

**EAUCTION PROCESS MEMORANDUM  
(Terms and Conditions)**

Invitation for Bids for EAuction(s) for Sale of Assets on “As is where is basis”, “As is what is basis”, “Whatever there is basis” and “Without any recourse basis”, of M/s. Empee Sugars and Chemicals Limited (In Liquidation) (Corporate debtor)” under Regulation 32 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and under the provisions of Insolvency and Bankruptcy Code, 2016 and pursuant to the directions contained in Order of Hon’ble NCLT Order in IA (IBC)/49/2023 in T.C.P. (IB) No. 76/9/AMR/2019.

**Date of Public Notice 23.10.2023**

**Date of E-Auction**

24.11.2023 (12:30 P.M. to 02:30 P.M)

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Issued by:-

**Pankaj Srivastava**  
**Liquidator**  
**M/s. Empee Sugars and Chemicals Limited**  
**Corporate Debtor / Company (In Liquidation)**  
(CIN No. L24110AP1988PLC009291)

(A Company under liquidation process vide Hon’ble NCLT Order  
in IA (IBC)/49/2023 in T.C.P. (IB) No. 76/9/AMR/2019,  
Ayyapareddipalem, Naidupet Mandal, Nellore District, Andhra  
Pradesh-524126)

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[Pankaj Srivastava is an Insolvency Professional, Registered with the Insolvency and Bankruptcy Board of India (IBBI). His IBBI Registration Number is IBBI/IPA-001/IP-P00245 /2017-18/10474. Pankaj Srivastava has been appointed as Liquidator of M/s. Empee Sugars and Chemicals Limited (In Liquidation) by Hon’ble National Company Law Tribunal (NCLT), Amaravati Bench Hon’ble NCLT Order in IA (IBC)/49/2023 in T.C.P. (IB) No.76/9/AMR/2019 to carry out functions of Liquidator as per said Order. His contact details are Email id: [plan@psri.in](mailto:plan@psri.in) ; [ip.empee@gmail.com](mailto:ip.empee@gmail.com) ([psri@live.com](mailto:psri@live.com) as Registered with IBBI); Contact No: 080 2390 2344. He is having his office at Office No. 58, 3rd Cross, Vinayak Nagar, Hebbal, Bengaluru 560024.]

**Contact person for E-Auction process.**

Mr. Pankaj Srivastava  
Ph. No. 080 2390 2344

Notes:

1. This E-Auction Process Information Document is intended only for the interested persons (Bidders) for participating in the EAuction for sale of assets on **“As is where is basis”, “As is what is basis”, “Whatever there is basis” and “Without any recourse basis”**, of M/s. Empee Sugars and Chemicals Limited (In Liquidation) (Corporate debtor) in public E-Auction mode as per directions contained in the Order of Hon’ble NCLT Order in IA (IBC)/49/2023 in T.C.P. (IB) No.76/9/AMR/2019.
2. Terms and conditions, timelines and other requirements etc. for participating in the Electronic Auction are provided in this E-Auction Process Information Document.
3. The timelines, notifications, updates, and other details for the e-auction process would be available on the website <https://nesl.co.in/auction-notices-under-ibc/> of the E-Auction Service Provider, I.e., National E-Governance Services Limited (NeSL). The details of the E-Auction could also be accessed on the website namely <https://www.psri.in/escl/>.
4. Bidders should regularly visit the website(s)/link(s) mentioned in Sale Notice to keep themselves updated regarding clarifications, amendments and/or extension of timelines, if any
5. Bidders desirous to participate need to submit necessary documents as specified in this E-Auction Process Information Document to gain access to the Data Room, if any or participate in the auction on E- Auction Portal <https://nesl.co.in/auction-notices-under-ibc/> upon permission from Liquidator to do the same.
6. The sale transaction and its entire process are subject to I & B Code, 2016 and Liquidation Regulations as applicable to this corporate debtor.
7. Bidders desirous to submit their bid have to submit it on E-Auction portal of the E-Auction Service provider, i.e., National E-Governance Services Limited (NeSL).
8. For the purpose of this Document, notwithstanding anything stated anywhere in this document, the word/context “User” or “Bidder” or “Participant” or any person representing them in any form or manner, or capacity shall have same meaning and responsibilities and obligations as provided in this document.
9. The Corporate Debtor is currently under liquidation as per the provisions of the Code, pursuant to Order of Hon’ble National Company Law Tribunal, Amaravati Bench dated 10/02/2023 (“Order”). Mr. Pankaj Srivastava, registration no. IBBI/IPA-001/IP-P00245/2017-18/10474 has been appointed as the Liquidator of the Corporate Debtor.
10. The term “Sale of the Company or Corporate Debtor” wherever used in this document shall mean, Sale of the Assets and Properties owned by the Corporate Debtor in accordance with the provisions of IBC, Liquidation Process Regulations and this E-Auction Process Information Document (Sale of Assets and

Properties owned by Corporate Debtor).

11. Section 35 of the Code, inter-alia empowers the Liquidator to sell the immovable and movable property and actionable claims of a company in liquidation by public auction or private contract, with power to transfer such property to any person or body corporate, or to sell the Corporate Debtor on slump sale basis. Further, Chapter VI of the Insolvency and Bankruptcy Code of India (Liquidation Process) Regulations, 2016 (“Liquidation Regulations”) read with Schedule I of the Liquidation Regulations, provides for the manner, mode and procedure of sale of the Sale Assets. Regulation 32I of the IBBI (LPR), 2016 empowers the Liquidator to sell the Corporate Debtor.
12. The Bidders should make their own independent inquiries regarding the encumbrances, title of assets put on EAuction and claims /rights /dues / affecting the assets etc. and should conduct their own legal due diligence or other exercise to ascertain viability, suitability, marketability or regulatory approvals or any other aspects whatsoever required in connection with the Assets /Properties/Project of the company whatsoever as may be required by the Bidder and satisfy fully themselves prior to submitting their bid. The E-Auction advertisement does not constitute and will not be deemed to constitute any commitment or any representation of the Liquidator. It is to be noted that the sale as contemplated herein is being carried out, with all the existing and future encumbrances / claims / dues / demands whether known or unknown to the Liquidator. Liquidator shall not be responsible in any way for any third- party claims/rights/dues. The Liquidator accepts no liability of any nature and in any form howsoever or whatsoever in relation thereto.
13. This E-Auction Process (sale of Assets of the Corporate Debtor) will be conducted in accordance with the Schedule I under Regulation 33 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 as per directions of Hon’ble NCLT.
14. A new version of the Sale Process Memorandum or addendum to the earlier version of the Sale Process Memorandum may be released prior to every round of EAuction, at the discretion of the Liquidator or on the advice of the Stakeholders’ Consultation Committee.
15. Any modification in timelines and/or in the “e-auction process information document” including terms and conditions will be notified on the website of the Corporate Debtor i.e. <https://www.psri.in/escl/>.

## **DISCLAIMER**

1. This E-Auction Process Information Document is issued by the Liquidator appointed by Hon'ble NCLT, Amaravati Bench, vide its order dated February 10, 2023, in the T.C.P. (IB) No.76/9/AMR/2019 in the matter of liquidation of M/s. Empee Sugars and Chemicals Limited (Company/Corporate Debtor/ESCL) and it is for general information purposes only. This document is to provide general information, without regard to specific objectives, suitability, financial situations and the requirements of any particular bidder / person.
2. The purpose of this document is to lay out the process for participating in the e-auction process for the sale of the Assets of M/s. Empee Sugars and Chemicals Limited (in liquidation) subject to and in accordance with the terms and conditions of this E-Auction Process Information Document, Provisions of IBC, 2016 and IBBI Liquidation Process Regulations and Order of Hon'ble NCLT. Neither this E-Auction Process Information Document 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.
3. This E-Auction Process Information Document does not solicit any action based on the material contained herein. This document is not a statutory document, and it has not been approved or registered with any regulatory or statutory authority of Government of India or any State Government. Nothing herein or in materials relating to the E-Auction Process Information Document should be construed as legal, financial, accounting, regulatory or tax advice or any sort of assurance or confirmation by the Liquidator.
4. This E-Auction Process Information Document and information contained herein or disclosed should not be printed, reproduced, transmitted, sold, distributed, or published by the recipient, without prior written approval from the Liquidator.
5. It is to be noted that no information being provided in this E-Auction Process Information Document, claims to be comprehensive. Independent due diligence of the intended user of this document or the bidder is necessary as it is only user's / bidder's responsibility and duty to get required assurance by carrying due diligence, search of title to the assets of the Company and matters incidental thereto and conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability, and completeness of the assumptions, assessments, statements, and information provided in this E-Auction Process Information document and also physical condition of Assets etc., of the Company and their suitability and conditions for any sort of operation.
6. 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 or by any of his representatives, officers, agents, or the Company or in relation to the accuracy, fairness, authenticity or completeness of this E-Auction Process Information Document or any other written or oral information made available to any prospective Bidder or its advisors.
7. In so far as the information contained in this E-Auction Process Information Document includes current and historical information, the accuracy, adequacy, authenticity, correctness, fairness, and completeness of such information cannot be guaranteed. By acceptance of this E-Auction Process Information Document, the Bidder shall be deemed to have acknowledged that user/bidder has not relied upon the information provided by the Liquidator and also accepts and acknowledges that no representation and any sort of

warranty / assurance given by the Liquidator.

**8.** This E-Auction Process Information Document and information contained herein or disclosed should not be printed, reproduced, transmitted, sold, distributed, or published by the recipient, without prior written approval from the Liquidator. Distributing or taking/lending/dispatching/transmitting this E-Auction Process Information Document in certain foreign jurisdictions may be restricted by law, and Persons in whose possession this E-Auction Process Information Document comes should inform themselves about, and observe, any such restrictions.

**9.** Neither the Liquidator nor any of the members of the Stakeholders Consultation Committee and its officers nor their Partners, Legal Associates, etc. shall be liable for any damages, whether direct or indirect, including loss of revenue or profits that may arise from or in connection with the use of this E-Auction Process Information Document, including for the E-Auction Participant not being selected as a Successful Auction Participant or on account of any decision taken by the Liquidator.

**10.** Further, apart from the provisions set out in this E-Auction Process Information Document, the Bidder shall be responsible for fully satisfying the requirements of Order of Hon'ble NCLT and provisions of IBC and Liquidation Process Regulations as well as all laws in force that are or may be applicable to the Bidder or the intended manner of sale envisaged under this E-Auction Process Information Document and for obtaining consents, waiver from requisite regulatory and statutory approvals from the concerned regulators, third parties and governmental authorities in order to consummate the sale process as contemplated in the E-Auction Process Information Document. However, failure to obtain any consents, waivers from requisite regulatory and statutory approvals from the concerned regulators, third parties and governmental authorities will not invalidate this Sale Proceedings and the Bidder shall be liable to pay the entire Sale Consideration and in accordance with the terms and conditions of this Process Memorandum.

**11.** In no circumstances shall the E-Auction Participant(s) 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 confidential Information must be kept secret and confidential by Bidder(s) and shall be used solely in accordance with the terms of Confidentiality Undertaking and provisions of IBC, 2016.

**12.** No Person, including the Bidder/User 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 E-Auction Process Information Document or otherwise, including the accuracy, adequacy, authenticity, correctness, completeness or reliability of the information or opinions contained in this E-Auction Process Information Document and any assessment, assumption, statement or information contained therein or deemed to form part of this E-Auction Process Information Document, and the Liquidator or any of his respective advisors, consultants and representatives and the Company, do not have any responsibility or liability for any such information or opinions and therefore, any liability or responsibility is hereby expressly disclaimed.

**13.** The sale of Assets of the Corporate Debtor is proposed to be done on **“As is where is basis”, “As is what is basis”, “Whatever there is basis” and “Without any recourse basis”** and the proposed sale of the Company, as the Assets of the Corporate Debtor, does not entail transfer of any other 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/immovable/tangible/intangible assets of the Company. The proposed sale of the Assets of the Company entails transfer of ownership and control of the entire Assets of the Company in favour of the Successful Bidder and does not in any manner entail separate transfer of right, title, and interest which the Company has on its assets and properties, in favour of the Successful Bidder.

**14.** The E-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 Physical and Electronic 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.

**15.** This E-Auction Process Information Document is neither an agreement nor an offer by the Liquidator to the Prospective Bidders or any other person. The objective of this E- Auction Process Information Document is to provide interested parties with information that may be useful to them in making their bids. It may be noted that the assumptions, assessments, statements, and information contained in the E-Auction Process Information Document may not be complete, accurate, adequate or correct. Each Bidder should, therefore, conduct its own due-diligence, investigations and analysis and should also check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements, and information contained in this E-Auction Process Information Document and may get independent advice from appropriate sources.

**16.** Information provided in this E-Auction Process Information Document to the Bidder(s) has been collected and collated from several sources. The information given by no means claims to be an exhaustive account of statutory requirements and should not be regarded as complete. The Liquidator accepts no liability or responsibility for the authenticity, accuracy or otherwise for any statement or information contained in the E-Auction Process Information Document.

**17.** The Bidders are prohibited from giving or offering any gift, bribe or inducement and any attempt to any such act on behalf of the Bidder towards the Liquidator, or any of his respective professional advisors, affiliates, or Representatives for showing any favour in relation to this document or the process set out herein, shall render the bidder to such liability and penalty as the Liquidator may deem proper, including but not limited to immediate disqualification and exclusion from the process contemplated hereunder.

**18.** Neither the information in this E-Auction Process Information Document nor any other written or oral information provided by the Liquidator, or any of his respective advisors, consultants and representatives is intended to form the basis of or the inducement for submission of any document or information or the Bid by any prospective Bidder or for any investment activity.

**19.** It is to be noted that by procuring a copy of this E-Auction Process Information Document, the recipient accepts the terms of this disclaimer, which forms an integral part of this E-Auction Process Information Document and part of all the other terms and conditions of this E-Auction Process Information Document.

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## **1. IMPORTANT INFORMATION MUST BE READ BEFORE BIDDING:**

1.1. This E-Auction Process Information Document has been issued for the purpose of carrying out E-Auction (e-Auction) for the sale of the Assets of M/s. Empee Sugars and Chemicals Limited (In Liquidation) (the “Corporate Debtor” or “Company” or “ESCL”) in accordance with the provisions of Insolvency and Bankruptcy Code, 2016 (IBC,2016) and Liquidation Process Regulations framed therein.

1.2. The information provided in this E-Auction Process Information Document should be read together with the provisions of the IBC and the Liquidation Process Regulations. In the event of a conflict between this E-Auction Process Information 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 always prevail.

1.3. The information contained in this E-Auction Process Information Document or subsequently provided to Bidder(s), whether verbally or in documentary or electronically or any other form by or on behalf of the Liquidator, is provided to Bidder(s) on the terms and conditions as set out in this E- Auction Process Information Document.

1.4. The Liquidator has no responsibility towards the authenticity of the licenses / trademark registration of the brand / name of the Company and in relation to the products or services of the Company. Interested Bidder(s) is / are advised to conduct their own legal due diligence towards continuing with the same name in the hands of the Successful Bidder. This E-Auction Process Information Document does not constitute advice and the Liquidator should not be held responsible for any sort of claim on use of such trademark/brand by any constitution / party (including related party (s)). The Liquidator hereby excludes any warranty, express or implied by any party on such licenses/trademark/brand. No responsibility is taken by the Liquidator regarding any implications on the future usage of such Licenses/trademark/brand.

1.5. The Liquidator also hereby disclaims any and all liability for any statements made or omitted to be made in this E-Auction Process Information Document or, any action taken or omitted to be taken pursuant to this E-Auction Process Information Document.

1.6. The Liquidator may in his absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this E- Auction Process Information Document. Further, the Bidders must specifically note that the Liquidator reserves the right to change, update, amend, supplement, modify, add to, delay or otherwise annul or cease the liquidation proceedings at any point in time, for any reason whatsoever determined in his sole discretion without obligation to notify any Person of such revision or changes.

1.7. The issuance of this E-Auction Process Information Document does not imply that the Liquidator is bound to select a bidder as Successful Bidder for sale of the Assets of the Company and the Liquidator reserves the right to reject all or any of the Bidders or their Bid(s).

1.8. National E-Governance Services Limited (NeSL) is the E-Auction Service Provider appointed for the purpose of EAuction of the Assets of M/s. Empee Sugars and Chemicals Limited. The sale as contemplated in this E-Auction Process Information Document shall be undertaken by the E- Auction Service Provider for and on behalf of the Liquidator through an E-Auction platform provided on the website / portal of the E-Auction Service Provider (“Platform”).

