

Expression of Interest for Participating in Auction process of Varanasi Auto Sales Limited

Date of publish: 15.01.2024

Place: Varanasi, Uttar Pradesh, India

**Auction process for sale of Immovable Property in the form of Land and
Building including structures of Varanasi Auto Sales Limited (in
Liquidation)**

**Issued by,
Yogesh Gupta,
Liquidator for Varanasi Auto Sales Limited.
Regn. No. IBBI/IPA-001/IP-P00349/2017-18/10650**

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**Registered Address: M/S. S. Jaykishan, Chartered Accountants,
Suit No.2D, 2E, 2nd floor, 12, Ho Chi Minh Sarani, Kolkata - 700071**

AFA Certificate No.: AA1/10650/02/100524/105728

AFA Valid up to: 10-05-2024

DISCLAIMER

This document is issued by Yogesh Gupta the Liquidator, Varanasi Auto Sales Limited (In Liquidation) 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 auction bids for the **Land and Building including structures at Plot No 9, Village Babatpur, Pargana Athwagan, Tehsil Pindra, Varanasi, Uttar Pradesh of Varanasi Auto Sales Limited (in liquidation) (the “Company”)** in accordance with the Insolvency and Bankruptcy Code, 2016 (‘IBC’). Nothing herein or in materials relating to the Expression of Interest is intended to be construed as legal, financial, accounting, regulatory or tax advice by the Liquidator. This Expression of Interest is personal and specific to each auction process participant (Bidder). Neither this Expression of Interest 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 Expression of Interest does not solicit any action based on the material contained herein.

The information in this Expression of Interest, 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 Expression of Interest 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 Expression of Interest includes current or historical information, the accuracy, adequacy, authenticity, correctness, fairness, and completeness of such information cannot be guaranteed. By acceptance of this Expression of Interest, 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 by any stock exchange in India or any other jurisdiction.

This Expression of Interest and information contained herein or disclosed pursuant to the terms of this Expression of Interest 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 Expression of Interest in certain foreign jurisdictions may be restricted by law, and Persons into whose possession this Expression of Interest 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 Expression of Interest, including for the Auction Participant (Bidder) not being selected as a Successful Auction Participant or on account of any decision taken by the Liquidator.

The Liquidator and/or the Company give no undertaking to provide the recipient with access to any additional information or to update this Expression of Interest 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 applicant. The issue of this Expression of Interest 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 Expression of Interest, the auction process applicant 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 regulatory or other approvals, if any, that are or may be required under applicable law and nothing contained in this Expression of Interest shall be deemed to relieve, wholly or partially, directly or indirectly, the auction process applicant 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 Expression of Interest shall be construed as, or operate either, wholly or in part, as exempting the auction process applicant from complying with all such laws, as are or may be applicable. By procuring a copy of this Expression of Interest, the recipient accepts the terms of this disclaimer notice, which forms an integral part of this Expression of Interest and all other terms and conditions of this Expression of Interest. Further, no Person, including the Auction Participant shall be entitled 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 Expression of Interest or otherwise, including the accuracy, adequacy, authenticity, correctness, completeness or reliability of the information or opinions contained in this Expression of Interest and any assessment, assumption, statement or information contained therein or deemed to form part of this Expression of Interest, 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.

In no circumstances shall the Auction 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” and “Without recourse basis” and the proposed sale of assets 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 immoveable assets of the Company.

The Auction 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 Expression of Interest is neither transferable nor assignable.

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Sl. No.	Description	Remarks
1	Event Type	Auction under Liquidation Process of IBC, 2016
2	Corporate Debtor's Name	M/s Varanasi Auto Sales Limited
3	Property Description	Land and Building including structures situated at Plot/ Arzi No 9, Village Babatpur, Pargana Athwagan, Tehsil Pindra, Varanasi. The Land admeasuring more or less 11479 Sq Meters. The concern property is located near underpass of overbridge opposite to Varanasi Airport road on Lucknow – Varanasi Highway.
4	Date of Invitation of EOI	15.01.2024
5	Last Date of Submission of Expression of Interest (EOI), Section 29A declaration, Confidentiality Undertaking and other documents as per the Eligibility Criteria	Tuesday, the 30th January, 2024 on or before 05:00 P.M.
	Last Date of declaration of Qualified Bidder	Wednesday, the 31 st January, 2024
	Last date of submission of EMD	Thursday the 8 th February, 2024 on or before 06:00 PM
	Last Date of inspection or due diligence of assets under auction	From 1 st February, 2024 to 7 th February, 2024 [both days inclusive]
7	Mode of Submission of EOI	Electronically or Offline (Sealed Envelope)
8	Auction Start date & time	Monday the 12 th February, 2024 and time 11:00 A.M.
9	Auction End date & time	Monday the 12 th February, 2024 and time 5.00 P.M.
10	Mode of Auction	Online
11	Bid Increment Value	Rs. 10,00,000/- (Ten lacs only)
12	Reserve Price (in Rs.)	Rs. 33,30,00,000/- (Thirty Three Crores Thirty Lacs Only)
13	Earnest Money Deposit (EMD @10% of the Floor Price)	Rs.3,33,00,000/-
15	Contact Person	Mr. Yogesh Gupta Mobile: +91-9831752939 E-mail:yogeshgupta31@rediffmail.com, liquidatorvasl@gmail.com

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TERMS & CONDITIONS:

The Auction process for sale of Assets of the Corporate Debtor shall be completed in following steps, brief of which is mentioned herein under:

- a) Submission of EoI by Prospective Bidder(s) [hereinafter referred to as PB].
- b) Submission of Confidentiality Undertaking by PB in specified format.
- c) Submission of Eligibility Undertakings u/s 29A of the IBC, 2016 by PB in specified format.
- d) Submission of **EMD of 10% of the Floor price** in the form of NEFT / RTGS by interested PB.

