 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.
4. The Prospective Bidder further unconditionally and irrevocably undertakes and declares that:
 - a) The Confidential Information shall be kept secret and confidential by the Prospective Bidder and shall be strictly used solely for the purpose of due diligence that is required prior to submission of bid in the E-Auction Process under Swiss Challenge Mechanism and in accordance with the terms of the Code read with Liquidation Regulations;
 - b) The Prospective Bidder shall not use the Confidential Information to cause any undue gain or undue loss to itself, the Corporate Debtor, Liquidator or any other person;
 - c) The Prospective Bidder shall comply with all provisions of Applicable Law(s) for the time being in force relating to confidentiality and insider information;
 - d) The Confidential Information may only be disclosed to and shared with any employees or its advisors by the Prospective Bidder, in accordance with Applicable Law(s), including in relation to confidentiality and insider information, and terms of this Confidentiality Undertaking on a strict need-to-know basis and only to the extent necessary for and in relation to the liquidation process / E-Auction Process under Swiss Challenge Mechanism of the assets of the Corporate Debtor, provided that the Prospective Bidder binds such employees and third parties, by way of an undertaking / agreements, to terms at least as restrictive as those stated in this Confidentiality Undertaking.
 - e) The Prospective Bidder shall ensure that all Confidential Information is kept safe and secured at all times and is protected from unauthorised access, use, dissemination, copying, any theft or leakage;
 - f) The Prospective Bidder shall immediately destroy and permanently erase all Confidential Information as provided during the E-Auction Process under Swiss Challenge Mechanism / due-diligence process subsequent to completion of sale of assets or E-Auction process under Swiss Challenge Mechanism of the Corporate Debtor;
 - g) The Prospective Bidder shall take all necessary steps to safeguard the privacy and confidentiality of the information received through the Liquidator or its persons and shall use its best endeavours to secure that no person acting on its behalf divulges or discloses or uses any part of the Confidential Information;
 - h) The Prospective Bidder shall be responsible for any breach of obligations under this confidentiality undertaking (including any breach of confidentiality obligations by any employee or advisor or agent or director of the Prospective Bidder) and shall indemnify the Liquidator for any loss, damages, expenses and costs incurred by the Liquidator due to such breach of such obligations by the Prospective Bidder or any person acting on its behalf.

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 the Prospective Bidder was already in the public domain without violation of any provisions of Applicable Law(s); or
- b) information which, after disclosure to the Prospective Bidder becomes publicly available and accessible without violation of Applicable Law(s) or a breach of this Confidentiality Undertaking; or
- c) information which was, lawfully and without any breach of this Confidentiality Undertaking, in the possession of the Prospective Bidder prior to its disclosure, as evidenced by the records of the Prospective Bidder.

5. The Prospective Bidder hereby expressly agrees and acknowledges that the Liquidator makes no representation, warranty or inducement, whether express or implied, as to the accuracy, completeness, authenticity or adequacy of the information (including but not limited to the Confidential Information) provided to the Prospective Bidder during the E-Auction Process under Swiss Challenge Mechanism and information provided in the Process Memorandum.
6. The Prospective Bidder further agrees and acknowledges that the Liquidator shall not be liable to the Prospective Bidder for any damage arising in any way out of the use of the Confidential Information and further that the Prospective Bidder shall not have any claim against the Liquidator or the Corporate Debtor in relation to any information provided.
7. The terms of this Confidentiality Undertaking may be modified or waived only by a separate instrument in writing signed by the Liquidator that expressly modifies or waives any such term.
8. Damages may not be an adequate remedy for a breach of this Confidentiality Undertaking and Liquidator may be entitled to the remedies of injunction, specific performance and other equitable relief for a threatened or actual breach of this Confidentiality Undertaking.
9. Nothing in this Confidentiality Undertaking shall have the effect of limiting or restricting the liability of the Prospective Bidder arising as a result of its fraud or willful default as defined under Applicable Law(s).
10. The undersigned hereby represents and warrants that it has the requisite power and authority to execute, deliver and perform its obligations under this Confidentiality Undertaking.
11. This Confidentiality Undertaking and any dispute, claim or obligation arising out of or about it shall be governed by and construed in accordance with Indian laws and the courts and tribunal of Delhi shall have exclusive jurisdiction over matters arising out of or relating to this Confidentiality Undertaking.