1.9. Other details with respect to the E-Auction are as follows and the relevant annexures and formats are provided herein:

| <b>Type of Bid</b>                    | <b>E-Auction</b>                                                                                                                                                                                                                  |
|---------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Seller                                | Pankaj Srivastava, Liquidator for Empee Sugars and Chemicals Limited<br>Website of Corporate Debtor: <a href="https://www.psri.in/escl/">https://www.psri.in/escl/</a>                                                            |
| Website of E-Auction Service Provider | <a href="https://nesl.co.in/auction-notice-under-ibc/">https://nesl.co.in/auction-notice-under-ibc/</a><br>Person- Mr. Araventhana S<br>Contact no.- 9384676709<br>Email id- araventhana@nesl.co.in                               |
| E-Auction Service Provider            | M/s National E-Governance Services Limited (NeSL)                                                                                                                                                                                 |
| Annexures                             | Annexure I: Affidavit and Undertaking<br>Annexure II: Confidentiality Undertaking<br>Annexure III: Bid Application form<br>Annexure IV: Declaration by BIDDER(S)<br>Annexure V: Letter of Intent<br>Annexure VI: Board Resolution |
| Special Instructions                  | Please note that this bidding is a serious matter and last-minute bidding may lead to unnecessary lapses. Neither the E-Auction Service Provider nor the Liquidator will be responsible for any lapses on part of the Bidders.    |

1.10 All terms and conditions with respect to the sale of the Assets of the company shall be governed in accordance with the provisions of IBC and Liquidation Process Regulations read with the decisions of the Liquidator in Consultation with Stakeholders Consultation Committee and directions of the NCLT, if any from time to time.

1.11 This E-Auction Process Information Document is neither transferable nor assignable.

1.12 Photocopies of title documents in relation to assets of the company as available with the liquidator would be made available to qualified Bidder(s) on request to the liquidator through Data Room, if any or in any other appropriate manner by the Liquidator. Nothing contained in this E-Auction Process Information

Document shall be deemed to relieve, wholly or partially, directly or indirectly, the Bidder from their compliances under IBC, 2016, any other law in force, and / or any instrument having the force of law, as may be applicable to them.

1.13 The Bidder shall inform themselves concerning, and shall observe and comply with, any applicable legal requirements.

1.14 All terms and conditions with respect to the sale of the Assets of the Company shall be governed by the directions of the Liquidator, the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, Hon'ble National Company Law Tribunal (Amaravati Bench), Hon'ble National Company Law Appellate Tribunal (NCLAT), and in accordance with the provisions of other applicable laws. The Liquidator shall exercise all rights with respect to the sale of the Assets of the Company, 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 Assets of the Company.

1.15 Documents and/or relevant and material information about the Company and the documents relating to the assets of the Company may be available in the Data Room, if any or such other form and manner considered appropriate for the process. 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 Sale Process Memorandum or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the Sale Process Memorandum and any assessment, assumption, statement or information contained therein or deemed to form part of this E-Auction Process Memorandum or arising in any way from participation in the E-Auction Process. Please find appended the details of the assets of the Company as Appendix 1 in this document.

1.16 It is pertinent to note that in addition to the payment of the full amount of sale consideration, the successful bidder shall also bear applicable GST/taxes, registration fees, etc. It is expressly stipulated that there are no implied obligations on the part of the Liquidator to do all acts, things and deeds whatsoever for the completion of the sale. The sale shall be subject to conditions prescribed under the IBC and provisions and regulations thereunder and directions of Hon'ble NCLT, if any. The sale attracts Stamp Duty, Registration Charges, Taxes, transfer charges, GST and any other applicable taxes as per relevant laws. The Successful Bidder shall bear all the necessary expenses like applicable stamp duties/ additional stamp duty / transfer charges, registration expenses, fees, GST etc., in connection sale of Assets of the corporate debtor. The payment of all statutory / non-statutory dues, taxes, rates, assessments, charges, fees, etc., owed by the Company to anybody in respect of the Properties shall be the sole responsibility of Successful Bidder only.

## 2 KEY DEFINITIONS:

**2.1 “Adjudicating Authority” or “NCLT”** shall mean the Hon’ble National Company Law Tribunal, Amaravati Bench;

**2.2 “Affidavit and Undertaking”** shall mean the affidavit and undertaking provided by the Bidder substantially in form and manner as annexed in **Annexure I** hereto;

**2.3 “Agency”** shall mean e-auction service provider M/s National E-Governance Services Limited (NeSL)

**2.4 “Applicable Law(s)”** shall mean, any or all the applicable laws, codes, 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 otherbody applicable for such transactions including but not limited to the IBC, Liquidation Regulations, Companies Act, 1956 / 2013 (as applicable), Competition Act, 2002 , Income Tax Act, 1961, The Goods and Services Tax Act, 2017, Transfer of Property Act, 1882, Sale of Goods Act, 1930, Foreign Exchange Management Act, 1999, whether in effect as of the date of this E-Auction Process Information Document or thereafter and each as amended from time to time;

**2.5 “Assets”** shall mean the assets of the Corporate Debtor or assets of the corporate debtor as specified in this E-Auction Process Information Document;

**2.6 “Bid”** means, any bid or offer along with other documents, submitted by the Bidder(s) as required in terms of the Sale Notice and E- Auction Process Information Document issued by the Liquidator and in accordance with the provisions of IBC read together with the Liquidation Process Regulations as amended from time to time and the Applicable Law(s);

**2.7 “Bidder(s)” or E-Auction Participant** shall mean a Person or Persons as the case may be, who submitted a Bid as per the E-Auction Process Information Document; and shall include a Qualified Bidder or the Successful Bidder, as the case may be, and as the context requires;

**2.8 “Bid Application Form”** shall mean the form as specified in **Annexure III** of this E- Auction Process Information Document;

**2.9 “Bid Declaration Form”** shall mean a declaration by the Bidders in form as specified in **Annexure IV** of this E-Auction Process Information Document;

**2.10 “Bid Incremental value”** shall mean the minimum amount over and above the last highest bid amount by which any participating Qualified Bidder will be required to increase the next bid on the auction portal;

**2.11 “Company” or “Corporate Debtor” or “ESCL”** shall mean Empee Sugars and Chemicals Limited’ (in Liquidation), a company incorporated in India under the Companies Act of 1956, having its registered office at Naidupet;

**2.12 “Confidential Information”** shall mean any and all information and other materials disclosed, furnished, communicated or supplied by the Company to any bidder, in written or electronic or verbal form, including without limitation, and shall be determined to include (without limitation) the following types of information of a similar nature: any commercial and/ or financial information, improvement, know how, intellectual property, discoveries, ideas, concepts, papers, techniques, models, data, documentation, manuals, flow charts, research, process, procedures, functions, policies and any other information which the Company identifies to be confidential at the time of disclosure to the relevant bidder, and shall include any information that is provided by the Liquidator or his representatives pursuant to the liquidation process or through the Confidentiality Undertaking;

**2.13 “Confidentiality Undertaking”** shall mean an undertaking as specified in **Annexure II** of this E-Auction Process Information Document;

**2.14 “Data Room”** shall mean the virtual data room or such other form and manner considered appropriate for the process and maintained by the Liquidator, created for the Eligible Bidders to access information in relation to the Company where the Liquidator will provide access to documents and/or relevant information about the Company and the photo copies of title documents relating to the assets and properties of the Company and approvals to the Eligible Bidders.

**2.15 “EOI” or “Expression of Interest”** shall mean an intimation from the Bidder(s) to the Liquidator specifying their interest to be a part of the E-Auction process.

**2.16 “E-Auction Process”/”E-Auction”** shall mean the electronic auction process for sale of the Assets of the Company conducted in accordance with the provisions of IBC, Liquidation Process Regulations, Applicable Law(s) and this E- Auction Process Information Document inviting Bid from the Bidders for consummating the sale of assets of the Company basis in accordance with the provisions of IBC and Liquidation Process Regulations;

**2.17 “E-Auction Process Information Document” or Sale Process Memorandum** means this document including all the annexures, Information Memorandum, Data Room information / documents, for the purposes of setting out the process for submission of a bid and selection of Successful Bidder in accordance with the provisions of the IBC and Liquidation Process Regulations and shall include all supplements, modifications, amendments, addendums, alterations or clarifications thereto issued in accordance with the terms hereof;

**2.18 “Interest Free Participation Deposit Money (PDM)”** means an amount of **Rs. 10,00,000/-** to be deposited or transferred to the Liquidation Account of Corporate Debtor by Interested Bidder as token of expressing their interest in participation in EAuction Process. This is the deposit which is refundable

without interest and needs to be given by the bidders as per E-Auction Process Information Documents along with other documents whereby the eligibility will be seen.

**2.19 “Eligible Bidder(s)”** shall mean Bidder(s) who are eligible in terms of this E-Auction Process Information Document, provisions of IBC and provisions of the Liquidation Process Regulations and who deposited the Interest free Refundable Participation Deposit of Rs.10,00,000/- as specified in this document along with EOI;

**2.20 “Eligibility Criteria”** shall mean the criteria as specified in the Clause 4.5 of this E- Auction Process Information Document;

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

**2.22 “Interested Bidder”** shall mean any person or persons who have submitted Intimation Letter (EOI) for Participation along with signed notarized affidavit, signed Declaration and other necessary documents to complete the eligibility check formalities to the satisfaction of the Liquidator with InterestFree Participation Deposit Money.

**2.23 “LOI”** shall mean the letter of intent to be issued by the Liquidator to the Successful Bidder detailing out the terms and conditions to complete the sale of assets of the Company, including the sale consideration to be made by Successful Bidder as per the provisions of this document, IBC and the Liquidation Process Regulations;

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

**2.25 “Liquidator”** means an insolvency professional appointed as a liquidator in accordance with Section 34 of IBC by Hon’ble NCLT;

**2.26 Consideration and Payment Date:**

Payment of entire BID value to be paid within 90 (Ninety) days as per the provisions of the IBBI (Liquidation Process) Regulations 2016 from the date of LOI after adjusting the EMD already deposited:

- i. 15% of the entire Bid Value (excluding 10% of EMD already paid) to be paid immediately within one day after declaration of successful bidder and issuance of LOI.
- ii. 75% of the entire Bid value to be paid as per the norms provided in the Regulations, however:
  - a. payments made after 30 (Thirty) days of the successful e-auction shall attract interest at the rate of 12%;
  - b. that the sale shall be cancelled if the entire payment is not received within ninety days of successful eauction.

**2.27 “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;

**2.28 “Sale Notice /Public Notice”** shall mean the sale notice dated 23.10.2023 published in English language in an English newspaper, i.e. Financial Express and in the vernacular language Telugu in Prajasakti and Tamil to be published in Makkal Kural on 24.10.2023, inviting bid from interested persons to participate in the liquidation process of the Company in accordance with the provisions of IBC and Liquidation Process Regulations;

**2.29 “Qualified Bidder(s)”** shall mean Eligible Bidder(s) who furnishes Earnest Money Deposit of 10% of the reserve prices with respect to the block of assets mentioned in this sale notice and public announcement and also who submits the Bid Documents as listed in the E-Auction Process Information Document and who completed the required formalities and to whom the Liquidator has notified as accepted by the Liquidator as a Qualified Bidder;

**2.30 “Representatives”** shall include partners, directors, officers, employees, affiliates, agents, consultants, advisors or such other representatives of the relevant Person expressly authorized by such Person pursuant to corporate authorizations, powers of attorney, or contract;

**2.31 “Reserve Price”** shall mean the minimum price at which a bid will be accepted on the auction portal from a participating eligible bidder as per requirements of this document.

**2.32 “Site”** shall mean the location of all the immovable and moveable properties including land parcels, office premises, buildings, factories, plant and machineries and owned by the Company, for the purposes of conducting business.

**2.33 “Site Visit”** shall mean a visit to the Site; and

**2.34 “Successful Bidder”** means, the Eligible Bidder or “Successful E-Auction Participant(s) whose Bid is approved and who is declared successful by the Liquidator at the end of the determined auction phase.

**2.35 “Seller”** shall mean M/s Empee Sugars and Chemicals Limited (in Liquidation) acting through the Liquidator;

**2.36 “Tax or Taxes”** means any taxes including any stamp duty, interest tax, excise duties, customs duties, value added tax, sales tax, local taxes, charges, cess, income tax, TDS, TCS, GST, CST, entry tax, octroi and any impost or surcharge of like nature (whether central, state or local) charged, levied or imposed by any governmental authority, as per the requirements of Applicable Laws.

**2.37 “Transfer”** includes sale, purchase, exchange, mortgage, pledge, gift, loan or any other form of transfer of right, title, possession or lien;

**2.38 “Transfer of property”** means transfer of any property and includes a transfer of any interest in the property and creation of any charge upon such property or assignment of receivables, actionable claims or assets under litigation;

The Capitalized terms used herein but not defined otherwise shall have meaning prescribed to them under the provisions of the IBC, the Liquidation Process Regulations and Applicable Law(s) to such terms as the context may require.

### **3 BACKGROUND:**

#### **3.1 An Overview of the company:**

The Company was incorporated on 24th November 1988 and registered at Registrar of companies, Vijayawada with the name EMPEE SUGARS AND CHEMICALS LIMITED, and is categorized as Company Limited by shares and a Non-Government Company. **The registered office of the Company is at Ayyapareddipalem, Naidupet, Nellore District – 524126, Andhra Pradesh.**

#### **3.2 About the Manufacturing Facility:**

The Naidupet plant which has Sugar Plant Division and Distillery Plant division is located in an area covering 112.24 acres of land (approximately). The location of the plant is in close proximity to Tirupati which is approximately 85 km away. The same was successfully sold by the Liquidator pursuant to e-auction conducted in this regard.

The Ambasamudram plant is located in an area covering about 202 Acres of land (approximately). The location of the plant is in close proximity to Tirunelveli which is 21 km away.

The second integrated Sugar Complex at Ambasamudram, Thirunelveli District, in Tamil Nadu, began its operation in 2010. Whereas the entire plant and machinery has been disposed prior to the start of CIRP, the land and buildings still exist to be sold under liquidation.

Details of Land and Buildings and its extent are provided by the Liquidator only based on and relying upon the documents made available to the Liquidator and same need to be verified and ascertained by the bidder /user with help of experts independently and area specified herein is only indicative and the Liquidator accepts no liability of any nature and in any form howsoever or whatsoever in relation thereto.

#### **3.3 Present Status and Purpose this Information Document:**

By an order dated 24.02.2022, Hon'ble NCLT, Amaravati commenced Corporate Insolvency Resolution Process (hereinafter, the "CIRP") in respect of the Company as per the provisions of the IBC. Hon'ble NCLT after an application filed by M/s Global Coal Ventures Private Limited, appointed, Mr. Pankaj Srivastava as the Interim Resolution Professional (IRP). Subsequent to the commencement of CIRP, the powers of the Board of Directors of the company stand suspended and are being exercised by Shri Pankaj Srivastava, the then Resolution Professional as per the Provisions of IBC and now appointed as the Liquidator. The management of the Company were also vested with the Resolution Professional.

The Committee of Creditors in its 13th Meeting of CoC held on 13/12/2022 decided to file an application for liquidation, as no feasible and viable resolution plan had been received during the CIRP. Accordingly, Hon'ble NCLT Amaravati Bench vide order dated 10/02/2023 ordered for the liquidation of the Corporate Debtor and appointed Mr. Pankaj Srivastava as the Liquidator. The present sale notice is pursuant to the

mandate on the Liquidator, pursuant to the Liquidation order of the Corporate Debtor.

### **3.4 Manner of E-Auction**

3.4.1 It is the endeavor of the Liquidator to sell the Assets of the company in the manner specified under Regulation 32 of the Liquidation Process Regulations, any other rules, regulations, orders, circulars, directions or notifications or the like, issued pursuant to or under the IBC or the Liquidation Process Regulations which are applicable to this Corporate Debtor and to this E-Auction Process Information Document (as on liquidation commencement date being 10/02/2023) and as per directions of the Hon'ble NCLT vide its order dated 10/02/2023 in respect of the liquidation process of the Company and in the manner specified in this E-Auction Process Information Document.

3.4.2 The E-Auction would be conducted in the manner specified in the Schedule I, as provided under Regulation 33 of the Liquidation Process Regulations, any other rules, regulations, orders, circulars, directions or notifications or the like, issued pursuant to or under the IBC or the Liquidation Process Regulations which are applicable to this Corporate Debtor and to this EAuction Process Information Document (as on liquidation commencement date being 10/02/2023) and as per directions, of the Hon'ble NCLT, if any in respect of the liquidation process of the Company and in the manner specified in this E-Auction Process Information Document.