Account Name: VARANASI AUTO SALES LIMITED(In Liquidation)

Bank Name: YES BANK

Current Account No.: 019081300003803

IFSC Code: YESB0000190

Branch: STEPHEN HOUSE, KOLKATA

- e) Generation of User Id of the PB concerned for participation in Auction through designated service provider after submission of KYC document and EMD.
- f) Bidding by PB through designated auction platform on the appointed day.

Accepting/rejecting any or all the bids is at the sole discretion of the Liquidator without assigning any reason whatsoever

1. Important Information:

This Auction Process Document has been issued with the intent to carry out auction **process for sale of Assets (Land & Building including structures)** of **M/s. Varanasi Auto Sales Limited (in liquidation)** under the provisions of the Insolvency and Bankruptcy Code, 2016 (**IBC**) and the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (**Liquidation Process Regulations**).

All information provided in this Auction Process Document should be read together with the provisions of the IBC and the Liquidation Process Regulations. In the event of a conflict between this Auction Process Document 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.

This Auction Process Document is neither a prospectus, nor an offer document nor a letter of offer for sale of the Company, sale of company's assets, or an official confirmation of any transaction entered into by neither the Company nor an agreement by the Liquidator to the Interested Bidders or any other person. The Auction Process Document purports to ascertain interest of potential applicants and does not create any kind of binding obligation on the part of the Liquidator, his/her professional advisors or the Company to effectuate the sale of

the assets of the Company.

The Liquidator may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this Auction Process Document.

The issue of this Auction Process Document does not imply that the Liquidator is bound to select an Interested Bidder as Successful Bidder for sale of company's assets and the Liquidator reserves the right to reject all or any of the Interested Bidders or bids without assigning any reason whatsoever.

Each Interested 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 auction, 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.

All terms and conditions with respect to the sale of the company and/or assets of the Company shall be governed by the directions of the Liquidator, National Company Law Tribunal (NCLT), Allahabad and in accordance with the provisions of applicable laws. The Liquidator shall exercise all rights with respect to sale of the Company and/or its assets and it would be open to the Liquidator to appoint such experts, professionals or other persons, as the Liquidator might think necessary.

The Annexure to this Auction Process Document shall form an integral part hereof and this Auction Process Document shall always be read in conjunction with the Annexure hereto.

The title documents relating to the asset(s), to the extent available, shall be provided on request to be made to the Liquidator at yogeshgupta31@rediffmail.com

2. The Single bidder have to bid for all the Immovable properties mentioned in above table all together. The bid will not include the stores materials, spares parts, Equipment, old vehicles, furnitures, etc, stored at the above Property.
3. The prospective bidder to do their own due diligence of the land, its ownership, location, plotting, payment of land revenue and taxes etc before participating in the auction process.
4. Debt Recovery Tribunal, Allahabad, vide order dated 25.03.2021, have directed to maintain Status Quo on the said plot, against which, for vacating the DRT Order, Writ Application have been filed by the Liquidator, before Allahabad High Court, bearing Writ No 31611 of 2023, pending disposal. DRT order has not been vacated as on the date. However, as per provisions of Section 238 of the IBCode, 2016 IBC 2016 supersedes Other legislation.

1. Cautions to Bidders:

- a.** The auction is being conducted strictly on an “**AS IS WHERE IS BASIS**”, “**AS IS WHAT IS BASIS**”, “**WHATEVER THERE IS BASIS**” and “**NO RECOURSE BASIS**” and **as such the said disposition is without any kind of warranties and indemnities**”.
- b. Bidders are advised to go through all the terms and conditions of sale given in this E- Auction Process Document and also in the Notice of Sale before participating in the online bidding/auction.
- c. The auction shall entitle the Successful Bidder to all the rights & duties of the incumbent holder in respect of the properties.

2. Inspection of the Assets - Buyers Beware:

- d. Bidders are requested to inspect the assets & documents and satisfy themselves regarding the physical nature, condition, extent, volume, quantity, quality etc., of the assets prior to submission of their bids. All costs incurred in connection with such inspection shall be borne by the Bidders.
- e. The Agency /the Liquidator shall not be responsible for rendering any assistance to the Bidder in connection with its independent inspection of the assets.
- f. Bidders are bound by the principle of Caveat Emptor (buyer beware).
- g. Bidders are requested to submit their bids only after conducting their own independent due diligence exercise.

Other Terms

It shall be the responsibility of the interested bidder to inspect the assets/property/documents at their own expenses and satisfy themselves about the assets/property, its title and all documents related to the assets/property before submission of the bid.

The Prospective H1/Successful Bidder shall be responsible for the applicable stamp duties/additional stamp duty/Road Tax/any other taxes specific to the asset/property, transfer charge, fees, GST, any other applicable Taxes related to the transaction etc and for perfection of the documents related to the asset/property of the CD.