I further declare that I, the undersigned have full knowledge of the contents provided in this undertaking and have absolute authority to sign this undertaking on behalf of _____
[insert the name of the Prospective Bidder].

Sign on behalf of

[Insert Name of Prospective Bidder]
by Mr. _____
(Name and Designation)
Authorised Signatory

Date:

Place:

FORMAT C

AFFIDAVIT AND UNDERTAKING BY THE PROSPECTIVE BIDDER

*(To be on non-judicial stamp paper of appropriate stamp duty value relevant to place of execution)
(To be notarized by Public Notary)*

Date: _____

To,
Huzefa Fakhri Sitabkhan, Liquidator
Essar Power (Jharkhand) Limited - In Liquidation
Think Capital Insolvency Professionals LLP,
1011-1012, Dalamal Tower, Free Press Journal Marg,
211, Nariman Point, Mumbai - 400 021.

Sub: Disclosure and Undertaking on eligibility under Section 35 read with section 29 A of the Insolvency and Bankruptcy Code, 2016 read with Regulation 33(3) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

Dear Sir,

A. I hereby submit this declaration under Section 35 read with Section 29 A of the Insolvency and Bankruptcy Code, 2016 ("Code") as inserted by the Insolvency and Bankruptcy Code (Amendment) Act, 2018:

I have understood the provisions of section 29 A of the Code. I confirm that neither _____ [Insert name of the Bidder] nor any person acting jointly with _____ [Insert name of the Bidder] or any person who is a promoter or in the management or control of _____ [Insert name of the Bidder] or any person acting jointly with _____ [Insert name of the Bidder]:

- a. is an un-discharged insolvent;
- b. is a willful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949;
- c. has an account, or an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, classified as non-performing asset in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 and at least a period of one year has lapsed from the date of such classification till the date of commencement of the corporate insolvency resolution process of the corporate debtor;
- d. has been convicted for any offence punishable with imprisonment-
 - i. for two year or more under any Act specified under the Twelfth Schedule; or
 - ii. for seven years or more under any law for the time being in force
- e. is disqualified to act as a director under the Companies Act, 2013;
- f. is prohibited by the Securities and Exchange Board of India from trading in securities or accessing the securities markets;
- g. has been a promoter or in the management or control of a corporate debtor in which a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been made by the Adjudicating Authority under this Code;
- h. has executed a guarantee in favour of a creditor in respect of a corporate debtor against which an application for insolvency resolution made by such creditor has been admitted under this Code;
- i. has been subject to any disability, corresponding to clauses (a) to (h) of Section 29 A, under any law in a jurisdiction outside India; or
- j. has a connected person (as defined in Explanation to Section 29 A) who is ineligible under clauses (a) to (i) of Section 29A.

I therefore, confirm that _____ [Insert name of the Bidder] is eligible under Section 29 A of the Insolvency and Bankruptcy Code, 2016 ("Code") as inserted by the Insolvency and Bankruptcy Code (Amendment) Act, 2018 to submit its Bid for Essar Power (Jharkhand) Limited - In Liquidation.

- B. I undertake on behalf of _____[Insert name of the Bidder], that during the Liquidation Process, no person who would be considered as Connected Person and is not eligible to submit a bid under section 29 A of Insolvency and Bankruptcy Code, 2016 shall be engaged in the management and control of the assets of the Corporate Debtor.
- C. I undertake on behalf of _____[Insert name of the Bidder], that during the Liquidation Process, no person who would be considered as Connected Person and is not eligible to submit a bid under section 29 A of Insolvency and Bankruptcy Code, 2016 shall directly / indirectly be the beneficial owner of the assets of the Corporate Debtor.
- D. I undertake on behalf of _____[Insert name of the Bidder], that, there is or would be no collusion between the buyers, or the corporate debtor's related parties and buyers, or the creditors and the buyers, at any point of time till the issuance of sale certificate.
- E. I declare and undertake that in case _____[Insert name of the Bidder] becomes ineligible at any stage during the Liquidation Process, it would inform the Liquidator forthwith on becoming ineligible.
- F. I also undertake that in case _____[Insert name of the Bidder] becomes ineligible at any time after submission of the Earnest Money, then the Earnest Money would be forfeited and the same would be deposited in the account of Essar Power (Jharkhand) Limited - In Liquidation.
- G. I also further undertake that my winning bid Amount will remain binding unless rejected by the Liquidator.
- H. I confirm that the said declaration and disclosure is true and correct.
- I. I am duly authorised to submit this declaration by virtue of my KYC Documents / Board Resolution.