3.4.3 The E-Auction Participants are encouraged to make themselves acquainted with the provisions of the IBC and the Liquidation Process Regulations and any other rules, regulations, orders, circulars, directions or notifications or the like, issued pursuant to or under the IBC or the Liquidation Process Regulations, as the case maybe.

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## **4. TERMS AND CONDITIONS OF THE E-AUCTION:**

### **4.1 Sale of the Assets of the Corporate Debtor (CD)**

The sale of the Assets of the Corporate Debtor as mentioned in this E -Auction Process Information Document and in the Sale Notice published by the Liquidator pursuant to Order passed by the Hon'ble NCLT (Amaravati Bench), shall strictly be subject to the terms and conditions setout in this document and sale notice published in connection with this sale.

As per the above Order dated 10/02/2023 passed by the Hon'ble NCLT, Amaravati Bench read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, the Liquidator is authorized to sell the Assets of the Corporate Debtor on **“as is where is basis”, “as is what is basis”, “whatever there is basis”, and “without any recourse basis”** through e- auction process pursuant to the provisions of the Regulation 32 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. Hence, the Liquidator is issuing this document for invitation of bid from qualified bidders (as referred in para no. 2.30 of this document) subject to the terms and conditions of this document.

This E -Auction Information Process Document has been issued with the intent to carry out e-auction (EAuction) of the Assets of M/s Empee Sugars and Chemicals Limited (in liquidation) (the Corporate Debtor) basis under the provisions of the Insolvency and Bankruptcy Code, 2016 (IBC) and the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

The Annexures to this E -Auction Process Information Document shall form an integral part hereof and this E -Auction Process Information Document shall always be read in conjunction with the Annexures hereto. In the event of any inconsistency between the terms contained in the E -Auction Process Document and that of the Annexures, the terms contained in the Annexures shall prevail.

### **4.2 Object and nature of the E-Auction**

**4.2.1** The online e-auction sale is with the object of facilitating a free, fair and transparent auction sale and for achieving Asset maximisation and best-possible recovery for the Company.

**4.2.2** The nature of the sale is “sale of the Assets of the Corporate Debtor as envisaged under Regulation 32 (e) of IBBI (Liquidation Process) Regulations 2016” as specified above.

#### 4.2.3 Reserve Price, Earnest Money Deposit (EMD), Interest Free Participation Deposit Money (PDM), Net worth and Incremental Bid value

The sale of the assets of the Corporate Debtor shall be made as per Regulation 32 of the IBBI Liquidation Regulations which includes Sale of assets of Corporate Debtor as going concern and Sale of Assets in Block, as below:

| Sr. No. | Block   | Particulars of Assets                                                                                                                                                                                                                                                                                                                                                                 | Reserve Price (Rs. Crores) | EMD Amount (Rs. Crores) | Participation Money Deposit, (Refundable) (Rs.) | Eligibility:Min. Net worth (Rs. Crores) | Incremental Value (Rs. Lakhs) |
|---------|---------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|-------------------------|-------------------------------------------------|-----------------------------------------|-------------------------------|
| 1       | Block 1 | Sale of Ambasamudram Unit Comprising of Land (admeasuring about 202 Acres approx.) and buildings Located at Mukkoodal Village, Ambasamudram, Tirunelveli District, Tamil Nadu;<br><br><b>With an option to acquire the above assets as part of Company as Going Concern (Other Assets include certain Entitlements and Actionable Claim, details available in Process Memorandum)</b> | 20.00                      | 2.00                    | 10,00,000                                       | 2.00                                    | 0.10                          |

#### 4.3 Caution to bidders

- a) The auction is being conducted strictly on “as is where is basis, as is what is basis, whateverthere is basis and without any recourse basis”.
- b) Bidders are advised to carefully go through all the terms and conditions of sale given in this E - Auction Process Document and also in the Sale Notice before participating in the online bidding/auction as sale is strictly subject to the terms as provided in said documents.
- c) Copies of Documents regarding the assets of the company are as per the details available with the Liquidator and as may be uploaded in the data room, if any and the Liquidator shall not in any way, be responsible for any changes in and variation in the extent, of the assets /properties due to any reason.

#### 4.4 Inspection of The Assets- Buyer Beware

- a) Bidders are requested to inspect the Properties / Assets and satisfy themselves regarding the area,physical nature, suitability, conditions, extent, feasibility, legality etc., of the Properties/Assets and other requirements whatever they maybe in need of before submission of their online bids. All costs incurred in connection with such inspection shall be borne by the Bidders.
- b) Bidders are advised / cautioned to verify with the sub-registrar’s office as well as obtain and analyze the land/revenue records with respect to the Properties and to satisfy themselves regarding the existence, title, nature, description, condition, existing encumbrances, liens, charges, statutory dues, etc., over the Properties before submitting their bids, wherever applicable.
- c) The Liquidator shall not be responsible for rendering any assistance to the Bidder in connection with its independent inspection of the Properties.

- d)** Bidders are bound by the principle of Caveat Emptor (buyer beware). Bidders are advised / cautioned to verify required consents, waiver from requisite regulatory and statutory approvals from the concerned Regulators, Authorities, third parties and Governmental Authorities and satisfy themselves before proceeding to participate in the Bidding process to be carried out by the Liquidator to sell the assets of the Corporate Debtor and to consummate the sale process as contemplated in the E-Auction Process Information Document.
- e)** Bidders are requested to submit their bids only after conducting their own independent due diligence exercise with respect to the Legal, Technical and other aspects to the assets.

#### **4.5 ELIGIBILITY CRITERIA**

Any person who is not eligible to be a resolution applicant as per provisions of IBC is not eligible to submit a bid for purchase of the company. Thus, an E-Auction Process Applicant shall not be eligible to submit a bid for purchase of the assets of the Company, if it fails to meet the eligibility criteria as set out in Section 29A of the IBC (as amended from time to time). A careful reading of Section 29 A of the IBC states that 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 willful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 (10 of 1949);
- c) at the time of submission of the resolution plan 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 nonperforming asset in accordance with the guidelines of the Reserve Bank of India issued under the Banking 20 Regulation Act, 1949 (10 of 1949) [or the guidelines of a financial sector regulator issued under any other law for the time being in force,] 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:

Provided that the person shall be eligible to submit a resolution plan if such person makes payment of all overdue amounts with interest thereon and charges relating to nonperforming asset accounts before submission of resolution plan:

Provided further that nothing in this clause shall apply to a resolution applicant where such applicant is a financial entity and is not a related party to the corporate debtor.

Explanation I.- For the purposes of this proviso, the expression “related party” shall not include a financial entity, regulated by a financial sector regulator, if it is a financial creditor of the corporate debtor and is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares [or completion of such transactions as may be prescribed], prior to the insolvency commencement date.

Explanation II.— For the purposes of this clause, where a resolution applicant 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 and such account was acquired pursuant to a prior resolution plan approved under this Code, then, the provisions of this clause shall not apply to such resolution applicant for a period of three years from the date of approval of such resolution plan by the Adjudicating Authority under this Code.

- d) has been convicted for any offence punishable with imprisonment –  
    (i) for two years 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:

Provided that this clause shall not apply to a person after the expiry of a period of two years from the date of his release from imprisonment:

Provided further that this clause shall not apply in relation to a connected person referred to in clause(iii) of Explanation I];

- e) is disqualified to act as a director under the Companies Act, 2013 (18 of 2013):

[Provided that this clause shall not apply in relation to a connected person referred to in clause (iii) of Explanation I;]

- 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:

[Provided that this clause shall not apply if a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place prior to the acquisition of the corporate debtor 21 by the resolution applicant pursuant to a resolution plan approved under this Code or pursuant to a scheme or plan approved by a financial sector regulator or a court, and such resolution applicant has not otherwise contributed to the preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction;]

- 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 and such guarantee has been invoked by the creditor and remains unpaid in full or part;

- i) is 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 [I]. — 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 resolution applicant; or (ii) any person who shall be the promoter or in management or control of the business of the corporate debtor during the implementation of the resolution plan; 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 Explanation I shall apply to a resolution applicant where such applicant is a financial entity and is not a related party of the corporate debtor:

Provided further that the expression “related party” shall not include a financial entity, regulated by a financial sector regulator, if it is a financial creditor of the corporate debtor and is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares [or

completion of such transactions as may be prescribed], prior to the insolvency commencement date;]

Explanation II—For the purposes of this section, “financial entity” shall mean the following entities which meet such criteria or conditions as the Central Government may, in consultation with the financial sector regulator, notify in this behalf, namely:

- (a) a scheduled bank;
- (b) any entity regulated by a foreign central bank or a securities market regulator or other financial sector regulator of a jurisdiction outside India which jurisdiction is compliant with the Financial Action Task Force Standards and is a signatory to the International Organisation of Securities Commissions Multilateral Memorandum of Understanding;
- (c) any investment vehicle, registered foreign institutional investor, registered foreign portfolio investor or a foreign venture capital investor, where the terms shall have the meaning assigned to them in regulation 2 of the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 made under the Foreign Exchange Management Act, 1999 (42 of 1999);
- (d) an asset reconstruction company registered with the Reserve Bank of India under section 3 of the 22 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);
- (e) an Alternate Investment Fund registered with Securities and Exchange Board of India;
- (f) such categories of persons as may be notified by the Central Government.]

(Note: For complete text of Sec 29A, please refer to the Insolvency and Bankruptcy Code, 2016)

An Affidavit and Undertaking confirming eligibility to submit a bid for M/s Sagar Power (Neerukatte) Private Limited shall be submitted along with Interest free Refundable Participation Deposit followed by the deposit of Earnest Money Deposit in the format as provided in “Annexure - I”.

The Liquidator may conduct due-diligence under section 29A of the Code of the prospective bidders and the prospective bidders are required to cooperate and provide necessary document/ clarifications/ submissions / explanations as may be required by the Liquidator from time to time.

**a.** Only those Bidder(s) who meet the eligibility criteria specified below and have submitted the requisite documents as contemplated in this process memorandum or as may be requested by the Liquidator to carry out the due-diligence of the bidders, may be considered and shortlisted by the Liquidator to participate in the E-Auction Process as Eligible Bidder. Bidder(s) which do not meet the said eligibility criteria would be liable to be rejected by the Liquidator, without providing any reason or incurring any liability. The liquidator reserves to reject the EOI of the bidders without assigning any reason thereof and to revise eligibility criteria at any time.

## **b. Criteria**

- i. Minimum Net Worth for bidding for the respective block of assets shall be as per Clause 4.2.3 of this process memorandum defining the Reserve Price, Earnest Money Deposit (EMD), Interest Free Participation Deposit Money (PDM), Net worth and Incremental Bid value. The Net worth shall be as per the Audited Financial Statements of the latest Financial Year along with a Net worth Certificate certified by a Chartered Accountant in Practice with UDIN, to be submitted.
- ii. Deposit of Interest Free Refundable Participation Deposit of Rs 10.00 Lakh (Rs. Ten Lakhs only) within the timeline as specified in this document.

- iii. Applicant shall not be an insolvent Company / Individual/ Entity;
- iv. Applicant should not have any negative track-record / history, i.e., Applicant should not have defaulted or withdrawn any Resolution Plan and/or Scheme proposal / Liquidation Sale during liquidation process of any corporate debtor under the provisions of IBC or any other restructuring mechanism and should not have been debarred during the CIRP tenure and this includes affiliates;
- v. The prospective applicants are prohibited from submitting more than one bid, directly or indirectly for the same Block of assets.
- vi. The bidder is required to provide the latest Three year's Financial Statements and other necessary documents required to assess the above criteria to the Liquidator. The said documents have to be submitted to liquidator by mail at [plan@psri.in](mailto:plan@psri.in); [ip.empee@gmail.com](mailto:ip.empee@gmail.com).

**c. Documents Required to be Submitted to Ascertain Eligibility of the Bidder(S)**

- (i) The Interested Persons would need to submit to the liquidator EOI with the following forms, documents, authorizations by the Bidder(s) as per the timeline prescribed in the E- Auction Process Information Document expressing their interest in the E-Auction:
  - A. Ownership Structure and Composition of the E-Auction Applicant(s) / Bidder(s), Proof of Identification, Current Address Proof, PAN card, Valid Email ID, Landline and Mobile Phone Number, Memorandum and Article of Associations, Certificate of Incorporation in case of company/ LLP.
  - B. Authorization to the Signatory (in case the Bidder(s) is the legal entity); In case the bidder is a company/ Legal Entity, the authorized signatory should be supported by the Resolution of the Board/ Legal Entity as provided in **Annexure- VI**. KYC of the Person authorized/ signing the documents.
  - C. Affidavit and Undertaking by the E-Auction Process Applicant(s) (through Authorized Signatory in case the Bidder(s) is the legal entity) along with Interest Free Refundable Participation Deposit. The format of Affidavit and Undertaking is attached vide “**Annexure- I**” and the format for the Confidentiality Undertaking is attached vide “**Annexure II**”.
  - D. The duly signed and sealed copy of this EAuction information document in acceptance of all the terms and conditions of this EAuction information document and as confirmation of waiver of all claims against the Liquidator after sale of assets through EAuction after agreeing fully the condition that the Liquidator accepts no liability of any nature and in any form howsoever or whatsoever in relation to property /assets being sold by virtue of the EAuction process information and connected matters.
  - E. An Eligible Bidder(s) will need to submit the duly filled, signed and stamped BidApplication

Form attached vide “**Annexure-III**” and duly filled, signed, and stamped Declaration by Bidder(s) attached vide “**Annexure-IV**”.

- F. Documents evidencing source of funds of the Bidder(s) for making the payments in terms of its Financial Proposal, including:
1. Firm commitment letter from banks/financial institutions; and/or
  2. Bankers’ certificate evidencing availability of funds; and/or
  3. Independent chartered accountant/statutory auditor certificate certifying quantum of investments held in the form of liquid assets; and/or
  4. Any other document evidencing the source of funds to the satisfaction of the Liquidator.

The Bidders should note that for the purpose of demonstrating source of funds, no reliance may be placed on the financial strength of any entity that has on an earlier occasion, committed a default or breach in relation to a plan / bid/tender / scheme /sale process conducted under any corporate insolvency resolution process/liquidation process under the I&B Code or conducted by banks/financial institutions under SARFAESI. Any single instance of such failure or withdrawal from said process will be a ground for rejection by the Liquidator from participating this bidding process and the same will be considered for a bidder as a disqualification by the Liquidator.

- (ii) Upon verification of the eligibility of the interested person and also receipt of Interest Free Refundable Participation Deposit, the interested person shall be informed in writing by the Liquidator as eligible bidder to proceed further with due diligence / site visit/ physical verification as per the terms of the E-Auction Process Document.
- (iii) Please note that only the **Eligible Bidders** will gain access to documentation, additional information required for due diligence. Further, if needed, the site visits for only the eligible bidders will also be permitted and coordinated by the Liquidator.
- (iv) Interested Applicants can submit the eligibility documents immediately upon receipt of E-Auction Process Document.
- (v) Further, it should be noted that at any stage of the E-Auction process, the Liquidator may request the prospective Bidder(s) to submit additional documents to evaluate their eligibility.
- (vi) After verification of the eligible applicants, a pre bid meeting may be called by the Liquidator at its office to brief them about the corporate debtor. The applicants will be informed by email, if any such meeting is called and they may attend or depute the officials with the authorized letters

on scheduled time, date and venue.

- (vii) The Supporting Documents should be submitted in a single sealed envelope and via email at the specified address or mail id of the Liquidator on or prior to the Document Submission Date.