The applicable stamp duties/additional stamp duty/Road Tax/any other taxes specific to the asset/property/transfer charge, fees, GST, any other applicable Taxes etc related to the transaction shall be borne by the Prospective H1/Successful Bidder.

The Prospective Bidder shall bear the applicable stamp duties/additional stamp duty/ transfer charge, fees, GST, any other applicable Taxes etc., the statutory/non-statutory dues, water/ electricity/Service charges, transfer fees, dues of the municipal corporation/ local authority dues including taxes, rates, assessment charges, fees or any other cess,

duties, levies by whatever name it is called, if any, in respect of the said assets, owing to anybody to get it transferred in its own name.

Conditions related to other items:

It shall be the responsibility of the interested bidder to inspect the property & assets at their own expenses and satisfy themselves about the property & assets before submission of the bid.

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 over and above the bid amount.

Pre-bid qualification: Technical & Financial

EOI would be subject to evaluation on various Technical Parameters e.g. Consolidated group revenue and/or Assets under Management (AUM) in the same/similar activity and various Financial Parameters e.g. Consolidated Group Net Worth and/or Funds available for deployment including the following:

In case of body Corporates or Individuals:

Private/Public Limited Company, LLP, Body Corporate (whether incorporated in India or outside India) and Individual/ HUF, with minimum **Tangible Net Worth (TNW) of INR 5.00 Crore (Rupees Five Crore only)** (as per The Companies Act, 2013) in the immediately preceding completed financial year.

In case of Financial Institutions (FI*)/Funds/Private Equity (PE) Investors/Non-banking financial company (NBFC)/Any other applicant (in such case Parameter related body corporate or individual will not apply):**

Minimum Asset Under Management (AUM) of **INR 50.00 Crore (Rupees Fifty Crore only)** in the immediately preceding completed financial year.

In Case of ARC, they have to be eligible to participate in e auction process in terms of the RBI Guidelines.

** FI as defined under Section 45-I(c) of RBI Act*

*** NBFC as defined under Section 45-I(f) of RBI Act*

In case of bidding as a consortium:

- Lead member must hold at least 51% equity in the consortium.

In case of Individual applicant:

- Family includes the applicant, His / Her Spouse, Both the parents of the applicant, Children and their spouse, of the applicant.

Note:

1. The PB expressing their interest to participate in the auction process is required to provide KYC, Profile, Audited Balance Sheet and Audited Profit & Loss Account (in case of person not required to prepare ABS & PL certified copy of Balance Sheet and Profit & Loss account by an independent Chartered Accountant) and any other documents which may be required by the liquidator.

2. Management shall also certify the same in addition to submission of supporting documents.

Bidding Process

If any offer is received within the last 5 minutes of closure time, the bidding time will be extended automatically by another 5 minutes and if no higher bid is received within the extended 5 minutes, the auction will automatically get closed at the extended 5 minutes. The bidder who submits the highest bid amount (and above reserve price) on closure of auction process shall be declared as H1 bidder and a communication to that effect will be issued through electronic mode by the Liquidator.

The H1 bidder shall deposit 25% of sale price within 7 days, after adjusting the EMD already paid, immediately on the acceptance of offer by the Liquidator, failing which the earnest money deposit by the bidder shall be forfeited. **The balance 75% of the sale price is payable within 21st day from the date of closure of auction or such extended period as agreed upon in writing by and solely at the discretion of the Liquidator but not later than 90days from the closure of auction, provided any payments made after 30 days, shall be paid with interest @12%.** In case of failure to deposit the balance amount within prescribed period, any amount deposited by the H1 bidder shall be forfeited and the said bidder shall neither have any claim of whatsoever on the property nor on any part of the sum for which it may be subsequently sold.

The Applicant who submits the highest Bid shall be declared H1 bidder for the auction. The Liquidator shall issue **“Letter of Invitation”**. The EMD deposited for bidding by the H1 bidder will be treated as Deposit for participating in the Auction process. **Declaration of the Highest (H1) Bidder or issuance of Letter of Invitation does not confirm sale in favor of the Applicant making the Highest Bid, it is subject to the fulfillment of Terms & Condition of Auction stated here under and the possession & ownership (as it is with the CD subject to applicable law, rules, regulation & judicial pronouncement) of the property will be passed on only after payment of full amount including taxes, duties, etc & as per time line as mentioned above & compliance/fulfilment of the terms & condition of EOI.**

In case of failure on the part of the H1 bidder to fulfill the terms & condition of EOI and/or to take the possession within agreed period, the EMD/Deposit and any other amount deposited/paid by the H1 bidder shall be forfeited and the said bidder shall neither have any claim of whatsoever on the property nor on any part of the sum for which it may be subsequently sold.

The EMDs of the unsuccessful Applicants shall be refunded within 30 days from the date of declaration of H1 bidder and issue of invitation to make Balance payment by the Liquidator to the H1 bidder. In case of cancellation of the auction sale, the EMDs of the Applicants shall be refunded within 30 days of the date of cancellation of the auction sale. Please note there is no interest payable on EMD in any condition.