(DEPONENT)

VERIFICATION

I, the deponent above, do hereby solemnly declare and affirm that the above statement given by me is true and correct to the best of my knowledge and belief and nothing stated above is false or misrepresentation or misleading.

(DEPONENT)

FORMAT D
AUTHORISATION LETTER BY THE PROSPECTIVE BIDDER
(On the Letterhead of the Prospective Bidder)

Date: _____

To,
Huzefa Fakhri Sitabkhan, Liquidator
Essar Power (Jharkhand) Limited - In Liquidation
Think Capital Insolvency Professionals LLP,
1011-1012, Dalamal Tower, Free Press Journal Marg,
211, Nariman Point, Mumbai - 400 021.

Sub: Authority Letter for Site Inspection of the Assets of Essar Power (Jharkhand) Limited - In Liquidation (“Corporate Debtor”) lying at plant site at Tori and / or at CFS location at Kolkata

Dear Sir,

I / We _____, [insert the name of Prospective Bidder] being the Prospective Bidder, are interested in bidding for the Corporate Debtor that is put up for E-Auction under Swiss Challenge Mechanism and scheduled to be held on January 29, 2025.

In view thereof, I / We hereby request you to kindly allow us site inspection of the assets of the Corporate Debtor that are located at plant site at Tori and / or at CFS location at Kolkata on _____ [insert Day], _____ [insert Date] from ___ to _____ pm [insert Time].

Accordingly, the following person/(s) would be conducting the site visit at the plant site at Tori and / or at CFS location at Kolkata of the Corporate Debtor on our behalf:

Sr. No.	Name of the Authorised Representative	Aadhar Card Number	Enclosed

Further, also find enclosed at Appendix, the undertaking(s) by each Authorised Representative(s) visiting the plant site at Tori and / or at CFS location at Kolkata on our behalf.

Sign on behalf of

[Insert Name of Prospective Bidder]
by Mr. _____
(Name and Designation)
Authorised Signatory

Encl:

**APPENDIX TO FORMAT D
UNDERTAKING BY THE AUTHORISED REPRESENTATIVE**

Date: _____

To,
Huzefa Fakhri Sitabkhan, Liquidator
Essar Power (Jharkhand) Limited - In Liquidation
Think Capital Insolvency Professionals LLP,
1011-1012, Dalamal Tower, Free Press Journal Marg,
211, Nariman Point, Mumbai - 400 021.

Sub: Undertaking by the Authorised Representative of the Prospective Bidder with respect to the inspection of the assets of Essar Power (Jharkhand) Limited - In Liquidation ("Corporate Debtor") lying at plant site at Tori and / or at CFS location at Kolkata

Dear Sir,

I, _____, [insert the name of Authorised Representative] authorised representative appointed by _____ [insert the name of the Prospective Bidder], would be visiting the site for the inspection of assets of the Corporate Debtor that are lying at plant site at Tori and / or at CFS location at Kolkata on _____ [insert Day], _____ [insert Date] between ____ to _____ pm [insert Time].

I undertake and confirm that, I shall follow all the necessary guidelines issued by the central government, state government, district officer and other relevant regulatory and local authorities.

I further undertake that neither the Liquidator nor any of his officers / agents / consultants would be held accountable for any untoward situation, if the same arises.

Sign

_____ by Mr. _____ {Insert the name of Authorised Representative}

FORMAT E
ADDITIONAL UNDERTAKING BY THE PROSPECTIVE BIDDER
(On the Letterhead of the Prospective Bidder)

Date: _____

To,
Huzefa Fakhri Sitabkhan, Liquidator
Essar Power (Jharkhand) Limited - In Liquidation
Think Capital Insolvency Professionals LLP,
1011-1012, Dalamal Tower, Free Press Journal Marg,
211, Nariman Point, Mumbai - 400 021.