## **(II) INTEREST FREE REFUNDABLE PARTICIPATION DEPOSIT MONEY ALONG WITH EOI**

- a. All Interested person along with Expression of Interest (EOI) shall deposit the Interest Free Refundable Participation Deposit Money of Rs 10,00,000/- (Rs. Ten Lakhs only).
- b. No interest will be paid to the E-Auction Participant(s)/ bidder(s) in relation to the amount deposited by way of Refundable Participation Deposit.
- c. The Interest free Refundable Participation Deposit of Rs 10,00,000/- (Rs. Ten Lakhs only) shall be paid by way of a Pay order/ Demand Draft issued by any scheduled commercial bank in India payable at Bengaluru and in favor of M/s. “Empee Sugars and Chemicals Limited- In Liquidation” or by way of RTGS/ NEFT in the bank account as below by 06.11.2023.

|                     |                                                   |
|---------------------|---------------------------------------------------|
| Name of the Company | Empee Sugars and Chemicals Limited In Liquidation |
| Bank Name           | Kotak Mahindra Bank                               |
| Branch Name         | Sahakara Nagar Branch                             |
| IFSC Code           | KKBK0008045                                       |
| Account number      | 2747238883                                        |

- d. The Refundable Participation Deposit Money shall be remitted by the Bidder(s) from the bank account owned by the Bidder(s). In the event the Deposit money is remitted by any other Person, it must be accompanied by a letter.
- e. The Refundable Participation Deposit money, as applicable, shall be refunded only in the account of the bidder from where the money was remitted/ transferred.
- f. Bidder(s) shall preserve the remittance document and shall produce the same in front of the Liquidator as and when demanded.
- g. All payments made by the Bidder(s) under the e-auction shall be intimated to the Liquidator.
- h. The Refundable Participation Deposit money may also be provided in the form of the cash which can be deposited by process applicant by way of direct bank deposit to the bank account as notified by the Liquidator.

### **4.6 Confidentiality Undertaking (ANNEXURE –II):**

All information about the Corporate Debtor furnished to the Eligible Bidder pursuant to the terms hereof shall be governed by the provisions of the Confidentiality Undertaking/Non-Disclosure Agreement – **Annexure-II**. The said undertaking/agreement in specified format (**Annexure-II**) shall be submitted by the Bidder(s).

#### 4.7 Selection and Declaration of Qualified Bidder

The winning bidder shall be selected as per the terms contained herein:

- i. The auction shall be scheduled as per the EOI received by the interested applicants along with all supporting documents as mentioned in this process memorandum wherein the Bidders are required to select the option whether they wish to participate to bid for the below:
  - a. Sale of Ambasamudram Unit Comprising of Land (admeasuring about 202 Acres approx.) and buildings Located at Mukkoodal Village, Ambasamudram, Tirunelveli District, Tamil Nadu;
  - b. Sale of the Corporate Debtor as going concern (including the Ambasamudram Unit Comprising of Land (admeasuring about 202 Acres approx.) and buildings Located at Mukkoodal Village, Ambasamudram, Tirunelveli District, Tamil Nadu, certain Entitlements and Actionable Claim)
- ii. Based on the EOI received, the Liquidator may initiate the e-auction under two blocks as below:

| BLOCK | PARTICULARS OF ASSETS                                                                                                                                                                                                                                                          |
|-------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| I     | Sale of Ambasamudram Unit Comprising of Land (admeasuring about 202 Acres approx.) and buildings Located at Mukkoodal Village, Ambasamudram, Tirunelveli District, Tamil Nadu                                                                                                  |
| II    | Sale of the Corporate Debtor as going concern (including the Ambasamudram Unit Comprising of Land (admeasuring about 202 Acres approx.) and buildings Located at Mukkoodal Village, Ambasamudram, Tirunelveli District, Tamil Nadu, certain Entitlements and Actionable Claim) |

- iii. In case bids for both Blocks are received, the winning bidder shall be the highest bid received for Block I or Block II.
- iv. The winning bidder shall be declared as per the terms contained herein:
  - a) The Liquidator will verify the details mentioned in the Forms based on the documents submitted pursuant to the terms and conditions mentioned herein and also the adherence of timelines specified in the Clause 17 and other requirements to be met with by the bidder.
  - b) Pursuant to such verification and satisfying with the same, the Liquidator will notify the Bidders (viaemail) regarding their qualification to participate in the e-auction.
  - c) Such Bidders shall hereinafter be referred to as the “**Qualified Bidders**”. It is clarified that only such Bidder shall be entitled to submit a bid with respect to the auction in respect of which they have paid the EMD.
  - d) The Eligible Bidders will be given access to data room, if any or provided information in such other form and manner as may be appropriate and site visit will be allowed as per the e- auction process schedule.

#### 4.8 Due Diligence / Data Room / Clarifications

a) The Liquidator shall endeavour to provide necessary assistance, facilitating the due diligence by Eligible Bidders. The information and documents shall be provided by the Liquidator in good faith.

b) The Liquidator proposes sale of Assets of the Company in accordance with the provisions of IBC and Liquidation Process Regulations on **“As is where is basis”, “As is what is basis”, “Whatever there is basis” and “Without any recourse basis”** and the proposed sale as specified above does not entail transfer of any title, except the title which the Company has on the assets as on date of the transfer. All local taxes & other taxes / maintenance fee / electricity / water charges / any other dues, claims, charges etc., outstanding as on date or yet to fall due in respect of the relevant asset should be ascertained by the Bidder and would be borne by the Successful Bidder.

c) The access to the details of the assets of the Company will be provided only to Eligible Bidder, subject to submission of the requisite forms, documents and authorizations; Affidavit and Undertaking; executing a Confidentiality Undertaking by such Bidder as stated in this document.

##### **d) Clarifications:**

i) While the data/ information provided in this E-Auction Process Information Document and the Data Room, if any, has been prepared and provided in good faith, the Liquidator and their Representatives shall not accept any responsibility or liability, whatsoever, in respect of any statements or omissions herein, or the accuracy, correctness, completeness or reliability of the information provided and shall incur no liability under any law, statute, rules or regulations as to the accuracy, reliability and completeness of the information provided, even if any loss or damage is caused to any of the Bidder by any act or omission on their part.

ii) It is further clarified that the data/information provided in the Data Room, if any, has been prepared based on books of accounts, financial statements, Company's website and discussions and representations by the erstwhile directors and key managerial personnel of the Company. Reasonable care has been taken in compiling various data and information, however the Liquidator along their advisors, consultants, Representatives, make no representation or warranties, express or implied, as to the quality, accuracy, authenticity, correctness, fairness and completeness of the data provided in the Data Room, if any and assume no liability whatsoever in respect of any inaccuracy, incompleteness, or omissions in the data provided in the Data Room, if any.

iii) Any information uploaded in the Data Room, if any shall be binding on all the Bidders and shall be deemed to form part of this E -Auction Process Information Document. No request for further documents shall be entertained, however, the Liquidator, may, in a fit case and as per his discretion, provide further information, if required. Such information/documents shall be binding on all the Bidders and shall be deemed to be read as a part of this E-Auction Process Information Document.

iv) A Bidder requiring any clarification on this E- Auction Process Information Document, Liquidation Process, submission of the Bid or on the Company shall email such request for clarification to [plan@psri.in](mailto:plan@psri.in); [ip.empee@gmail.com](mailto:ip.empee@gmail.com).

v) The Liquidator reserves the right not to respond to any query or provide any clarification, at their sole discretion, and no extension of time and date referred to in this E-Auction Process Information Document

shall be granted on the basis of not having received response to clarifications sought from the Liquidator. Nothing in this Clause shall be considered or read as compelling or requiring the Liquidator to respond to any query or to provide any clarification to the queries raised by a bidder. The Liquidator will not be held responsible for any delay in response or non- response to clarifications raised by the Bidder.

vi) The Liquidator may, at his discretion, endeavor to provide necessary assistance upon specific request from Eligible Bidders to verify, if possible to carry out said inspection within the timeline in the opinion of the Liquidator, all Original Title Documents and other related documents pertaining to the Land property of M/s. Empee Sugars and Chemicals Limited (in Liquidation) which is in the possession of Secured creditors, with the prior intimation to them to permit proposed bidder(s) to verify those originals whenever required in compliance with the provisions of the Insolvency and Bankruptcy Code 2016.

#### **4.9 Site Visit and Discussion Meetings**

a) The Corporate Debtor (represented by the Liquidator) shall endeavor to allow for and facilitate a site visit, on a best effort basis and will confirm the Eligible Bidder regarding the date and venue of the Site Visit, as may be applicable as per the e-auction process schedule below if requested by the Bidder.

b) The Eligible Bidder who is/are desirous of undertaking a Site Visit or Discussion Meeting, may depute a team comprising of a maximum of 3 (three) personnel of the Eligible Bidder, for such a Site Visit or Discussion Meeting upon confirmation from the liquidator on Site visit or Discussion meeting.

c) The purpose of the Site Visit shall be to facilitate the Eligible Bidder/ Qualified Bidder to ascertain the current status of the Corporate Debtor including the site conditions, location, surroundings, climate, availability of power, water and other utilities for operations, access to site, handling and storage of materials etc., provided that such Site Visit shall not be utilized for discussions regarding the terms of the bid.

d) The Eligible Bidder is expected to make its own arrangements including accommodation for the Site Visit. All costs and expenses incurred in relation to such Site Visit shall be borne by the Eligible Bidder. The Eligible Bidder may intimate its preferred date for purpose of the Site Visit to the Liquidator via email to [plan@psri.in](mailto:plan@psri.in); [ip.empee@gmail.com](mailto:ip.empee@gmail.com) reasonably in advance. The Liquidator will use its reasonable endeavor to fix one date for each Site Visit depending on the availability of Liquidator or his team.

e) It is hereby clarified that no separate meeting or telephonic conversation / email with the Eligible Bidder shall be entertained by the Liquidator for the purposes of providing clarifications with respect to any such Site Visit. Any unauthorized contact with the employees, officers or management of the Corporate Debtor may result in disqualification of the Eligible Bidder.

f) The Eligible Bidder may carry out its own comprehensive due diligence in respect of the corporate debtor and shall be deemed to have full knowledge of the condition of the corporate debtor, assets, relevant documents, information, etc. whether or not the Eligible Bidder actually inspects or participates in the Site Visit or verifies the documentation provided by the liquidator.

g) The Eligible Bidder shall not be entitled to receive re-imbursement of any expenses which may have been incurred during the sale process and/or for carrying out of due diligence, search of title to the assets and matters incidental thereto or for any purpose in connection therewith.

h) Eligible Bidder(s) 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 Qualified Bidders, prior to participation in e-Auction should make their independent inquiries, searches and diligence about the Company and the Assets at their own expenses and satisfy themselves.

i) The Eligible Bidder shall not be entitled to receive any reimbursement of any expenses which may have been incurred in carrying out due diligence, search of title to the assets of the Company and matters incidental thereto or for any purpose in connection with the E-Auction Process.

j) It must also be noted that the Liquidator does not give any assurance or warranty of the physical condition of the Company's assets and their suitability for any sort of operation that the Bidder envisages.

k) All local taxes / maintenance fee / electricity / water charges / any other dues, claims, charges etc., if any outstanding as on a date or yet to fall due in respect of a relevant asset of the Company should be ascertained by and would be borne by the Successful Bidder.

l) The Eligible bidders who are interested, shall submit Interest Free Earnest Money Deposit (EMD) as specified at **para 4.2.3**

m) Upon submission of EMD, User Id and Password for participation in E-Auction through designated service provider will be sent to the respective Applicant. On the day of E-auction, the bidding will take place through designated e-auction platform. The highest bidder will be required to complete the sale.

n) If required, the liquidator may conduct multiple rounds of auctions to maximize the realization from the sale of the assets, and to promote the best interests of the creditors.

o) Where the liquidator rejects the highest bid in an auction process, he shall in consultation with the Stakeholders Consultation Committee, intimate the reasons for such rejection to the highest bidder.

Note: The Liquidator reserves the right to invite the successful bidder for completion of sale and which also may be subject to the Order of Hon'ble NCLT, if any, required to accomplish this Sale Process. Emerging as a successful bidder does not confer any right whatsoever on the said bidder, to acquire the Assets of the Corporate Debtor nor does it guarantee any confirmation of sale by the Liquidator until all conditions are fulfilled and all requirements of this document are met and complied with.

#### 4.10. ASSETS TO BE AUCTIONED AND RESERVE PRICE AND MODE OF SALE

Where the Liquidator receives the EOI for participation in bidding for the Company as going Concern and for Ambasamudram Unit, both, along with all necessary documents as mentioned in the Process Documents, the Liquidator shall initiate the e-auction under two blocks as below:

| Sr. No. | Block   | Particulars of Assets                                                                                                                                                                                                                                                          | Reserve Price (Rs. Crores) | EMD Amount (Rs. Crores) | Participation Money Deposit, (Refundable) (Rs.) | Eligibility:Min. Net worth (Rs. Crores) | Incremental Value (Rs. Lakhs) |
|---------|---------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|-------------------------|-------------------------------------------------|-----------------------------------------|-------------------------------|
| 1       | Block 1 | Sale of Ambasamudram Unit Comprising of Land (admeasuring about 202 Acres approx.) and buildings Located at Mukkoodal Village, Ambasamudram, Tirunelveli District, Tamil Nadu                                                                                                  | 20.00                      | 2.00                    | 10,00,000                                       | 2.00                                    | 0.10                          |
| 2       | Block 2 | Sale of the Corporate Debtor as going concern (including the Ambasamudram Unit Comprising of Land (admeasuring about 202 Acres approx.) and buildings Located at Mukkoodal Village, Ambasamudram, Tirunelveli District, Tamil Nadu, certain Entitlements and Actionable Claim) | 20.00                      | 2.00                    | 10,00,000                                       | 2.00                                    | 0.10                          |

- The applicable GST and other taxes/duties are extra and shall be additionally payable by the successful bidder.
- The documents relating to assets of the corporate debtor shall be shared with the interested parties only after submission of Interest Free Refundable Participation Deposit Money as mentioned in Clause 4.5 (II), along with EOI, Affidavit, Undertaking and such other documents as specified in this Process Memorandum.
- The Interested Parties are requested to share the evidence of depositing the Refundable Participation Deposit Money via email to the email id specified in the Notice of Public Announcement for Sale of Assets of the Corporate Debtor.
- As per Regulation 32 of the Liquidation Process Regulations, 2016, the Liquidator may sell-
  - (a) an asset of the Company on standalone basis;
  - (b) the assets of a Company through a slump sale;
  - (c) a set of assets of the Company collectively;
  - (d) the assets of the Company in parcel;
  - (e) the Company as a going concern; or
  - (f) the business(s) of the Company as a going concern.

Provided that where an asset is subject to security interest, it shall not be sold under any of the clauses

(a) to (f) unless the security interest therein has been relinquished to the liquidation estate. With regard to this relinquishment requirement, bidder's/user's attention is invited to the point no. 9 in page no. 2 of this document in the Notes to EAuction.

- The implementation/mechanism of such sale is however not specifically provided for in the Liquidation Process Regulations or anywhere in IBC. It is clarified that on being declared as Successful Bidder, the said Successful Bidder shall be required to complete the sale of the Asset of the Company in accordance with the provisions of IBC and Liquidation Process Regulations. After Successful Bidder fulfilling all the conditions of sale as per this process memorandum, the Liquidator 1 may approach the Hon'ble NCLT for obtaining suitable directions on the implementation of such sale and any such directions shall be binding on the parties to the sale process.
- The Liquidator reserves the right to alter, modify, cancel, or relax any of the terms and conditions mentioned in this EAuction Process Information Document in the interest of the liquidation process of the Company including cancellation of the E-Auction Process at any point of time. Any such alteration, modification, cancellation, or relaxation of EAuction Process shall be binding on the Bidder.
- The Qualified Bidders, participating in the E-Auction Process, will have to Bid for an amount not less than the Reserve Price as mentioned in this process document and public announcement for acquiring the assets of the Company pursuant to the final order of Hon'ble NCLT, Amaravati Bench.
- The attention of Qualified Bidders is invited to the fact that the Bidders cannot place a Bid for a value below the Reserve Price. Such a Bid will stand automatically disqualified.
- The access to the details of the assets of the Company/ Data Room, if any will be provided only to Qualified Bidder, subject to submission of the requisite forms, documents, and authorizations; Affidavit and Undertaking; executing a Confidentiality Undertaking and the demand draft by such Qualified Bidder as stated in this document.

#### **4.11 Earnest Money Deposit (EMD)**

**a)** In order to participate in the E-Auction process, the Qualified Bidder is, *inter alia*, required to submit Bid Application Form (**Annexure-III**) along with Interest free returnable Earnest Money Deposit ("**Earnest Money Deposit**" or "**EMD**") as specified at **para 4.2.3** of this document.