In case the H1 bidder does not comply with Terms & Conditions of the auction, consequently the amount deposited by the H1 bidder will be forfeited as per terms of auction. H1 bidder after complying with all the Terms & Conditions shall be called successful Bidder.

On payment of entire sale price and upon completion of sale formalities, the Liquidator shall execute certificate of sale or sale deed to transfer such assets separately for each auction and the assets shall be delivered to the H1 Bidder in the manner specified in the terms of sale. The sale shall be subject to provisions of Insolvency and Bankruptcy Code, 2016 and Regulations made there under.

The sale shall be subject to provisions of IBC 2016 and regulation of insolvency and bankruptcy board of India (Liquidation) regulation 2016.

The properties mentioned above can be inspected by the prospective bidders with prior appointment with **Mr. Yogesh Gupta (+91- 9831752939)**.

Required documents to be submitted along with EMD:

1. In case of Individual:

- Latest CIBIL report
- KYC documents
- CA Certified Net worth certificate (on the letterhead of CA)
- Section 29A (AFFIDAVIT)
- Confidential Review report from Banks and Financial Institutions where the bidder maintains relationship (Liabilities / Assets)
- Declaration AFFIDAVIT stating that the Applicant and its family do not have any relation with the Corporate Debtor.
- List of entities in which the bidder has management or control (right to appoint majority director or majority voting share or influence voting) and/or is a Promoter or Director or Partner.
- List of Banks and Financial Institutions with which the bidder holds accounts and/or has availed credit facilities with corresponding details.

Note: Each document has to be signed by the applicant.

2. In case of Company/LLP:

- Latest Company Profile
- Company PAN, GST.
- MoA and AoA.
- Certificate of Incorporation.
- Company Credit Report
- CIBIL report of all Directors of the Company
- Audited Annual Reports of last 3 Financial Years.
- Section 29A (AFFIDAVIT)

- Declaration AFFIDAVIT stating that the Applicant company and its promoters do not have any relation with the Corporate Debtor.
- Board Resolution.
- List of Banks and Financial Institutions with which the bidder holds accounts and/or has availed credit facilities with corresponding details.

Note: Each document has to be signed by the Authorized Signatory of the applicant.

3. In case of the NBFC/FI/PE:

- Latest Company profile.
- MoA and AoA.
- Certificate of Incorporation.
- Company PAN, GST.
- RBI registration certificate.
- Audited Annual Reports of last 3 Financial Years.
- CIBIL report of all Directors of the Company.
- Section 29A (AFFIDAVIT).
- Declaration AFFIDAVIT stating that the Applicant Company and its promoters do not have any relation with the Corporate Debtor.
- Board Resolution.

Note: Each document has to be signed by the Authorized Signatory of the applicant.

1. FRAUDULANT AND CORRUPTION PRACTICES

The Qualified Bidder shall observe the highest standard of ethics prior to and during the E- Auction process and subsequently during the closure of the E- Auction process and declaration of H1/Successful Bidder. Notwithstanding anything to the contrary contained in this Auction Process Document, or in the Letter of Intent, the Liquidator shall reject an auction bid and/or revoke the Letter of Intent, as the case may be, without being liable in any manner whatsoever to the Qualified /H1/ Successful Bidder, if the Liquidator, in his sole discretion, determines that the Qualified / H1/Successful Bidder has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Auction process or has, under taken any action in respect of such process which results in the breach of any Applicable Law including the Prevention of Corruption Act, 1988. In such an event, the Liquidator may invoke the Earnest Money without prejudice to any other right or remedy that may be available to the Liquidator under this Auction Process Document or Applicable Law.

BID FORM
DETAILS OF BIDDER

(Read carefully the terms and conditions of sale before-filling-up and submitting the bid)

1.Name(s) of Bidder (in Capital) :

2.Father's/Husband's Name:

3.Postal Address of Bidder(s) :

4.Phone/Cell Number and E-mail ID

5.Bank Account details to which EMD amount to be returned

a) Bank A/c. No.:

b) IFSC Code No.:

c) Bank & Branch Name:

6.Date of submission of bid:

7.PANNumber:

8.SaleAsset Sl. No.:

9.WhetherEMD remitted: Yes/No.

10.EMD remittance details*:EMD Amount_ Date of remittance_____

11.NameofBank Branch A/c. No. IFSC Code No._____

I/We declare that I/We have read and understood all the above terms and conditions of auction sale.

I/We also undertake to improve my/our bid by one bid incremental value notified in the sale notice if I/We am/are the sole successful-bidder.

.....

(Name & Signature of the Bidder)

*Mandatory:

Bidders are advised to preserve the EMD Remittance Challan.