Sub: Additional Undertaking by the Prospective Bidder with respect to the Inspection of the assets of Essar Power (Jharkhand) Limited - In Liquidation ("Corporate Debtor") lying at plant site at Tori and / or at CFS location at Kolkata

Dear Sir,

I / We _____, [insert the name of Prospective Bidder] being the Prospective Bidder, are interested in bidding for the assets of the Corporate Debtor that are put up for E-auction under Swiss Challenge Mechanism and scheduled to be held on January 29, 2025 and our authorized representative would be visiting the site for the inspection of assets of the Corporate Debtor that are lying at plant site at Tori and / or at CFS location at Kolkata on _____ [insert Day], _____ [insert Date] between ___ to _____ pm [insert Time].

I / We undertake and confirm that our authorized representative(s), conducting the site visit, shall follow all the necessary guidelines issued by the central government, state government, district officer and other relevant regulatory and local authorities.

I hereby consent to proceed with this E-Auction Process under Swiss Challenge Mechanism and undertake that neither the Liquidator nor any of his officers / agents / consultants would be held accountable for any untoward situation, if the same arises.

Sign on behalf of

[Insert Name of Prospective Bidder]
by Mr. _____
(Name and Designation)
Authorised Signatory

**ANNEXURE I
BID APPLICATION FORM**

Date:

To
Huzefa Fakhri Sitabkhan, Liquidator
Essar Power (Jharkhand) Limited - In Liquidation
Think Capital Insolvency Professionals LLP,
1011-1012, Dalamal Tower, Free Press Journal Marg,
211, Nariman Point, Mumbai - 400 021.

Dear Sir,

I am desirous in participating in the E-Auction under Swiss Challenge Mechanism announced by you in the newspaper publication dated December 26, 2024 (modified on January 21, 2025) for Block 1.

Details of the Corporate Debtor

Account Number	000405122934
Beneficiary Name	Essar Power (Jharkhand) Limited - In Liquidation
Bank Name	ICICI Bank Limited
Branch	Nariman Point, Mumbai
IFSC Code	ICIC0000004

Details of Bidder / Bid Price Offered

Name of the Bidder	
Constitution of Bidder	
Contact No.	
Email ID	
PAN No.	
Address	
Bank Account No.	
Beneficiary Name	
Bank Name	
IFSC Code	
Branch	

I / We / M/s. _____ [Insert Name of the Bidder] also enclose copies of the required KYC documents. We request you to kindly verify the same and arrange with the auction portals for issue of an ID and password for us to enable us to take part in the E-Auction Process under Swiss Challenge Mechanism.

Date:
Place:

Signature
(Seal in case of Company / Firm)

Terms and Conditions of the E-Auction Process under Swiss Challenge Mechanism are as under:

In addition to the Process Memorandum, following terms and conditions apply:

1. E-Auction Process under Swiss Challenge Mechanism is being held on **“AS IS WHERE IS”, “AS IS WHAT IS” and “WHATEVER THERE IS BASIS”, “WITHOUT RECOURSE BASIS” and “ON A GOING CONCERN BASIS”** and will be conducted **“Online”**. The E-Auction Process under Swiss Challenge Mechanism will be conducted through the approved service provider, Linkstar Infosys Private Limited, the web portal www.eauctions.co.in.
2. The Complete E-Auction under Swiss Challenge Mechanism Process Memorandum containing bid form, Declaration by bidders, General terms and conditions of online auction are available on the website www.eauctions.co.in. Interested bidders can register, bid and receive confirmation of their bid online.

(On going to the link www.eauctions.co.in, bidders will have to search for the mentioned company by using either one of the two options, (i) Company’s name (ESSAR POWER (JHARKHAND) LIMITED), or by, (ii) State and property type).