**b)** The EMD to be remitted into the designated account, the particulars of which are given below, on or before 22.11.2023 (Remittance must be credited into the designated account by 11:59 P.M.). The details of the remittance made in this regard shall be entered in the form to be submitted by the bidder and shall be intimated to the Liquidator through email along with the scanned copies of the remittance challan and duly filled and signed Bid application form. The Bidders shall preserve the remittance challan and shall produce the same as and when demanded. The entire Earnest Money amount shall be remitted by the Qualified Bidder from one bank account only and to be owned by the Qualified Bidder. The scanned copies of the challan and the Bid Application Form to be sent by email to [plan@psri.in](mailto:plan@psri.in); [ip.empee@gmail.com](mailto:ip.empee@gmail.com) latest by 22.11.2023 and 06.11.2023, respectively. The hard copy of Bid Application Form shall be sent to liquidator either by

person or by courier.

c) The particulars of the Designated Bank Account (Liquidation Account) for online transfer are as given below.

|                  |                                                   |
|------------------|---------------------------------------------------|
| Beneficiary Name | Empee Sugars and Chemicals Limited In Liquidation |
| Account Number   | 2747238883                                        |
| Bank Name        | Kotak Mahindra                                    |
| Branch           | Sahakara Nagar                                    |
| IFSC Code        | KKBK0008045                                       |

#### **4.12 Return of Earnest Money Deposit**

a) Subject to the first proviso below, the Earnest Money without interest shall be returned to unsuccessful Qualified Bidder(s) within 17 (Seventeen) days of the date of closure of the E-Auction process or cancellation of the E- Auction process.

b) Provided that, in the event, the Liquidator proposes to cancel the E- Auction process on the scheduled date or decides to not accept any of the bids submitted during the E-Auction process, and in both the instances, proposes to follow up the same with another E-Auction process, in such a situation, if a Qualified Bidder indicates in writing its desire to receive refund of its Earnest Money deposit, then the Earnest Money shall be returned to the Qualified Bidder, within 7 (seven) days of giving notice requesting for the return of the Earnest Money deposited.

c) Provided further that, failure to participate in a round of E-Auction or requesting refund of the Earnest Money shall not debar a Qualified Bidder from participating in any subsequent round(s) of E- Auction.

#### **4.13 Forfeiture of Earnest Money deposit (EMD) & Interest Free Refundable Participation Deposit Money (PDM)**

It is to be noted that the Entire Amount paid by any of the bidders (including EMD & PDM), is liable to be forfeited including cancellation of the sale if any, without any further notice or intimation by the Liquidator and without any recourse by the bidder, upon the occurrence of any one of the following events:

- a) If any of the conditions under this E -Auction Process Document are breached by the Eligible Bidder or in case the Eligible Bidder is found to have made any misrepresentation;
- b) Existence of any collusion between the relevant Bidder/s, or between the Bidder and the Company's related parties, or any creditors of the Company and the Bidder/s.
- c) If the Eligible Bidder or any person acting jointly or in concert with such Eligible Bidder is found to

be ineligible to submit a bid under Section 29A of the IBC or is found to have made a false or misleading declaration of eligibility under Section 29A of the IBC; or found to be ineligible owing to previous failure or withdrawal by the Bidder in any previous offer as contemplated above in the document.

- d)** If the Successful Bidder does not accept and sign the Letter of Intent issued by the Liquidator within the period of 2 days from the closure of E-Auction and in the manner specified or
- e)** If the Successful bidder fails to pay the sale consideration (plus any applicable taxes, registration fees, if any, on 100% of the bid sum) before the expiry of the period for payment of the same as provided in this E -Auction Process Document.
- f)** If the Bidder / E-Auction Participant(s) withdraws from the bidding process (either before or after allocation of login and Password to submit bid on portal) after depositing required eligibility documents along with the Refundable Participation Deposit and bidding documents along with the deposit of EMD for the proposed bid or does not bid in the E- Auction portal.

#### **4.14 Bidding Process**

- a)** Bidding will be through the E – Auction.
- b)** Bidding will be for the sale of Assets of the corporate debtor as contemplated under Regulation 32 of the IBBI Liquidation Process Regulations.
- c)** Bidders are cautioned to be careful while entering the bid amount.
- d)** The Liquidator and the Agency shall not have any liability towards bidders for any interruption or delay in access to the Platform irrespective of the cause, issues relating to the Platform, failure of internet connections, server problems, etc.
- e)** Any problem arising out of the EAuction sale shall be decided by the Liquidator, whose decision shall be final and binding.
- f)** A training manual will be available on the website of the E – Auction Service Provider at <https://nesl.co.in/auction-notice-under-ibc/>, the copy of which will also be made available in the data room by the Liquidator. The intending bidder may avail online training/demonstration on the e-auction process from the E – Auction Service Provider.

#### **4.15 Duration of EAuction Sale**

- a)** The auction will be conducted via an electronic auction platform.
- b)** Online e-auction sale will commence and be carried out as per the timelines set out in the Clause 17.
- c)** The e-Auction shall commence strictly at the scheduled time and at a price equal to reserve price.

The closing time of the auction is system controlled; the time will get automatically extended by 10 (ten) minutes if any bid is received during the last 5 (five) minutes, i.e. while an active bid is in process and kept open till the auction- sale concludes.

**d)** If any market-leading bid (bid higher than the highest at the point in time) is received within the last 5 (five) minutes of closing time, the bidding time will be extended automatically by 10 (ten) minutes and if no bid higher than last quoted highest bid is received within the said extended 10 (ten) minutes, the auction sale will automatically get closed at the expiry of the extended 10 (ten) minute period. There will thus be an extension of bidding-time, each of 10 (ten) minutes duration, till auction is concluded.

**e)** Eligible / qualified Bidders are advised to enter their bid accordingly keeping in mind the duration as specified above.

**f)** No complaint on the time-factor for bidding or paucity of time for bidding will be entertained by the Agency and/ or the Liquidator.

## **5. DECLARATION OF SUCCESSFUL BIDDER AND ITS CONSEQUENCES:**

**5.1** The Liquidator in consultation with the Stakeholders Consultation Committee, shall determine and at his sole discretion, declare at the end of the E-Auction, the Successful Bidder(s) for any auction. Determination of the Successful Bidder(s) shall be done on the basis of highest bid received for each auction, unless the Liquidator determines, acting reasonably, that the highest bidder shall not be identified as the Successful Bidder. Notwithstanding anything stated in the document, the liquidator is not bound to accept the highest offer and has the absolute right to accept or reject any or all offer(s) or adjourn/postpone / cancel the EAuction at any stage without assigning any reason therefor.

**5.2** After the conclusion of the e-auction, a separate intimation shall be sent to the Successful Bidder via e-mail (“Intimation”) on the close of the e-auction i.e. Date of Intimation.

**5.3** The Earnest Money provided by means of a remittance to the Company’s bank account will be retained by the Liquidator as part payment of the consideration that the Successful Bidder has agreed to pay for the specific auction.

**5.4** The Liquidator shall determine and at his sole discretion, declare at the end of the E-Auction, the Successful Bidder(s) for any auction. Determination of the Successful Bidder(s) shall be done on the basis of highest bid received for each auction, unless the Liquidator determines, acting reasonably, that the highest bidder shall not be identified as the Successful Bidder.

## 6 ISSUANCE OF LETTER OF INTENT:

6.1 The Liquidator shall, as soon as reasonably possible following the end of the E- Auction, issue to the Successful Bidder a Letter of Intent (“LoI”/ “Letter of Intent”), inviting the Successful Bidder to provide entire sale consideration (Bid amount) as per Schedule 1 Para 12 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016 within 90 (Ninety) days from the date of LOI after adjusting the EMD already deposited, as below:

- i. 15% of the entire Bid Value (excluding 10% of EMD already paid) to be paid immediately within one day after declaration of successful bidder and issuance of LOI.
- ii. 75% of the entire Bid value to be paid as per the norms provided in the Regulations, however:
  - c. payments made after 30 (Thirty) days of the successful e-auction shall attract interest at the rate of 12%;
  - d. that the sale shall be cancelled if the entire payment is not received within ninety days of successful e-auction.
- iii. Provided that payments made after 30 (Thirty) days shall attract interest as the rate of 12%;
- iv. Provided further that the sale shall be cancelled if the entire payment is not received within ninety days.

6.2 The Successful Bidder shall, within a period of 2 (two) days from the date of issuance of the LoI, unconditionally accept the LoI, and record such acceptance by providing the Liquidator with 1 (one) copy of the LoI with an endorsement stating that such LoI is, “Accepted Unconditionally”, under the signature of the authorized Director / Authorized Signatory of the Successful Bidder.

6.3 Failure to accept the LoI within the time period specified may result in the disqualification of the Successful Bidder along with cancellation of the LoI and forfeiture of the Earnest Money Deposit and Participation Bid Amount, without any recourse by the successful bidder.

6.4 In case of disqualification of a Successful Bidder, the Eligible Bidder who had submitted the next highest bid, may be considered as the new Successful Bidder. If the latter is unwilling or express their inability to accept bid submitted by them after above consideration by the Liquidator to give such opportunity to next highest bidder, the Liquidator, at his sole discretion, may decide to carry out afresh E-Auction.

## 7. PAYMENT OF ENTIRE CONSIDERATION BY THE SUCCESSFUL BIDDER(S)

- (i) The Successful Bidder(s) shall, on the Consideration Payment Date, provide the entire sale Consideration as per the terms of the LoI issued to it/them, into the bank account, details of which is provided in the Document/LOI, the sole signatory of which shall be the Liquidator (“Liquidation Account”).
- (ii) Failure to pay the entire Final Consideration into the Liquidation Account of the Corporate Debtor within the prescribed timeline as mentioned in Clause 6 above, from the date of EAuction shall result in cancellation/rejection of the Bid submitted by the successful bidder and will amount to forfeiture of the Earnest Money deposit paid as part of the Terms and conditions of the Bid submitted by the Successful Bidder as well as the amount deposited towards Interest free Participation Deposit Money by the Successful Bidder(s).
- (iii) It is clarified that in the event the Successful Bidder does not pay the Final Consideration as per this Process Document, Liquidator reserves the right to take such other actions including but not limited to annulling and restarting the Bid Process. These actions shall not preclude the Liquidator from taking other appropriate steps as per applicable laws against such defaulting Successful Bidder(s). Additionally, as provided above in the event the Successful Bidder(s) is unable to complete the transaction for whatsoever reason, the Liquidator reserves the right to call upon the next highest Qualified Bidder that had submitted its BID, provided the Bid value of such next highest Qualified Bidder(s) is greater than the Reserve Price to complete the transaction. The Liquidator shall be entitled to call upon the next highest Qualified Bidder(s) subsequent to the Successful Bidder in case of failure by the Successful Bidder, by issuing the LoI(s) to such next highest Qualified Bidder(s), and such subsequently selected highest Qualified Bidder(s) shall be deemed to be the Successful Bidder(s). In any case, Liquidator may repeat such steps of the Bid Process of this Process Document as deemed fit in the sole discretion of the Liquidator.
- (iv) As per E -Auction Process Document, the Successful Bidder shall be required to provide sale consideration as per clause 6 of this process document.
- (v) Where the Successful Bidder has provided Earnest Money, the sale consideration shall be an amount equal to the bid sum (plus any applicable GST/taxes, registration fees, etc. if any, on 100% of the bid sum) as reduced by the Earnest Money and any amount(s) deposited as specified.
- (vi) All the payments of the bid amount made by the Successful Bidder shall be made through RTGS/ NEFT to the designated account number mentioned as above or by drawing Demand Draft payable at Bengaluru favoring “Empee Sugars and Chemicals Limited”. The payments of the bid amounts shall be made by the Successful Bidder from the same bank account from which he has made payment of the EMD amounts. The particulars of the Designated Bank Account (Liquidation Account) for online transfer are as given below:

|                     |                                    |
|---------------------|------------------------------------|
| Name of the Company | Empee Sugars and Chemicals Limited |
| Bank Name           | Kotak Mahindra Bank                |
| Branch Name         | Sahakara Nagar Branch, Bengaluru   |
| IFSC Code           | KKBK0008045                        |

|                |            |
|----------------|------------|
| Account Number | 2747238883 |
|----------------|------------|

(vii) The Successful Bidders would be required to provide to the Liquidator, at any time from the date of the auction, originals of all the documents whose copies they have submitted for verification purposes.

(viii) It may be noted that the other timelines mentioned in this document will not change irrespective of the date of submission of Bid by any Qualified Bidder.

## 7.2 Default in Payment

In pursuance of second proviso of Clause (7) of the Schedule I of the IBBI Liquidation Regulations, sale shall be cancelled if the successful bidder doesn't provide the sale consideration payment within ninety days of such demand.

Further, default in payment of the sale consideration and any applicable GST/taxes, registration fees, etc. if any, on 100% of the bid sum by the Successful Bidder will result in disqualification of the Successful Bidder including forfeiture of any monies received including the Interest Free Earnest Money Deposit and Interest Free Participation Deposit Money as provided in this E -Auction Process Document and without any further notice or intimation by the Liquidator . Any auction may be put to re- auction or sold to the next highest Eligible Bidder and the defaulting Successful Bidder shall have no claim/right in respect of such E-Auction.

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## **8. Issue of Sale Certificate**

- a) The sale certificate will be issued within 30 (thirty) days from date of receipt of complete sale consideration including applicable taxes and subject to compliance of all terms and conditions of sale, unless cancelled by the Liquidator for any reason as per applicable law and subject to terms and conditions of this Process Memorandum.
- b) The Certificate of sale or Sale deed will be issued and /or transaction / sale documents will be executed in the name of the Successful Bidder only and will not be issued in any other name(s).
- c) Sale certificate shall be collected in person by the Successful Bidder or through an authorized person with submission of appropriate authority.
- d) The sale certificate will be issued in the name of the winning bidder and will not be issued in any other name(s).
- e) The sale certificate shall be issued subject to Due diligence by the Liquidator under the provisions of Sec. 29A of the IBC, 2016.

### **8.1 Delivery of Title Deeds**

- a) The Successful Bidder, on receipt of sale certificate, shall contact the Liquidator for delivery of title deeds and other documents related to the Properties as available with the Liquidator.
- b) The Liquidator shall ensure that title deeds and other documents are handed over to the Successful Bidder subject to receipt of the complete sale consideration and post issuance of the sale certificate in accordance with the Order and the Subsequent Orders.

### **8.2 Delivery of Possession**

- a) Delivery of possession of the Properties sold shall be as per the directions of the authorities, Codes, Rules, Regulations, as the case may be.
- b) After obtaining the sale certificate and getting the sale registered with appropriate authorities under applicable laws, the Successful Bidder is entitled to obtain possession of the Property. Possession will be given separately.
- c) All expenses and incidental charges thereto shall be borne by the Successful Bidder.

## **9. IMPORTANT TERMS AND CONDITIONS FOR PARTICIPATING IN THE EAUCTION:**

9.1 The Eligible Bidder(s) shall be responsible for all the costs incurred by it on account of its participation in the E-Auction process, including any costs associated with participation in the discussion meeting (if any), 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.

9.2 All expenses including any taxes/duties incurred towards any Asset post the E- Auction process shall be borne by the Successful Bidder. The Liquidator shall not be held responsible / liable to pay any expenses towards any Asset sold in the E- Auction process. For the avoidance of doubt, it is hereby clarified that, all the aforesaid costs shall be payable over and above the bid offered during the E- Auction process by the successful bidder.

9.3 Eligible / Successful Bidder(s) shall not be entitled to receive re-imbursement of any expenses which may have been incurred in carrying out of the due diligence, search of title to the assets and matters incidental thereto or for any purpose in connection with the E-Auction process.

9.4 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 company/assets to the Successful Bidder and such dues, if any, will have to be borne/ paid by the Successful Bidder.

9.5 The Eligible Bidder(s) shall be responsible for fully satisfying the requirements of the IBC and related Liquidation Process Regulations as well as all Applicable Laws that are 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 Assets of the corporate debtor / relevant assets.

9.6 In the interest of the liquidation process of the Company, the Liquidator reserves the right to alter, modify or relax any of the terms and conditions mentioned in this E -Auction Process Document. Any such alteration, modification or relaxation to the terms and conditions contained in this document shall be binding on all the Interested/ Eligible Bidders.

9.7 It shall be deemed that by submitting the bid, the Bidder agrees and releases the Liquidator, its employees, subsidiaries, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder, pursuant hereto and/ or in connection with the e-auction process and waives, to the fullest extent permitted by applicable laws, any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or in future.

9.8 This E -Auction Process Document and any information provided earlier or subsequently, the auction process and the other documents pursuant to the E - Auction Process Document shall be governed by the laws of India and any dispute arising out of or in relation to the E -Auction Process Document or the auction process shall be subject to the discretion of the Liquidator.