(On the letterhead of the Bidder)
DECLARATION BY BIDDER(S)

To,

Date:

Liquidator

..... Limited

Dear Sir,

1. I/We, the bidder/s do hereby state that, I/We have read the entire terms and conditions of the sale and have understood them fully. I/We, hereby unconditionally agree to abide with and to be bound by the said terms and conditions and agree to take part in the Online Auction.
2. I/We declare that the EMD and other deposit towards purchase-price were made by me/us as against my/our offer and that the particulars of remittance given by me/us in the bid form are true and correct.
3. I/We further declare that the information revealed by me/us in the bid document is true and correct to the best of my/our belief. I/We understand and agree that if any of the statement/information revealed by me/us is found to be incorrect and/or untrue, the offer/bid submitted by me/us is liable to be cancelled and in such case, the EMD paid by me/us is liable to be forfeited by the Authorized Officer and that the Authorized Officer will be at liberty to annul the offer made to me/us at any point of time.
4. I/We understand that in the event of me/us being declared as H1 and/or successful bidder by the Liquidator, I/We are unconditionally bound to comply with the terms and conditions of sale. I/We also agree that if my/our bid for purchase of the asset/s is accepted by the Liquidator and thereafter if I/We fail to comply 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 of the terms and conditions, the EMD and any other monies paid by me/us along with the bid and thereafter, is/are liable to be forfeited by the Liquidator.
5. I/We also agree that in the eventuality of forfeiture of the amount by the Liquidator, the defaulting bidder shall neither have claim on the Sale Asset nor on any part of the sum for which it may be subsequently sold.

6. I/We also understand that the EMD of all offerer/bidders shall be retained by the Liquidator and returned only after the successful conclusion of the sale of the Assets. I/we state that I/We have fully understood the terms and conditions of auction and agree to be bound by the same.
7. I/We confirm that our participation in the auction process, submission of bid or acquisition of the company pursuant to the provisions of the E- Auction 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 applicable to me/us; or (iii) any authorization or approval of any government agency or body applicable to me/us; 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.
8. I/We confirm That the Liquidator reserves the right to request for additional information or clarification from us in relation to our proposal and we shall promptly comply with such requirements. Failure to satisfy the queries of the Liquidator within the given timelines may lead to rejection of our proposal.
9. I/We confirm That submission of our proposal alone does not automatically entitle us to participate in the next stage of the bid process. The decision taken by the Liquidator with respect to the selection of the qualified Bidder and communicated to us shall be binding on me / us. We acknowledge that the Liquidator reserve the right to determine at his/her sole discretion, whether or not we qualify for the submission of the proposal and may reject our proposal without assigning any reason whatsoever.
10. I/We confirm that the Liquidator and his/her professional advisors along with employees/agents/advisors, 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.
11. I/We shall upon being notified as the H1 Bidder, pay such amounts and consideration as set out in the EOI process documents, Bid Application Form or/and in Letter of Invitation in the manner strictly in accordance with the procedure set out under the Auction Process Document.
12. I/We confirm undertakes and confirms that every information and record provided in connection with or in the Bid and all the confirmations, declarations and representations made in the Bid, are true, correct and valid as on the date of this Undertaking, and acknowledge that discovery of any false information and record at any time will render the Bidder ineligible to continue in the Bid Process, attract penal action under the IB Code, and the Liquidator shall at his sole discretion be entitled to cancel our Bid and forfeit amount.
13. I/We hereby confirm that I/we are not ineligible to participate in the e auction, purchase the company or Assets of the Company under Section 29A of the Insolvency and Bankruptcy Code,2016.
14. I / We after having considered all documents and information provided by the liquidator in relation to the assets forming part of the bid documents including the inspection and verification of asset and documents, if any, confirm that we have physically inspected the assets as mentioned in bid documents and conditions thereof put on auction and only after such satisfaction am / are participating in auction process. I/We agree that the auction advertisement does not constitute any commitment or any representation of the liquidator. I/We agree to take the assets under sale on **“AS IS WHERE IS BASIS”, “AS IS WHAT IS BASIS”, “WHATEVER THERE IS BASIS” and “NO RECOURSE BASIS”** and as such the said disposition is without any kind of warranties and indemnities”.

15. I/We confirm undertakes and confirms 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.
16. I/We confirm that the decision taken by the Liquidator in all respects shall be binding on me/us.
17. I/We also undertake to abide by the additional conditions if announced during the auction including the announcement of correcting and/or additions or deletions of times being offered for sale.
18. I/We, as prospective bidder understands that during the process of my/our participation in auction and also during the auction process many confidential information will come to my/our knowledge including the bid amount. I/We, therefore undertake to the effect that such information will be kept confidential and will not be provided/given/leaked/disclosed by me/us except if the disclosure of the information is due to requirement of law.

Signature:
Name:.....
Address:..... E-mail
id.....

Note: This document is required to be duly filled in and signed by the bidder and thereafter uploaded in the website <https://ncltauction.auctiontiger.net> during the time of submission of the bid.

BOARD RESOLUTION

(on the letter head of the interested bidder)

CERTIFIED TRUE COPY OF RESOLUTION PASSED BY THE BOARD OF DIRECTORS ("BOARD") OF

[Insert name of the interested bidder] ("COMPANY") IN THE MEETING HELD ON [Insert Date], AT [Insert Time] AT [Insert Place]

WHEREAS pursuant to the E- Auction Sale Notice dated [●] ("EOI"), and subsequent to the E- Auction Process Document dated [●] ("EAPD"), issued by the Liquidator on behalf of M/s Private Limited (in liquidation) in relation to the acquisition of the Company as a going concern or assets of the company, for the purpose of participating in the auction process.