3. The intending Bidders should make their own Independent inquiries regarding the encumbrances, title of assets put on auction and claims / rights / dues / affecting the assets and should conduct their own due diligence prior to submitting their bid. The E-Auction Process under Swiss Challenge Mechanism public advertisement does not constitute and will not be deemed to constitute any commitment or any representation of the Liquidator. The Corporate Debtor is being sold with all the existing and future encumbrances / claims / dues / demands whether known or unknown to the Liquidator. Liquidator shall not be responsible in any of way for any third-party claims / rights / dues.
4. The Bidders should submit the evidence for EMD Deposit in the E-Auction Process under Swiss Challenge Mechanism along with Self attested copy of (1) Proof of Identification (2) Current Address Proof (3) PAN Card (4) Valid e-mail ID (5) Landline and Mobile Phone number (6) Notarised Affidavit and Undertaking by the Prospective Bidder, as per Format D (7) Board Resolutions in case of company or Authority Letter in case of a Partnership firm or LLP and Address Proof (8) Bid Application Form as per Annexure I (9) Declaration by Bidder, as per Annexure II, (10) Confidential Undertaking by the Prospective Bidder, as per Format B, (11) Letter of Authorization by the Prospective Bidder, as per Format D, alongwith the Undertaking of the Authorised Representative, as per Appendix to Format D, (12) Additional Undertaking by the Prospective Bidder, as per Format E. The Formats and the Annexures can be downloaded from www.eauctions.co.in. These documents should reach the office of the Liquidator or by e-mail, at the address given below on or before **January 27, 2025 (Monday)**. The formats of these Annexures can be downloaded from www.eauctions.co.in.
5. Name of Qualified Bidders will be identified and conveyed by Liquidator to participate in online e-auction on the portal www.eauctions.co.in. “Linkstar Infosys Private Limited” will provide User ID & Password after due verification of KYC of the Qualified Bidders.
6. It should be the responsibility of the interested bidders to inspect and satisfy themselves about the property before submission of the bid.
7. Liquidator has right to demand documents from bidder for the process and in case the documents are not provided, the Liquidator may disqualify the bid.
8. The e-auction of the Corporate Debtor would be conducted on January 29, 2025 from 3:00 PM to 4:00 PM (with unlimited extension of 5 minutes). The bidder may improve their offer in multiple of amount mentioned under the column **“Bid Increment Amount”**. In case bid is placed in the last 5 minutes of the closing time of the e-auction, the closing time will automatically get extended for 5 minutes.

9. It is advisable and recommended to bid before end time of extended period to avoid last moment issues like connectivity problem, power cut problem, internet failure and non-submission bid due to any other circumstances. Linkstar Infosys Private Limited shall not be liable for non-submission of last moment bid due to such reason.
10. The Earnest Money Deposit of the Successful Bidder shall be retained towards part sale consideration and the Earnest Money of unsuccessful bidders shall be refunded within 30 (thirty) days of the date of closure of the E-Auction under Swiss Challenge Mechanism. The Earnest Money Deposit shall not bear any interest. Default in deposit of amount by the Successful Bidder would entail forfeiture of the whole money, already deposited and the defaulting bidder shall have no claim / right in respect of property / amount.
11. The purchaser / Successful Bidder shall bear the applicable custom duties / additional duty / transfer charges, fee, Taxes, GST, VAT, TDS, Excise, etc. and also all the statutory / non statutory dues, taxes, rates assessment charges fees, etc. owing to anybody.
12. The sale certificate will be issued and / or transaction / sale documents executed in the name of purchaser(s) / applicant(s) / successful bidder only and will not be issued in any other name(s).
13. The sale shall be subject to conditions prescribed under the Insolvency & Bankruptcy Code, 2016 and provisions and regulations thereunder and other applicable laws and regulations and the approval of the Hon'ble NCLT.
14. The decision of Liquidator on declaration of successful bidder shall be final and binding on all the Bidders.

Huzefa Fakhri Sitabkhan, Liquidator
Essar Power (Jharkhand) Limited - In Liquidation
IP Registration No: IBBI/IPA-001/IP-P00031/2017-18/10115
Authorisation for Assignment valid till December 19, 2024
(Applied for Renewal)

Think Capital Insolvency Professionals LLP,
1011-1012, Dalamal Tower, Free Press Journal Road,
211, Nariman Point, Mumbai - 400 021.
Email: epjl.lq@gmail.com / huzefa.sitabkhan@gmail.com

Date: December 26, 2024 (Modified on January 21, 2025)
Place: Mumbai

**ANNEXURE II
DECLARATION BY THE BIDDERS**

Date:

To
Huzefa Fakhri Sitabkhan, Liquidator
Essar Power (Jharkhand) Limited - In Liquidation
Think Capital Insolvency Professionals LLP,
1011-1012, Dalamal Tower, Free Press Journal Marg,
211, Nariman Point, Mumbai - 400 021.