9.9 No counteroffer /conditions by the Bidder, Eligible Bidder and/or Successful Bidder will be entertained.

9.10 The Liquidator shall have liberty to amend/ modify/ delete any of the conditions of the E-Auction Process Information Document or Sale Notice as may be deemed necessary in the light of facts and circumstances of each case.

9.11 The Liquidator shall have the right to accept or reject all or any bid or bids as well as to postpone or cancel the sale for reasons whatsoever.

9.12 Bidders shall be deemed to have read and understood all the conditions of sale, the E -Auction Process Document and the Sale Notice and are bound by the same.

9.13 The above terms and conditions are general in nature, subject to change and are in addition to other specific conditions given in the E-Auction Process Information Document and Notice of Sale.

9.14 Bidders are advised to preserve the EMD documents and documents pertaining to other deposits/ payments made by it and also a copy of the terms and conditions of the application Form downloaded from the portal.

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## **10. ADDITIONAL TERMS OF BID PROCESS;**

### **10.1 Non-responsive Bids**

The Bid(s) submitted by the Bidder(s) shall be scrutinized to establish responsiveness to the requirements laid down in the Process Document. In addition to the events set out in this document, the following events or occurrences may cause the Bid to be considered “non-responsive”, at the sole discretion of the Liquidator:

- (a) Bid that is incomplete, i.e. the EMD/ PDM not done or Supporting Documents are not submitted in the formats set out under the Process Document or not accompanied with any of the applicable documents as specified in the Process Document;
- (b) Bid documents i.e. the EOI/ EMD/ Supporting Documents are not signed by authorized signatory, authorized for submission of the Bid and/or stamped in the manner indicated in the Process Document;
- (c) Material inconsistencies in the information/documents submitted by the Bidder;
- (d) EOI, EMD and Supporting Documents are not received on the respective Document Submission Date;
- (e) Any conditions attached to submission of the EMD/ Financial Proposal/ EOI/ Supporting Documents;
- (f) Existence of any collusion between the relevant Bidder, or between the Bidder and the Company's related parties, or any creditors of the Company and the Bidder;
- (g) Successful Bidder does not make payment of the Final Consideration (or part thereof) on the Consideration Payment Date;
- (h) Non-compliance with the terms of this Process Document;
- (i) Bidder delaying in submission of any document under this Process Document or any information or clarifications sought by the Liquidator; and/or
- (j) Bidder makes any misrepresentation, or any misleading or inaccurate statement, or has omitted any material information.

### **10.2 Right to disqualify or accept or reject any or all Bids**

Notwithstanding anything contained in this Process Document, the Liquidator reserves the absolute right to accept or reject any Bids(s), if the Bid(s) are non-responsive or not in compliance with this Process Document and/or the provisions of the IB Code and/or the Liquidation Regulations, and in any case, notwithstanding anything contained herein, reserves the absolute right to annul the Bid Process, at any time, without any liability or costs or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof for such actions. Without prejudice to the aforesaid, the Liquidator also reserves the absolute right to:

- a) disqualify any Bidder that is found to have made a false disclosure or made any misrepresentation with regard to its eligibility to participate in the Bid Process or submit Bids, at any stage of the Bid Process;
- b) disqualify any Bidder who does not provide the Earnest Money Deposit and/or the Supporting Documents in compliance with this Process Document, and any Successful Bidder who does not pay the Final Consideration as per the terms herein;
- c) annul the Bid Process, for any reason, at any point of time, including if considered unsatisfactory or commercially unacceptable or below Reserve price as determined by the Liquidator, in its sole discretion, without any obligation to provide reasons or justifications, and if deemed fit move to other methods of liquidation as per Regulation 32 (a) to (f) of the Code;
- d) restart the Bid Process, and invite fresh bids either on the Auction Date itself or any subsequent date with prior intimation of the same. The Liquidator reserves the right to conduct subsequent rounds of the E-auction sale with reduction in Reserve Price, as per the Code and Liquidation Regulations; and/ or
- e) select or approve any proposal or Bid(s), as it may deem fit, at any time.

### **10.3 The Bidder(s) should note that:**

(a) If any Bidder is rejected/ disqualified for any reason whatsoever, the Liquidator may subject to the IB code and the Liquidation Regulations):

(i) consider other Bid(s) received from other Qualified Bidder(s), whose Bid(s) is/are responsive and valid and is in compliance with this Process Document and I&B Code 2016, including any deviations/amendments to the Bid, as may be allowed by Liquidator; or

(ii) annul the Bid Process, or

(iii) invite fresh Bids, or

(iv) take any such measure as may be deemed fit at the discretion of the Liquidator including discussion with other Bidder(s).

(b) If the Liquidator receives only a single Bid, then Liquidator shall have the discretion to either discuss with the said Bidder or any other Person, on the terms of the proposed transaction or annul the Bid Process or to invite Bids again.

(c) If all Bids are rejected on account of them being unsatisfactory or commercially unacceptable or below a reserved price, the Liquidator may annul the Bid Process or seek for fresh submission of Bids, as per the discretion of the Liquidator, with reduced Reserve Price as per Liquidation Regulations.

(d) Acceptance or rejection by the Liquidator of the Earnest Money Deposit and/or Participation Deposit Money and the Supporting Documents received by the Liquidator after the Document Submission Date shall

be subject to the sole discretion of the Liquidator.

A Bidder shall be ineligible to submit a Bid(s) if the Bidder or any Person acting jointly or in concert with the Bidder or any of their connected person (as defined under Code), falls in any of the categories of ineligibility as set out in Annexure I. The Bidders shall be required to submit an affidavit in the form set out in Annexure I to satisfy that they are not ineligible to submit a Bid(s) in terms of the criteria set out thereunder.

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## **11. OTHER TERMS AND CONDITIONS OF PARTICIPATION**

In accordance with the terms of this Process Document, each Bidder is deemed to have made the following acknowledgements and representations:

(a) The Bidder(s) shall, unconditionally and irrevocably, promptly upon demand, indemnify and hold harmless the Company, the Liquidator and his Representatives, and advisors against all actions, proceedings, claims, demands, losses, liabilities, damages, costs and expenses imposed, asserted against or incurred by the Company, the Liquidator, and his Representatives, his advisors arising out of or pursuant to or in connection with a breach of the obligations of the Bidder(s) under the Process Document, the Bid(s) and/or the LoI(s) or in the event the Bidder(s) withdraws the Bid(s) post the timelines mentioned herein, or withdraws from the Bid Process pursuant to the approval of the concerned Bid(s) by the Liquidator or delays in the implementation of the Bid(s), and the Bid(s) submitted by the Bidder(s) shall contain an undertaking to this effect.

(b) The Bidder(s) represents that the Bidder(s) is in compliance with the requirements set out under the Applicable Laws and this process document for participating in the Bid Process and executing the Bid(s).

(c) The Bidder(s) represents to the Company and the Liquidator that it has the necessary financial resources available for the purpose of implementation of the Bid(s), for the consideration, stated in the Bid(s).

(d) The vesting of any legal or beneficial interest, right or title over the Company and/or any of its assets shall be issued, vested, transferred pursuant to the Successful Bid(s), to the Successful Bidder on an “as is where is basis”, “as is what is basis” “Whatever there is basis” and “without any recourse basis”.

(e) The Bidder(s) acknowledges that neither of the Company, the Liquidator and his Representatives, are providing any representations or warranty(ies), express or implied regarding the status of business, business prospects, operations, history, quality, standard, exact quantity, description or title of the assets or any other aspect of the Company or the condition/ ownership/ title/ value of its assets, equipment, securities and the Company, the Liquidator and his Representatives, assume no such liability whatsoever in this respect.

(f) The Bidder(s) acknowledge that the ownership to the Assets of the Company shall pass only upon issuance of Sale Certificate(s) to the Successful Bidder(s) subject to the directions of the Hon’ble NCLT, if any and that no claim of ownership can be made by any Bidder(s) prior to the same.

(g) The Bidder(s) represents to the Company and the Liquidator that it has obtained all the requisite corporate authorizations and regulatory approvals required for submission of the Bid(s), and acquisition of the Company if such a regulatory approval is necessary.

(h) The Bidder(s) acknowledges that it shall fulfill all the terms of the Process Document, LoI and the Bid(s) (as submitted by it and as accepted by the Liquidator), if it is declared as a Successful Bidder upon the completion of the Bid Process.

(i) The Bidder(s) acknowledges that all information submitted by it is complete, strictly as per the requirements stipulated in the Process Document and is true and correct.

(j) The Bidder(s) acknowledges that no modification, alteration, amendment or change may be made to the EOI/ EMD/ Supporting Documents submitted by a Bidder(s) except as provided in this Process Document

(k) The Bidders should regularly visit the Data Room, if any and the website of the Company to keep themselves updated regarding clarifications/amendments/time extensions, if any, in relation to the Bid Process.

(l) The Bidders agree and acknowledge that invocation or encashment or appropriation of the Earnest Money Deposit and Participation Money Deposit is not the only remedy available to the Liquidator, and the Liquidator shall have the unfettered right to initiate appropriate legal proceedings against the Bidder(s) as it deems fit for the damages recovery of losses caused to the Liquidator and/ or Corporate Debtor on account of withdrawal of the Bid(s) or non-fulfilment of the terms and conditions of this Process Document, including pressing for specific performance or injunctions.

(m) It shall be the responsibility of each Bidder to bear all costs in relation to acquiring the assets/ equipment/ documents/ securities of the Company. It is clarified that the Liquidator or Company do not undertake any responsibility or obligation in relation to maintenance/ moving/ delivery of any asset/ equipment/ document prior or post the issuance of LoI(s).

(n) The Final Consideration shall not be subject to any deductions, adjustments, set off, claims, reimbursements, expenses of any sort whatsoever.

(o) The Bidders accept and acknowledge that the Liquidation Account and all monies and deposits contained therein shall form part of the liquidation estate of the Company and notwithstanding the conclusion of the Bid Process and acquisition as contemplated herein, the Liquidation Account shall continue to be operated solely as per the instructions of the Liquidator and the deposits, monies made therein shall be held in trust for the Stakeholders of the Corporate Debtor and neither the Company, nor the Successful Bidder(s) nor any of the future creditors or stakeholders of the Company shall have any recourse to the said Liquidation Account. It is also clarified that any interest accrued on the deposits lying to the credit of the Liquidation Account or any other bank account of the Corporate Debtor until the Transfer Date shall form part of the liquidation estate of the Corporate Debtor and shall be utilized for the purposes of discharge of liabilities under Section 53 of the Code.

(p) While a Bidder may induct any strategic and/ or financial partner for the purpose of acquisition under this Process Document, it is clarified that the Bidder shall be solely responsible for the consummation of the sale under this Process Document and shall be jointly and severally liable for any acts/ omissions of such partner. Further, all such partner(s) or any other Person inducted by the Bidder is required to be compliant as per Section 29A of the Code and is required to submit the affidavit and undertaking in Annexure I hereof.

## 12. COSTS, EXPENSES AND TAX IMPLICATIONS

The successful bidder shall be responsible for all the costs incurred by them / it on account of its participation in the auction Process, including any costs associated with participation in the discussion Meeting (if any), Site Visit, etc. The Liquidator shall not be responsible in any way for such costs, regardless of the conduct or outcome of the auction Process.

For purpose of abundant clarity, it is hereby clarified that the successful bidder is expected to make their/ its own arrangements including accommodation for the discussion Meeting or Site Visit and all costs and expenses incurred in that relation shall be borne by the Bidder.

The E-Auction process applicant shall not be entitled to receive re-imbursement of any expenses which may have been incurred carrying out of due diligence, search of title to the assets and matters incidental thereto or for any purpose in connection with the auction process plan.

It is to be noted that all taxes applicable (including stamp duty implications and registration charges) on sale of Assets of the Company would be borne by the successful bidder as follows;

- i. The sale attracts stamp duty, registration charges, GST etc. as per relevant laws
- ii. The successful bidder shall bear all the necessary expenses like applicable stamp duties / additional stamp duty / transfer charges, fees, etc. whatever may be applicable to this transaction.
- iii. The payment of all statutory / non - statutory demands, claims, dues, taxes, rates, assessments, charges, fees, penalty, compensation etc. pertaining to /owned by the Corporate Debtor to anybody in respect of the EAuctioned Assets of the Company shall be sole responsibility of successful bidder.
- iv. Bidder / Purchaser has to bear the cess or other applicable tax i.e. GST, TDS etc. For brevity sake, it is hereby clarified that it is the responsibility and obligation of the bidder to bear separately all cost, expenses, government dues and charges and any kind of levy or tax imposed by authorities or any liability on and towards auctioned property before or after the sale of auctioned Assets of the Company to the Bidder.
- v. The successful bidder shall not deduct any amount in the form of TDS on the Reserve Price as per law as it stands today under Insolvency and Bankruptcy Code as observed in the Order passed by the Hon'ble NCLAT in this regard in the matter of Om Prakash Agrawal, Liquidator for S. Kumars Nationwide Limited v. Chief Commissioner of Income Tax (TDS) and others' – 2021 (2) TMI 364 – NCLAT, (decided on 08.02.2021).

Notwithstanding anything stated in this document, 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 and underlying property in the name of the Successful Bidder and such dues, if any, will have to be borne/ paid by the Successful Bidder.

The bidder shall be responsible for fully satisfying the requirements of the IBC and related Regulations as

well as all Applicable Laws (including tax 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 ApplicableLaw for purchasing the Assets of the corporate debtor.

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### 13 FRAUDULENT AND CORRUPT PRACTICES:

**13.1** The Eligible 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 Successful Bidder. Notwithstanding anything to the contrary contained in this E -Auction Process Document, or in the Letter of Intent, the Liquidator shall reject a bid and/or revoke the Letter of Intent, as the case may be, without being liable in any manner whatsoever to the Eligible / Successful Bidder, if the Liquidator, in his/her sole discretion, determines that the Eligible / 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 E-Auction process 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. 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 E-Auction Process Information Document or Applicable Law.

**13.2** For the purposes of this Clause the following terms shall have the meaning hereinafter respectively assigned to them:

a) **“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 auction process;

b) **“Conflict of Interest”** shall mean an event or circumstance, determined at the discretion of the Liquidator, where a Eligible/ Successful Bidder is found to be in a position to have access to information about, or influence the bid of another Eligible Bidder pursuant to a relationship of such Eligible/ Successful Bidder (excluding any commercial relationship pursuant to the ordinary course of business) with the other Eligible Bidder or Company, group companies of the Company, or affiliates of the Company, directly or indirectly, or by any other means including colluding with other Eligible Bidder(s), the Company, or group companies of the Company;

c) **“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 auction process (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 auction process or arising there from, before or after the execution thereof, at any time 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 auction process); or

ii) engaging in any manner whatsoever, during the auction process or thereafter, any person in respect of any matter relating to the Company, who at any time has been or is a legal, financial or technical adviser of the Liquidator or the Company, in relation to any matter concerning the auction process;

d) **“Fraudulent practice”** shall mean a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the auction process;

e) **“Restrictive practice”** shall mean forming a cartel or arriving at any understanding or arrangement among the Interested / Eligible Bidder(s) with the objective of restricting or manipulating a full and fair competition

in the auction Process; and

f) “**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 auction process; or

ii. having a Conflict of Interest

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

**13.4** The Eligible 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 assets to any other party, other than to his professional advisors and financiers, who are in each case required in the course of their duties to receive and consider the same for the purpose of advising in relation to the transaction and who are bound by confidentiality obligations that are at least as stringent as the obligations that the Eligible Bidder is subject to.

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## **14 VERIFICATION OF INFORMATION BY THE BIDDER:**

It shall be deemed that by participating in the e-auction process, the Bidder has:

**14.1** made a complete and careful examination of the E -Auction Process Information Document and Sale Notice and unconditionally and irrevocably accepted the terms thereof.

**14.2** familiarized itself with the Order(s) of the Adjudicating Authority / Competent Authority.

**14.3** reviewed all relevant information provided by the Liquidator, as may be relevant to the e-auction process.

**14.4** satisfied itself about all matters regarding the e-auction process required for submitting an informed bid in accordance with this E-Auction Process Information Document and performance of all its obligations hereunder.

**14.5** acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the E -Auction Process Document or ignorance of any of the matters related to the e- auction process shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc., from the Liquidator; and agreed to be bound by the undertakings provided by it under and in terms hereof.

## **15 VERIFICATION OF DOCUMENTS AND DISQUALIFICATION:**

The Liquidator reserves the right to verify (in accordance with the provisions of this E - Auction Process Document) all statements, information and documents submitted by the Bidder in response to the E - Auction Process Information Document and the Bidder shall, when so required by the Liquidator, make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification by the Liquidator shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Liquidator thereunder.