In view of the above, the Board has resolved as follows:

"RESOLVED THAT any of the directors of the Company, be and is hereby authorized to take all the steps required to be taken by the Company for participating and bidding in the auction process in accordance with the terms of the Auction Process Document, including the following:

- a. participating in the auction process and submit and sign other requisite documents, in accordance with the terms of the EAPD;
- b. execute all other agreements, deeds, writings and LOI as may be required in relation to the auction process, including any amendments or modifications as may be suggested by the Liquidator;
- c. to generally do or cause to be done all such acts, matters, deeds and things as may be necessary or desirable in connection with or incidental or for the purpose of implementation and giving effect to the above resolutions for and on behalf of the Company, and to comply with all other requirements in this regard."

"RESOLVED FURTHER THAT a certified copy of the foregoing resolution be furnished as may be required, under the signature of [the Company Secretary / any two of the Directors of the Company]."

Certified to be true

For the Company

Director(s) /Company Secretary Notes:

- 1) The contents of the format may be suitably re-worded indicating the identity of the entity passing the resolution.

AFFIDAVIT

(ON RS 100 NON-JUDICIAL STAMP PAPER AND TO BE NOTARIZED)

I, *[insert the name of the authorized signatory of the Bidder]*, aged about *[]* years, being the authorized signatory of *[insert name of the Bidder/member of consortium]* having its registered office at *[insert address]* [**“Bidder”**], do hereby solemnly affirm and state asunder:

1. That I am duly authorized and competent to make and affirm the instant affidavit for and on behalf of the Bidder in terms of the *[resolution of board of directors/power of attorney to provide the necessary details of such authorization]*. The said document is true, valid and genuine to the best of my knowledge, information and belief.
 2. I acknowledge that Bidder is aware of that, in terms of proviso to sub-section(f) of Section 35(1) of Insolvency and Bankruptcy Code, 2016 (**“IBC”**), read with Section 29A of IBC, certain persons/category of persons have been specified as ineligible for the purposes of participation in an auction to acquire Land and actionable claims of a Company in liquidation.
 3. On behalf of the Bidder, I confirm, that it is eligible to participate in the auction process (**“Bid”**) of **M/s Private Limited (in Liquidation)** [**“Company”**] in accordance with IBC and related rules and regulations issued there under, and any other applicable law.
 4. I state that the present affidavit is sworn by me on behalf of the Bidder in compliance of section 29A of the IBC.
 5. I on behalf of the Bidder and any other person acting jointly or in concert with the Bidder hereby confirm that:
 - i) The Bidder and any connected person as per the Explanation I provided under section 29A of the IBC is not an un-discharged insolvent; or
 - ii) The Bidder and any connected person as per Explanation I provided under section 29A of the IBC, is not identified as a willful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949; or
 - iii) At the time of submission of the bid, the account of the Bidder and any connected person as per Explanation I provided under section 29A of the IBC or an account of the Company under the management or control of such person of whom such person is a promoter, is not classified as non-performing asset in accordance with the guidelines of the Reserve Bank of
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India issued under the Banking Regulation Act, 1949 or guidelines of a financial sector regulator issued under any other law at the time being in force and at least a period of one year or more has lapsed from the date of such classification till the date of commencement of corporate insolvency resolution process of the Company and that I have not failed to make the payment of all overdue amounts with interest thereon and charges relating to non- performing asset before submission of the Bid; or

- iv) The Bidder and any connected person as per Explanation I provided under section 29A of the IBC have not been convicted for any offence punishable with imprisonment for 2 years or more under any Act specified in the Twelfth Schedule or for seven years or more under any law for the time being in force or a period of two years has expired from the date of release of such imprisonment; or
 - v) The Bidder and any connected person as per Explanation I provided under section 29A of the IBC have not been disqualified to act as a director under the Companies Act 2013; or
 - vi) The Bidder and any connected person as per Explanation I provided under section 29A of the IBC have not been prohibited by the Securities and Exchange Board of India from trading in securities or assessing the securities markets; or
 - vii) The Bidder and any connected person as per Explanation I provided under section 29A of the IBC have not indulged in preferential transaction or undervalued transaction or fraudulent transaction in respect of which an order has been made by the Adjudicating Authority under the IBC; or
 - viii) The Bidder and any connected person as per Explanation I provided under section 29A of the IBC have not executed a guarantee in favor of a creditor, in respect of a Company against which an application for insolvency resolution made by such creditor has been admitted under the IBC and no such guarantee has been invoked by the creditor or remains unpaid in full or part; or
 - ix) The Bidder and any connected person as per Explanation I provided under section 29A of the IBC are not subject to any disability, corresponding to clauses mentioned above under any law in a jurisdiction outside India.
6. On behalf of the Bidder, I acknowledge that the Liquidator reserves the right to verify the authenticity of the information and/or the documents submitted by it pursuant to the communication and the Liquidator may request, at his own discretion, for any additional information or documents, as may be required for the purposes of verifying the information so submitted by us. On behalf of the Bidder, I unconditionally and irrevocably undertake, that we shall provide all data, documents and information as may be required to verify the statements made under this affidavit.
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7. On behalf of the Bidder, I confirm that the information and/or documents submitted by us to the Liquidator in accordance with the past communications, are true, correct, and accurate and complete in all aspects and we have not provided any information, data or statement which is inaccurate or misleading in any manner. I further confirm that, in the event the Liquidator determines that we have made any misrepresentation, concealed material information, made a wrong statement or submitted information which is misleading in nature, the Liquidator shall have the right to take any action as he deems fits in accordance with the applicable law, including pursuant to IBC and related rules and regulations.
8. On behalf of the Bidder, I undertake that if during the interim period on and from the date of this Affidavit until the date of completion of the sale of company in terms of the auction process, it becomes ineligible to become a solution applicant under applicable law, including under Section 29A of IBC, it shall immediately and in no event later than two days of such ineligibility, disclose to the Liquidator of its ineligibility in writing with reasons for the same ("Disclosure"). I agree, acknowledge and confirm on behalf of the Bidder, that upon being informed of such Disclosure, the Liquidator shall have the right to reject the bid submitted by it and shall have the right to undertake any action as it deems fit in accordance with the Complete Auction Process Document, including forfeiture of Earnest Money submitted by it (as defined in the Complete Auction Process Document).