Sir,

1. I / We, the Bidder(s) aforesaid do hereby state that, I / We have read the entire terms and conditions for the sale of Corporate Debtor on a going concern basis (excluding the assets of the Corporate Debtor lying at KoPT) as specified and have understood them fully. I / We hereby unconditionally agree to confirm with and to be bound by the said terms and conditions and agree to take part in the E-Auction under Swiss Challenge Mechanism.
2. I / We declare that the Earnest Money Deposit and the deposit towards purchase-price have been made by me / us as against my / our bid and that the particulars of remittance and all other information given by me / us in the online form is true and correct.
3. I / We further understand and agree that if any of the statement / information revealed by me / us is found to be incorrect and / or untrue, the bid submitted by me / us is liable to be cancelled and in such case, the Earnest Money and / or any monies paid by me / us is liable to be forfeited by the Liquidator and the Liquidator will be at liberty to annul the offer made to me / us at any point of time.
4. I / We also agree that after my / our offer given in my / our bid is for acquisition of Corporate Debtor on a going concern basis (excluding the assets of the Corporate Debtor lying at KoPT) is accepted by the Liquidator and if, I / We, fail to accept or act upon the terms and conditions of the sale or am / are not able to complete the transaction within the time limit specified for any reason whatsoever and / or fail to fulfill any / all the terms and conditions of the E-Auction Process under Swiss Challenge Mechanism and Letter of Intent, the Earnest Money Deposit and other monies paid by me / us along with the online form and thereafter, are liable to be forfeited. The timeline for payment of final sale consideration may be extended at the sole discretion of the Liquidator in consultation with the SCC. In case final sale consideration is not paid within timeline, the Liquidator shall forfeit Earnest Money and any monies received.
5. I / We understand that the Earnest Money of all Bidders shall be retained by the Liquidator and returned only after the successful conclusion of the E-Auction Process under Swiss Challenge Mechanism. I / We, state that I / We, have fully understood the terms and conditions therein and agree to be bound by the same.
6. I / We confirm that our participation in the E-Auction under Swiss Challenge Mechanism, submission of bid or acquisition of the Corporate Debtor on a going concern basis (excluding the assets of the Corporate Debtor lying at KoPT) pursuant to the provisions of the Process Document will not conflict with, or result in a breach of, or constitute a default under (i) our constitutional documents; or (ii) any applicable laws; or (iii) any authorization or approval of any government agency or body; or (iv) any judgment, order, injunction, decree, or ruling of any court or governmental authority, domestic or foreign binding on me / us; or (v) any agreement to which I am / we are a party or by which I am / we are bound.
7. The decision taken by the Liquidator with respect to the selection of the Successful Bidder and communicated to us shall be binding on me / us.