15.1 without prejudice to any other right or remedy that may be available to the Liquidator under this E - Auction Process Information Document, Liquidator reserves the right to disqualify the Bidder, cancel the sale and to appropriate the entire EMD and other amounts paid, if:

- a) at any time, a misrepresentation on part of the Bidder is made or uncovered.
- b) the Bidder does not provide, within the time specified by the Liquidator, the supplemental information/ documentation sought by the Liquidator, or
- c) any act or omission of the Bidder results in violation of or non-compliance with the E-Auction Process Information Document and/ or any other document referred herein or issued pursuant thereto or any applicable law relevant for the e-auction process.

15.2 The Liquidator, in his sole discretion and without incurring any obligation or liability, reserves the right, at any time, to

- a) consult with any Bidder in order to receive clarification or further information;
- b) retain any information and/ or evidence submitted to the Liquidator on behalf of, and/ or in relation to any Bidder; and/ or
- c) independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Bidder. Any person who participated in E-Auction, if found ineligible u/s 29A of Insolvency & Bankruptcy Code, 2016, or regulation thereunder or Section 35(f) Proviso or in other criteria, EMD/PDM or any other monies deposited by such ineligible bidder shall be forfeited without any further intimation and without any recourse by the bidder.

## **16 GOVERNING LAW AND JURISDICTION**

This E-Auction Process Information Document, the auction Process and the other documents pursuant to the E-Auction Process Information Document shall be governed by the laws of India and any dispute arising out of or in relation to the E-Auction Process Information Document or the E- Auction Process shall be subject to the exclusive jurisdiction of the Adjudicating Authority, courts and tribunals at Amaravati, India.

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## 17 E-AUCTION PROCESS SCHEDULE:

The following timetable shall apply to the E-Auction Process Information Sheet. The timetable may be amended by the Liquidator through issuance of an addendum to the E- Auction Process Information Document.

| Sr. No. | EVENT                                                                                                                                                                                             | TIMELINE                                                           |
|---------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|
| 1       | <b>Sale Notice (Public Advertisement) of E-auction</b>                                                                                                                                            | <b>T = 23/10/2023</b>                                              |
| 2       | E-Auction Process Information Documents uploaded in the Site                                                                                                                                      | T = 23/10/2023                                                     |
| 3       | Submission of Interest Free Participating deposit Money and requisite KYC documents, affidavits (Ann-I), Undertakings (Ann-II), etc by the interested bidder & complying eligibility criteria     | T+15   06/11/2023 (PDM Online Transfer)                            |
| 4       | Shortlisting and intimating to the eligible Bidders                                                                                                                                               | T+17   08/11/2023                                                  |
| 5       | Permission for site visit/Inspection to eligible bidders (subject to receipt of documents as stated at (3) above and <i>prima facie</i> found to be in compliance with the terms and conditions). | T+18+10   09/11/2023 to 18/11/2023<br>Timing: 11.00 AM to 5.00 PM. |
| 6       | Access to Data Room                                                                                                                                                                               | T+29   20/11/2023                                                  |
| 7       | Last date for Submission Earnest Money Deposit into the designated bank account                                                                                                                   | T+31   22/11/2023 (EMD Online Transfer)                            |
| 8       | <b>E-auction date</b>                                                                                                                                                                             | <b>T+33=Y   24/11/2023 (3:00 PM to 5:00PM)</b>                     |
| 9       | Declaration of Successful Bidder by Service Provider to the Liquidator.                                                                                                                           | Y+1   25/11/2023                                                   |
| 10      | Issue of Email Confirmation by the Liquidator to Successful Bidder.                                                                                                                               | Y+1   25/11/2023                                                   |
| 11      | Signing of LOI by Successful Bidder within 2 days                                                                                                                                                 | Y+3   27/11/2023                                                   |
| 12      | Payment of Entire Bid Value after deducting EMD & PDM already paid by successful bidder within 30 days (payments after 30 days upto maximum of 90 days shall carry interest of 12% p.a.)          | Y+90   22/02/2024 (Online Transfer)                                |
| 13      | Return of EMD and PMD to unsuccessful Bidder                                                                                                                                                      | Y+17   11/12/2023                                                  |

Please note that access to Data Room, if any, documentation, additional information and site visits will be granted only once after the bidder submits the requisite forms, documents and authorizations; Affidavit and Undertaking; executing a Confidentiality Undertaking by the bidder as stated. Bidders should regularly visit the website(s)/link(s) mentioned in Sale Notice to keep themselves updated regarding clarifications, amendments and/or extension of time, if any.

Pankaj Srivastava  
Liquidator  
Empee Sugars and Chemicals Limited  
IBBI Regn. No.: IBBI/IPA-001/IP-P00245 /2017-18/10474

Correspondence Address:  
#Office No. 58, 3rd Cross, Vinayak Nagar,  
Hebbal, Bengaluru 560024  
Email: [plan@psri.in](mailto:plan@psri.in); [ip.empee@gmail.com](mailto:ip.empee@gmail.com)  
[Ph: 080 2390 2344](tel:08023902344)

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## ANNEXURE I

### AFFIDAVIT AND UNDERTAKING

(On stamp paper of relevant duty)

#### FORMAT FOR AFFIDAVIT AND UNDERTAKING CONFIRMING ELIGIBILITY UNDER SECTION 29A AND /OR PROVISIO TO SECTION 35(1) (f) OF IBC

Date: [●]

To,

Mr. Pankaj Srivastava

(IBBI/IPA-001/IP-P00245 /2017-18/10474),

Liquidator of Empee Sugars and Chemicals Limited,

Office No. 58, 3rd Cross, Vinayak Nagar, Hebbal,

Bengaluru-560024

**Sub: Affidavit and Undertaking by BIDDER on eligibility under Section 29A and/ or proviso to section 35 (1)(f) of the Insolvency and Bankruptcy Code, 2016.**

Dear Sir,

I [Insert name of the authorized person of the Bidder Applicant], [son of/ daughter of] [aged about] [●] years, currently residing at [Address to be inserted] and having Aadhaar / Passport number [●], an authorized officer of [name of the BIDDER Applicant] having [registered] office at \_\_\_\_\_ [ ] (“BIDDER Applicant”), a term which also includes any person acting jointly with the BIDDER Applicant), on behalf of the BIDDER Applicant, do solemnly affirm and state to Mr. Pankaj Srivastava, the Liquidator of Empee Sugars and Chemicals Limited (“Company/Corporate Debtor”) as follows:

1. That the BIDDER Applicant or any person acting jointly with the BIDDER Applicant or in concert with BIDDER Applicant or any person who is a ‘connected person’ (as defined under the Insolvency and Bankruptcy Code, 2016 (“Code”), who is eligible to be a resolution applicant as per its meaning under the Code;
  - a) Is not an un-discharged insolvent;
  - b) Is not a willful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 (10 of 1949);
  - c) At the time of submission of the BID, doesn’t have 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

(10 of 1949) or the guidelines of a financial sector regulator issued under any other law for the time being in force 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 thereon and charges relating to non-performing asset accounts before submission of bid;

Provided further that nothing in this clause shall apply to BIDDER Applicant where such applicant is a financial entity and is not a related party to the corporate debtor.

Explanation I. - For the purposes of this proviso, the expression "related party" shall not include a financial entity, regulated by a financial sector regulator, if it is a financial creditor of the corporate debtor and is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares, prior to the insolvency commencement date.

Explanation II.— For the purposes of this clause, where a resolution applicant 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 and such account was acquired pursuant to a prior resolution plan approved under this Code, then, the provisions of this clause shall not apply to such resolution applicant for a period of three years from the date of approval of such resolution plan by the Adjudicating Authority under this Code.

d) Has not been convicted for any offence punishable with imprisonment.

- (i) for two years 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

Provided that this clause shall not apply to a person after the expiry of a period of two years from the date of his release from imprisonment. Provided further that this clause shall not apply in relation to a connected person referred to in clause (iii) of Explanation I;

- e) Is not disqualified to act as a director under the Companies Act, 2013 (18 of 2013):  
Provided that this clause shall not apply in relation to a connected person referred to in clause (iii) of Explanation I;
- f) Is not prohibited by the Securities and Exchange Board of India from trading in securities or accessing the securities markets;

- g) Has not been a promoter or in the management 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; Provided that this clause shall not apply if a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place prior to the acquisition of the corporate debtor by the resolution applicant pursuant to a resolution plan approved under this Code or pursuant to a scheme or plan approved by a financial sector regulator or a court, and such E-Auction Sale Process Applicant has not otherwise contributed to the preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction;
- h) Has not executed a guarantee in favor 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 and such guarantee has been invoked by the creditor and remains unpaid in full or part;
- i) subject to any disability, corresponding to clauses (a) to (h), under any law in a jurisdiction outside India; or
- j) does not have a connected person not eligible under clauses (a) to (i)

Explanation I - 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 E-Auction Sale Process applicant; 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 I shall apply to BIDDER Applicant where such applicant is a financial entity and is not a related party of the corporate debtor.

Provided further that the expression “related party” shall not include a financial entity, regulated by a financial sector regulator, if it is a financial creditor of the corporate debtor and is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares, prior to the insolvency commencement date.

Explanation II—For the purposes of this section, "financial entity" shall mean the following entities which meet such criteria or conditions as the Central Government may, in consultation

with the financial sector regulator, notify in this behalf, namely:—

- (a) a scheduled bank;
  - (b) any entity regulated by a foreign central bank or a securities market regulator or other financial sector regulator of a jurisdiction outside India which jurisdiction is compliant with the Financial Action Task Force Standards and is a signatory to the International Organization of Securities Commissions Multi-lateral Memorandum of Understanding;
  - (c) any investment vehicle, registered foreign institutional investor, registered foreign portfolio investor or a foreign venture capital investor, where the terms shall have the meaning assigned to them in regulation 2 of the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 made under the Foreign Exchange Management Act, 1999 (42 of 1999);
  - (d) 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 (54 of 2002);
  - (e) an Alternate Investment Fund registered with Securities and Exchange Board of India;
  - (f) such categories of persons as may be notified by the Central Government.”
2. That the BIDDER Applicant unconditionally and irrevocably undertakes that it shall provide all data, documents and information as may be required to verify the statements made under this affidavit.
  3. That in the event any of the above statements are found to be untrue, incomplete or incorrect, then the BIDDER Applicant unconditionally agrees to indemnify and hold harmless the Liquidator against any losses, claims or damages incurred by the Liquidator on account of such ineligibility of the BIDDER Applicant.
  4. That the list of the connected persons of the BIDDER Applicant set out in hereto is exhaustive and complete in all respects and the names of all the connected persons of the BIDDER Applicant have been set out thereunder without any omission whatsoever.
  5. I declare and undertake that in case [name of BIDDER Applicant or the person acting jointly with it or any of the connected person(s)] becomes ineligible at any stage during the Liquidation Process; it would inform the Liquidator forthwith on becoming ineligible.
  6. I also undertake that in case [name of BIDDER Applicant or the person acting jointly with it or any of the connected person(s)] becomes ineligible at any time during the auction/bid process for sale of Lot(s) of assets of the Company including after submission of Earnest Money Deposit (“EMD”) towards bid, then the Refundable Participation Deposit, and EMD would be forfeited without any intimation by the Liquidator and without any recourse by [name of BIDDER Applicant or the person acting jointly with it or any of the connected person(s)] and the same would be deposited in the account of Empee Sugars and Chemicals Limited (in Liquidation).
  7. I also further confirm and undertake that my bid Amount will remain binding unless rejected by the Liquidator.
  8. I also confirm that I shall not withdraw from the bidding process (either before or after allocation of login and Password to submit bid on portal) after depositing required eligibility documents along with the Refundable Participation Deposit and deposit of EMD for the

proposed bid or does not bid in the E-Auction portal and in case, I do so, I confirm and undertake that my Refundable Participation Deposit /EMD deposited in this connection is liable to be forfeited without any intimation by the Liquidator and without any recourse by [name of BIDDER Applicant or the person acting jointly with it or any of the connected person(s)].

9. I shall submit my bid from the Login and Password to be provided by the Liquidator or E Auction service provider and in case I do not bid, my Refundable Participation Deposit /EMD shall be liable for forfeiture without any further recourse.
10. I confirm to abide by the terms and conditions of the Bid, as described in the Bid Document, more particularly for the forfeiture clause of the Refundable Participation Deposit /EMD.
11. I confirm that the said declaration and disclosure is true and correct, and I agree to compensate the Liquidator for any cost incurred in relation to ascertaining the veracity of this declaration.
12. I am duly authorized to submit this declaration by virtue of[●]. The said document is true, valid and genuine to the best of my knowledge, information and belief.

We confirm that the payment of the Interest Free Refundable Participation Deposit of Rs. 10,00,000 (has been paid through demand draft number or NEFT / RTGS having UTR no. through (Bank name).

**(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)**

## ANNEXURE –II

### CONFIDENTIALITY UNDERTAKING

(On stamp paper of relevant duty)

This Confidentiality Undertaking has been signed by (**Name of potential Bidders**) having its office at acting through Mr. (**Name of person authorised 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. Pankaj Srivastava** Liquidator of M/s. Empee Sugars and Chemicals Limited (in Liquidation)

WHEREAS M/s Empee Sugars and Chemicals Limited( in Liquidation), a company registered under Companies, Act, 1956 (hereafter referred as the “**Company**”) is undergoing liquidation vide NCLT Amaravati Bench (“**NCLT**”) order dated 10<sup>th</sup> February, 2023, **Mr. Pankaj Srivastava**, a registered insolvency professional with Insolvency and Bankruptcy Board of India (IBBI) having registration number IBBI/IPA-001/IP-P00245 /2017-18/10474. has been appointed as liquidator to manage, protect, sell and liquidate the property, assets, business and other affairs of M/s Empee Sugars and Chemicals Limited( in liquidation)(“**Liquidator**”).

WHEREAS the Liquidator has invited qualified Bidders for the purpose of submission of Bid through E-Auction Process in respect of sale of the Company in accordance with the provisions of E-Auction Process Information Document and provisions of Insolvency and Bankruptcy Code, 2016 (“**IBC**”) readwith 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 qualified 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 data room 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.

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

1. The Bidder(s) shall not divulge any part of the information contained accessed through the data room which shall mean the virtual data room maintained by the Liquidator, created for the Eligible Bidders to access information in relation to the Company (“Data Room”) or any other data shared by the Liquidator, 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.

2. The Bidder (s) further unconditionally and irrevocably undertakes and declares 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 Assets 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 through the access of the Data Room and shall use its best endeavour 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

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/ Data Room. The Bidder(s) further agrees and acknowledges that neither the Liquidator nor any of the Stakeholders Consultation Committee and its officers shall 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 Chennai shall have exclusive jurisdiction over matters arising out of or relating to this Confidentiality Undertaking.

10. Capitalised terms not defined under this Confidentiality Undertaking shall have the same meaning as provided in the E-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:

Note- In case of consortium, undertaking to be executed by each of the members

**ANNEXURE III**  
*[On the Letterhead of the Entity Submitting the Bid]*

**BID APPLICATION FORM**

Date:

To,  
Mr. Pankaj Srivastava  
(IBBI/IPA-001/IP-P00245 /2017-18/10474),  
Liquidator of Empee Sugars and Chemicals Limited,  
Office No. 58, 3rd Cross, Vinayak Nagar, Hebbal,  
Bengaluru-560024

Dear Sir,

I am desirous in participating in the E-Auction for sale of Assets of M/s. Empee Sugars and Chemicals Limited by the Liquidator conducted pursuant to the Order dated 10/02/2023 passed by the Hon'ble National Company Law Tribunal, Amaravati Bench to sell the Assets of the Company;

**Details of Corporate Debtor:**

|                     |                                                   |
|---------------------|---------------------------------------------------|
| Name                | Empee Sugars and Chemicals Limited in Liquidation |
| Bank Account Number | 2747238883                                        |
| Bank Name           | Kotak Mahindra Bank                               |
| Branch              | Sahakara Nagar Branch                             |
| IFSC Code           | KKBK0008045                                       |

**Details of Bidder(s)**

|                                 |                                                                                                                                                                                                                                  |
|---------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Name of the Bidder              |                                                                                                                                                                                                                                  |
| Constitution of Bidder          |                                                                                                                                                                                                                                  |
| Contact No. (Mobile & landline) |                                                                                                                                                                                                                                  |
| Email ID                        |                                                                                                                                                                                                                                  |
| PAN No.                         |                                                                                                                                                                                                                                  |
| Category of Assets              | Kindly specify the block of assets interested in participating.<br>The interested parties may select may any or both the block:<br><br>i. Sale of Ambasamudram Unit Comprising of Land (admeasuring about 202 Acres approx.) and |

|                          |                                                                                                                                                                                                                                                                                    |
|--------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                          | buildings Located at Mukkoodal Village, Ambasamudram, Tirunelveli District, Tamil Nadu.                                                                                                                                                                                            |
|                          | ii. Sale of the Corporate Debtor as going concern (including the Ambasamudram Unit Comprising of Land (admeasuring about 202 Acres approx.) and buildings Located at Mukkoodal Village, Ambasamudram, Tirunelveli District, Tamil Nadu, certain Entitlements and Actionable Claim) |
| Details of EMD Deposited |                                                                                                                                                                                                                                                                                    |
| EMD Amount required      |                                                                                                                                                                                                                                                                                    |
| EMD Amount Deposited     |                                                                                                                                                                                                                                                                                    |

I/We further declare that I/We intend to purchase the above mentioned Asset for our own/business use and that the information reveled by me/us in this document is true and correct to the best of my/our knowledge and belief.