(Deponent)

VERIFICATION

Verified at _____ on this _____ (day, month & year), that the above contents of this affidavit are true & correct to the best of my knowledge and belief and nothing has been concealed therefrom.

(Deponent)

CONFIDENTIALITY UNDERTAKING

(on non-judicial stamp paper of Rs.100 and to be notarized)

This Confidentiality Undertaking has been signed by (**Name of potential Bidders**) having its office _____ at _____ acting through Mr. (**Name of person authorized by potential Bidder(s)**), the authorized signatory/authorized representative (**"Bidder"**), which expression shall, unless repugnant to the context, be deemed to include its successors, assigns or legal representative) in favour of **Mr., Liquidator ofLimited (In Liquidation).**

WHEREAS M/s. Limited (In Liquidation), a company registered under Companies Act,1956, (thereafter referred as the **"Company"**) is undergoing liquidation vide NCLT Allahabad Bench (**"NCLT"**) order dated **Mr.....**, a registered insolvency professional with Insolvency and Bankruptcy Board of India (IBBI) having registration number IBBI/IPA-001/IP- has been appointed as liquidator to manage, protect, sell and liquidate the property, assets, business and other affairs of M/s Limited (In Liquidation) (**"Liquidator"**).

WHEREAS the Liquidator has invited prospective Bidders for the purpose of submission of Bid through Auction Process in respect of sale of the Company in accordance with the provisions of Auction Process Information Document and provisions of the Insolvency and Bankruptcy Code, 2016, (**"IBC"**) read with the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations,2016 (**"Liquidation Process Regulations"**).

WHEREAS the Liquidator is required to share certain data, documents in relation to the Company for facilitating the prospective Bidder(s) in their due diligence after receiving an undertaking from each of the potential Bidder(s) to the effect that such member shall maintain confidentiality of the information received from the office of the liquidator and during the course of due diligence 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 IBC and Liquidation Process Regulations.

2. THEREFORE, the Bidder(s) hereby declare(s) and undertake(s) as follows:

1. The Bidder(s) shall not divulge any part of the information shared by the Liquidator or access of relevant information to be collected from the office of Liquidator, through oral or written communication or through any mode to any one and the same shall constitute **"Confidential Information"**. Any information or documents generated or derived by the recipients of Confidential Information that contains, reflects or is derived from any Confidential Information shall also be deemed as Confidential Information.
2. The Bidder(s) further unconditionally and irrevocably undertake and declare that:
 - a) the Confidential Information shall be kept secret and confidential by the

Bidder(s) and shall be used solely in accordance with the terms of the IBC;

- b) the Bidder(s) shall not use the Confidential Information to cause any undue gain or undue loss to itself, the Company, Liquidator or any other person;
 - c) the Bidder(s) shall comply with all provisions of Applicable Law(s) for the time being in force relating to confidentiality and insider trading;
 - d) the Bidder(s) shall protect any intellectual property of the Company which it may have access to;
 - e) the Confidential Information may only be disclosed to and shared with any employees or its advisors by the Bidder(s), in accordance with Applicable Law(s), including in relation to confidentiality and insider trading, 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 of the Company, provided that the 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.
 - f) The Bidder(s) shall ensure that all Confidential Information is kept safe and secured at all times and is protected from unauthorized access, use, dissemination, copying, any theft or leakage;
 - g) the Bidder(s) shall immediately destroy and permanently erase all Confidential Information upon the completion of sale of the Company as provided under E- Auction Process Information Document and the Liquidation Process Regulations;
 - h) the Bidder(s) shall take all necessary steps to safeguard the privacy and confidentiality of the information received from the office of the Liquidator 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, including but not limited to the financial position of the Company, all information related to disputes by or against the Company and other matter pertaining to the Company; and
 - i) the Bidder(s) 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 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 Bidder (s) or any person acting on its behalf.
3. Notwithstanding anything to the contrary contained herein, the following information shall however not be construed as Confidential Information:
- a) information which, at the time of disclosure to the Bidder(s) was already in the public domain without violation of any provisions of Applicable Law(s); or
 - b) information which, after disclosure to the Bidder(s) becomes publicly available and accessible without violation of Applicable Law(s) or a breach of this Confidentiality Undertaking; or
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- c) information which was, lawfully and without any breach of this Confidentiality Undertaking, in the possession of the Bidder (s) prior to its disclosure, as evidenced by the records of the Bidder(s).
4. The Bidder(s) 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 Bidder(s) in the E- Auction Process Information Document/ other relevant information of the corporate debtor collected from the office of the Liquidator. The Bidder(s) further agrees and acknowledges that the Liquidator shall not be liable to the Bidder(s) for any damage arising in any way out of the use of the Confidential Information and further that the Bidder(s) shall not have any claim against the Liquidator or the Company in relation to any information provided.
 5. The terms of this Confidentiality Undertaking may be modified or waived only by a separate instrument in writing signed by the Bidder(s) and the Liquidator that expressly modifies or waives any such term.
 6. Damages may not be an adequate remedy for a breach of this Confidentiality Undertaking and either party may be entitled to the remedies of injunction, specific performance and other equitable relief for a threatened or actual breach of this Confidentiality Undertaking.
 7. Nothing in this Confidentiality Undertaking shall have the effect of limiting or restricting the liability of the Bidder(s) arising as a result of its fraud or willful default as defined under Applicable Law(s).
 8. 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.
 9. 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 Kolkata Bench shall have exclusive jurisdiction over matters arising out of or relating to this Confidentiality Undertaking.
 10. Capitalized terms not defined under this Confidentiality Undertaking shall have the same meaning as provided in the Auction Process Information Document.