8. I / We also undertake to abide by the additional conditions if announced during the E-Auction Process under Swiss Challenge Mechanism including any announcement(s) on correction of and / or additions or deletions to the time of bidding portal and property (ies) being offered for sale.
9. I / We confirm that the Liquidator and his employees, shall not be liable and responsible in any manner whatsoever for my / our failure to access and bid on the auction portal due to any unforeseen circumstances, etc. before or during the auction event.
10. I / we hereby unconditionally and irrevocably give consent to proceed with this E-Auction under Swiss Challenge Mechanism and undertake that neither the Liquidator nor any of his officers / agents / consultants would be held accountable for any such untoward situation, if the same arises.
11. I / We hereby confirm that I / we are eligible to purchase the Company under Section 29 A of the Insolvency and Bankruptcy Code, 2016.
12. I / We hereby confirm that despite being declared as the eligible prospective bidder or the successful bidder, if it is found that I / we are ineligible to submit the bid under Section 29 A of the IBC (as amended from time to time) or under Regulation 33(3) of the Liquidation Regulations or am/are found to have made a false or misleading declaration of eligibility under Section 29 A of the IBC (as amended from time to time) at any point of time before the issuance of sale certificate, the Liquidator has the right to forfeit the entire amount submitted by me / us till that point of time and thereby cancel the E-Auction Process under Swiss Challenge Mechanism.
13. I / We hereby unconditionally and irrevocably agree that the current process is an E-Auction Process under Swiss Challenge Mechanism and also agrees to the terms and conditions of the E-Auction Process under Swiss Challenge Mechanism, wherein it is expressly understood that despite being declared as Challenger Bidder or the highest bidder in the bidding process, the same would not automatically be construed as the Successful Bidder. Further, the Original Bidder retains the Right of First Refusal (RoFR) to match the Counter Bid / highest bid and if the same is exercised by the Original Bidder, then the Original Bidder would become the Successful Bidder. However, if the Original Bidder does not exercise the RoFR and match the Counter Bid, then the Challenger Bidder would become the Successful Bidder.
14. I / We hereby unconditionally and irrevocably agree that, under no circumstances, we and / or the Challenger Bidder would be given an opportunity to increase the Counter Bid post the conclusion of the E-Auction Process. Thus, I / We undertake to submit its best possible and most competitive bid to a level where the Original Bidder may be unable or unwilling to exercise its RoFR and secure the status of the Successful Bidder.
15. I / We hereby unconditionally and irrevocably agree and confirm my / our acceptance of the defined payment terms and conditions as stipulated in the E-Auction Process, ensuring full compliance with the rules governing this E-Auction Process under Swiss Challenge Mechanism through this process memorandum.
16. I / We hereby unconditionally and irrevocably agree that the Sale of the Corporate Debtor (excluding the assets of the Corporate Debtor lying at KoPT) on Going Concern Basis on Private Sale Method under this E-Auction Process under Swiss Challenge Mechanism, is subject to receipt of the Final Approval from the Hon'ble NCLT, Principal Bench, New Delhi.

(Signature)

Name:
 Address:
 Email Id:
 Mobile:

ANNEXURE III

TECHNICAL TERMS & CONDITIONS OF E-AUCTION PROCESS UNDER SWISS CHALLENGE MECHANISM

1. Intending bidders shall have a valid e-mail ID, valid PAN Card and KYC document to register with the E-Auction Service Provider.
2. Intending bidders have to register with the e-auction service provider.
3. Only upon verification of the Online Form and confirmation of remittance of Earnest Money will the Qualified Bidders be declared and thereafter, permitted to access the Platform for bidding.
4. The Bidder shall be solely responsible for all consequences arising out of the bid submitted by him (including any wrongful bidding) and no complaint / representation will be entertained in this regard by the Agency / the Seller. Hence, Bidders are cautioned to be careful to check the bid amount and alter / rectify their bid if required before confirming the bid submitted.
5. Bidders should not disclose their User ID as well as password and other material information relating to the bidding to anyone to safeguard its secrecy.
6. Bidders are advised to change the password immediately on receipt thereof.
7. The declaration as per the format set out in **Annexure II** must be executed in accordance with applicable law and it must be issued in accordance with the constitutional documents of the Bidder, if applicable, after obtaining all corporate approvals as may be required. The extract of constitutional documents and certified copies of the corporate approvals must be enclosed with the declaration. In case of Bidder being an individual, the declaration must be personally signed by the Bidder. In case the Bidder is not an individual, the declaration must be signed by a person who is in fulltime employment of the Bidder and duly authorized to sign the same.
8. All the aforementioned documents are required to be uploaded on the portal and the original physical copies thereof shall be provided by the Successful Bidder to the Seller in accordance with the Process Sale Document.
9. All bids placed are legally valid bids and are to be considered as bids from the Bidder himself. Once the bid is placed, the Bidder cannot reduce or withdraw the bid for whatever reason. If done so, the Earnest Money amount shall be forfeited.
10. The bidder shall have to bid for the entire block(s) of assets and cannot bid for individual assets within a block of assets.
11. The highest bid on the auction portal shall supersede all the previous bids of the respective Bidders. The Bidder with the highest offer / bid does not get any right to demand for acceptance of his bid.
12. After the conclusion of the E-Auction Process under Swiss Challenge Mechanism, the Challenger Bidder shall be informed through a message generated automatically by the portal, of the outcome of the e-auction.
13. Bidders may encounter certain unforeseen problems such as time lag, heavy traffic, and system / power failure at the Bidder's end. To avoid losing out on bidding because of above-mentioned reasons, it is advised not to wait for the last moment.