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 Bidder (s)].

Signed on

behalf of

(Name of

Bidder(s))
by Mr. _____

(Name and
Designation)
Authorised Signatory

Date:
Place:

[To be furnished in a stamp paper of appropriate value]

AFFIDAVIT STATING ELIGIBILITY U/S 29A

(Pursuant to Section 30(1) read with Section 35(1)(f) and Section 29 A of the Insolvency and Bankruptcy Code, 2016)

[Use one of the below, according to suitability]

1) In case Applicant is an Individual:

I,.....Son/Daughter/ Wife (strike-off, which ever is not applicable) of Shri.....aged.....years do hereby solemnly affirm and declare as follows:

- A. That I am an individual, residing at (Permanent Residential Address), PAN No. and Aadhar No., is competent to enter into contracts as per applicable laws.
- B. That I do hereby confirm and undertake that I am not ineligible as per Section 29A of the Insolvency and Bankruptcy Code, 2016, or any other applicable law nor am I acting jointly or in concert with any ineligible person, in relation to the Sale Assets being acquired.
- C. That I further confirm that in case of any failure in complying with the undertaking mentioned in the preceding paragraph the Liquidator shall have the right to disallow participation in auction and also to take any legal action.
- D. That I further affirm to supply or make available to the Liquidator, such other or further information, undertaking or evidence as may be required by the Liquidator, from time to time.
- E. That the contents of the foregoing paragraphs of this Affidavit are true to my knowledge and belief.

.....Deponent

OR

2)In case Applicant is a company:

I,.....,Son/ Daughter/ Wife (strike-off, whichever is not applicable) of Shri....., aged.....years do hereby solemnly affirm and declare as follows:

- A. That I am one of the Director/Managing Director of.....(Name of Company), having its Registered office at (Registered OfficeAddress of the Company), hereinafter referred to as “**Applicant**”, which expression shall include its successors in interest and permitted assigns;
- B. That I have been duly authorized by the Applicant to submit the EOI on behalf of the Applicant and affirm the Affidavit, *vide* Board Resolution dated ,2018, copy of which is enclosed and thus, competent to do so;
- C. That I do hereby undertake, on behalf of the Applicant, that the Applicant is not ineligible as per Section 29 A of the Insolvency and Bankruptcy Code ,2016, or any other applicable law, nor is it acting jointly or in concert with any ineligible person, in relation to the Sale Assets being acquired;
- D. That Ifurther confirm that incase of any failure in complying with the undertaking mentioned inthe preceding paragraph the Liquidator shall have the right to disallow participation in auction and also to take any legal action;
- E. That I further affirm to supply or make available to the Liquidator, such other or further information, undertaking or evidence as may be required by the Liquidator ,from time to time;
- F. That the contents of the foregoing paragraphs of this Affidavit are true to my knowledge and belief.

.....Deponent

OR

3)In case Applicant is a Partnership Firm/LLP:

I,,Son/Daughter/Wife (strike-off, whichever is not applicable) of Shri....., aged.....years do hereby solemnly affirm and declare as follows:

- A. That I am one of the Partner/Managing Partner of M/s.....(Name of Firm), a Partnership Firm/LLP having its Head Office at..... (Address of Firm), herein after referred to as “**Applicant**”, which expression shall include its successors in interest and permitted as signs;
- B. That I have been duly authorized by the Applicant to submit the EOI on behalf of the Applicant and affirm the Affidavit, and thus competent to do so;
- C. That I do hereby undertake, on behalf of the Applicant, that the Applicant is not ineligible as per Section 29 A of the Insolvency and Bankruptcy Code,2016, or any other applicable law ,nor is it acting jointly or in concert with any ineligible person, in relation to the Sale Assets being acquired;
- D. That I further confirm that in case of any failure in complying with the undertaking mentioned in the preceding paragraph the Liquidator shall have the right to disallow participation in auction and also to take any legal action;
- E. That I further affirm to supply or make available to the Liquidator, such other or further information, undertaking or evidence as maybe required by the Liquidator, from time to time;
- F. That the contents of the foregoing paragraphs of this Affidavit are true to my knowledge and belief.

.....Deponent

This section is intentionally left blank