I/We agree if any of the statement/information revealed by me/us is found incorrect, my/our tender is liable to be cancelled and in such case the Earnest Money Deposit paid by me/us is liable to be forfeited by the seller and also he is at liberty to annual the offer made to me/us at any point of time, and without any recourse by us.

I/We agree that the liquidator reserves the right to request for additional information or clarification from us for the purposes of the Bid and we shall promptly comply with such requirements. Failure to satisfy the queries of liquidator may lead to rejection of our submission pursuant to Bid Application form;

I/We agree, in the event of acquisition of the Plant, not to engage in any activity of hazardous/prohibited items as specified by Government of India from time to time.

I/We also agree that after my/our offer given in my/our tender for purchase of Block of Assets is accepted and if I/We fail to accept the terms and conditions of the offer letter or am/are not able complete the transaction within the time limit specified in the offer letter, the Earnest Money Deposit paid by me/us is liable to be forfeited without any recourse by us and the seller has also a right to proceed against me/us for specific performance of the contract.

I/We will not claim any interest till three months from the date of submission of offer.

I/ We/M/s.\_\_\_\_ 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 passwordfor us to enable us to take part in the E- Auction.

Yours Faithfully

Signature of the Bidder

Authorised Signatory M/s. \_\_\_\_\_

Enclosures:

1. Demand

Place:

Date:

Signature: (Seal/ Rubber Stamp in case of company / firm)

\* The applicable GST and other taxes /duties are extra and shall additionally payable by the successful bidder.

## TERMS AND CONDITIONS OF THE E-AUCTION ARE AS UNDER:

In addition to the E-Auction Process Information Document, following terms and conditions shall also apply:

1. EAuction will be conducted on “As is where is basis”, “As is what is basis”, “Whatever there is basis”, and “Without any Recourse basis” through approved service provider E – Auction Service Provider at <https://nesl.co.in>. The complete E-Auction Process Information Document containing Terms and Conditions of E-Auction, E-Auction Bid form, Eligibility Criteria, Declaration by Bidders, Description of Assets etc. are available on website E – Auction Service Provider at <https://nesl.co.in/auction-notices-under-ibc>. <https://nesl.co.in/auction-notices-under-ibc>. Contact Person- Mr. Araventhane S; Contact no.- 9384676709; Email id- [araventhane@nesl.co.in](mailto:araventhane@nesl.co.in) and also on <https://www.psri.in/escl/>. Interested bidders will have to search for the mentioned company using the Company's name **Empee Sugars and Chemicals Limited**.
2. The Prospective Bidders should submit the evidence for Refundable Deposit(s) like UTR number along with the Request Letter for participation in E-auction, self- attested copies of (i) Proof of identity (KYC) viz. Voter ID card/ Driving License/ Passport etc., (ii) Current Address-Proof for communication, (iii) PAN card of Bidder, (iv) Valid Email ID, (v) contact number (Mobile/Landline) (v) Copy of MOA & AOA of the bidder etc., to the office of Liquidator by 06.11.2023. Scanned copies of the original of these documents can also be submitted to the Email ID of Liquidator.
3. The intending bidders are required to deposit Earnest Money Deposit (EMD) amount by 22.11.2023 either through Demand Draft/NEFT/RTGS in the Account of “Empee Sugars and Chemicals Limited”, drawn on any Scheduled Bank.
4. The Name of the intending Bidders eligible to participate in E-auction on the portal <https://nesl.co.in/auction-notices-under-ibc> shall be identified by the Liquidator and the E-auction service provider will provide User ID and password by email to eligible bidders prior to the bidding. In case, they do not receive, they may contact the liquidator by sending email promptly.
5. The Interest Free Refundable Participation Deposit and EMD (Interest Free) of the Successful Bidder shall be allowed to be set-off against or used as part of the sale consideration in the final payment only and the Refundable Participation Deposit / EMD of unsuccessful bidders shall be refunded with 17 (Seventeen) days of closure of auction.

6. In case bid is cancelled, the Interest Free Refundable Participation Deposit / Earnest Money Deposit of the bidder shall be refunded.
7. The Successful Bidder shall bear the applicable stamp duties/transfer charge, fees etc. and all the statutory / non- statutory dues, taxes, rates, assessment charges, fees etc. in respect of the property put on auction. The sale certificate/agreement will be issued in the name of the successful bidder only and will not be issued in any other name.
8. The Eligible Bidders, participating in the E-Auction, will have to bid for at least the Reserve Price, and increase their bid by a minimum incremental amount as mentioned in this document elsewhere.
9. The Liquidator has the absolute right to accept or reject any or all offer(s) or adjourn/postpone/cancel the e- Auction or withdraw any property or portion thereof from the auction proceeding at any stage without assigning any reason thereof.
10. The sale shall be subject to provisions of Insolvency and Bankruptcy Code, 2016 and Regulations made there under and any order, directions as passed by Hon'ble NCLT/NCLAT.
11. E-auction would commence on 24.11.2023 at 12: 30 P.M. as per the details mentioned under clause 17.
12. The 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 prior to submitting their bid. The E-Auction advertisement does not constitute and will not be deemed to constitute any commitment or any representation of the Liquidator. The details of assets and properties owned by the corporate debtor under sale are 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.
13. It should be the responsibility of the interested bidders to inspect and satisfy themselves about the property before submission of the bid.
14. 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.
15. The e-Auction/ bidding of would be conducted exactly on the schedule Date & Time as

mentioned by way of inter-se bidding amongst the bidders. The bidder may improve their offer in multiple of amount mentioned under the column “Bid Increment Amount” against bid. In case bid is placed in the last 10 minutes of the closing time of the e- auction, the closing time will automatically get extended.

16. The sale certificate will be issued and / or transaction / sale documents executed in the name of Successful Bidder(s) / Successful E-Auction Process Applicant(s) only and will not be issued in any other name(s).
17. The decision of Liquidator on declaration of successful bidder shall be final and binding on all the Bidders.
18. The Bidders are required to keep themselves updated for any revisions in the terms and conditions of E-Auction by regularly visiting the links and website addresses of the Company as mentioned in this E-Auction Process Information Document (Sale of Assets of Corporate Debtor).

Date:

Place:

## ANNEXURE-IV

### DECLARATION BY BIDDERS(S)

To,  
Mr. Pankaj Srivastava  
(IBBI/IPA-001/IP-P00245 /2017-18/10474),  
Liquidator of Empee Sugars and Chemicals Limited,  
Office No. 58, 3rd Cross, Vinayak Nagar, Hebbal,  
Bengaluru-560024

Sir,

1. I/ We do here by state that I/We have read the entire terms and conditions for sale of the assets of the Company as specified in the E-Auction Process Information Document dated 23.10.2023 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 process.
2. I/We, understand and acknowledge that the E-Auction is being held on **“AS IS WHERE IS, AS IS WHAT IS, WHATEVER THERE IS BASIS AND WITHOUT ANY RECOURSE BASIS”** and will be conducted “Online”.
3. I/We declare that the Refundable Participation Deposit/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.
4. 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 Interest Free Refundable Participation Deposit/Interest free Earnest Money Deposit and/or any monies paid by me/us is liable to be forfeited by the Seller and that the Seller will be at liberty to annul the offer made to me/us at any point of time, and without further recourse by us.
5. I/We also agree that after my/our offer given in my/our bid for purchase of company/ assets (comprising all assets and property(ies)) is accepted by the Seller 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 auction and offer letter, the Interest free Refundable Participation Deposit /Interest free

Earnest Money Deposit and other monies paid by me/us along with the online form and thereafter, are liable to be forfeited without any further recourse by me/ us. The timeline for payment of final sale consideration may be extended by sole discretion of liquidator, to the extent permissible under the applicable laws and regulations. Incase final sale consideration is not paid within stipulated timeline, the liquidator shall forfeit Interest free Refundable Participation Deposit/Interest free Earnest Money Deposit without any further intimation by the Liquidator.

6. I/We understand that the Interest free Refundable Participation Deposit/Interest free Earnest Money Deposit of all Bidders shall be retained by the Liquidator and returned only after the conclusion of the auction process as per the timelines mentioned. I/We, state that I/We have fully understood the terms and conditions there in and agree to be bound by the same.
7. I/we confirm that if we are declared as the Successful Bidder, we shall (i) submit the duly executed copy of the LOI within 2 days to the Liquidator as per the terms of the E-Auction Process Document; (ii) make the entire sale consideration (plus applicable taxes) as mentioned in clause 6 of this Process Memorandum.
8. I/We confirm that our participation in the e-auction process, submission of bid or acquisition of the company/Assets pursuant to the provisions of the E-Auction Process Information 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.
9. 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.
10. I/We also undertake to abide by the additional conditions if announced during the e- auction including any announcement (s) on correction of and/ or additions or deletions to the time of auction portal and Assets being offered for sale.
11. I/We confirm that the Seller and/or his professional advisors, affiliates, directors, employees, agents, representatives or managers of the process, shall not be liable and responsible in any manner whatsoever for my/our failure to access and bid on the e-auction portal due to any unforeseen circumstances etc. before or during the auction event.

12. I/We here by confirm that I/We shall bear the applicable stamp duties/additional stamp duty/transfer charges, fee, taxes, Goods and Services Tax, license, and approvals transfer fees etc. and also all the statutory/non statutory dues, taxes, rates assessment charges fees etc. owing to anybody.
13. I/We hereby confirm that we shall be solely responsible for obtaining and carrying out necessary actions and obtaining necessary approvals in order to effectuate fully the purposes, terms and conditions of the sale of the Company as per the terms of this E-Auction Process Document, including but not limited to, obtaining or renewing any license, consent, certificate, permit or other authorization, including procuring all necessary approvals from Persons, governmental and statutory authorities, if any, as may be required. The Liquidator shall in no way be held responsible nor shall there be any reduction in the Bid price/sale consideration as per the e-auction in case the of failure or delays on the part of the Successful Bidder to obtain the said approvals, licenses and permissions in its name or complete any other actions as the Successful Bidder may require.
14. I/We hereby confirm that we shall be liable in respect of our payment and other obligations under the E-Auction Process Document in the event the sale is being consummated and I/we undertake that in the event of any default by us, we shall fulfil our obligations within the timelines specified in the EAuction process information document and no extension shall be provided by the Liquidator.
15. I/We hereby confirm that I/we are eligible to purchase the assets of the Company under Section 29A and /or proviso to Section 35(1)(f) of the Insolvency and Bankruptcy Code, 2016 (as amended from time to time).
16. The capitalized terms not defined in this Bid Declaration Form and phrase “sale of the Company” shall have the same meaning as ascribed to it in the E-Auction Process Information Document (Sale of the Assets of Corporate Debtor).

(Signature)

Name:

Address:

Email ID:

Mobile:

## TECHNICAL TERMS AND CONDITION FOR EAUTION SALE PROCESS

1. Intending bidders shall have a valid e-mail ID, valid PAN Card and KYC document to submit to the Liquidator.
2. Only upon verification of the Online Form and confirmation of remittance of Earnest Money Deposit will the Eligible Bidders be declared and thereafter, permitted to access the Platform for bidding for a particular Property/Asset.
3. 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 Liquidator. Hence, Bidders are cautioned to be careful to check the bid amount and alter/rectify their bid if required before confirming the bid submitted.
4. 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.
5. Bidders are advised to change the password immediately on receipt thereof.
6. The Affidavit and declaration as per the format set out in **Annexure I and Annexure III** 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 who is duly authorized to sign the same.
7. All the aforementioned original physical copies documents there of shall be provided by the Successful Bidder to the Seller in accordance with the E-Auction Process Information Document.
8. 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 Deposit amount shall be forfeited without any further intimation by the Liquidator.
9. The highest bid on the EAuction 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.

10. After the conclusion of the e-auction, the Successful Bidder shall be informed through email communication by the Liquidator on the close of e auction of the outcome of the E-Auction. Date of sending the e-mail will be considered as the date of receipt of the Intimation of Intimation.
11. 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.
12. The conditions of Forfeiture of Interest free Refundable Participation Deposit / EMD as defined in the E-Auction Process Information Document shall apply to all the bidders.

## ANNEXURE V LETTER OF INTENT

[name to be inserted][ address to be inserted]

Re: E-Auction sale of \_\_\_\_ assets of M/s Empee Sugars and Chemicals Limited (Corporate Debtor)/ Corporate Debtor as going concern) conducted on .....

Dear Sir/Ma'am,

1. With reference to the above, successful bid was submitted by yourself ("Successful Bidder") in relation to E-auction \_\_\_\_ Block of Assets (Assets) of Empee Sugars and Chemicals Limited ("Corporate Debtor") auctioned on 23.10.2023.
2. You are requested to confirm your acceptance of this Letter of Intent (LoI) within 2 (two days) days of the date of issuance here of with an endorsement stating that this LoI is, "Accepted Unconditionally", under the signature of the authorized director/authorized signatory and you shall pay the amount of Rs. \_\_\_\_\_ as per terms and conditions mentioned in the Process Memorandum as the sale consideration towards purchase of Block of Assets of the Corporate Debtor ("Sale Consideration") plus any applicable GST, if any, on 100% of the Sale Consideration, demand asset out in the schedule to this LoI. Any payments made after 30th day from date of closure of the EAuction shall be paid with an interest of 12% p.a. Please note that, failure to accept this LoI within the time period specified may result in your disqualification as the Successful Bidder along with cancellation of this LoI and forfeiture of the Interest Free Refundable Participation Deposit/Interest Free Earnest Money deposited in relation to the captioned transaction issued by the Liquidator, without any further recourse by the successful bidder ("E-Auction Process Information Document").
3. After acceptance of the full payment of Sale Consideration and applicable GST and the Final order of Hon'ble NCLT, if any, the Liquidator agrees that the Liquidator shall execute a Sale Certificate in accordance with the terms of E Auction Process Information document and as per final order of Hon'ble NCLT in your favor for Sale on "**as is where is basis**", "**as is what is basis**", "**whatever there is basis**" and "**without any recourse basis**" of the \_\_\_\_ Assets owned by the Corporate Debtor without any representations and warranties on the part of the Liquidator for any encumbrances/statutory liabilities etc. in relation to Asset owned by the corporate debtor.
4. This LoI is not a sale confirmation letter and is issued without prejudice to other terms and conditions of the EAuction Process Information Document. The issuance of this LoI shall not be deemed to be conveying any right, title or interest in the Company or in any manner granting any right against the Liquidator, or their representatives and advisors, except to the extent any right has been created under this LoI.

5. In the event you are found to have made any misrepresentation, wrongful disclosure or misleading declaration of eligibility, this LoI may be revoked and on account of such revocation you shall have no right under this LoI.
6. Any contravention of the terms of this LoI, including non-acceptance of the contents here of within the stipulated time period, shall lead to cancellation of this LoI and forfeiture of EMD, PDM and any amount paid hereof and without any recourse by the successful bidder.
7. You shall keep the contents of this LoI confidential, save and except where any disclosure is required under applicable laws or a disclosure is required for securing financing or to your professional advisors and financiers, who are in each case required in the course of their duties to receive and consider the same for the purpose of advising you in relation to the transaction.
8. This LoI shall be governed by, and construed in accordance with, the laws of India and the National Company Law Tribunal shall have exclusive jurisdiction over all disputes arising under, pursuant to and / or in connection with this LoI.
9. Capitalized terms used but not defined here in shall have the meaning ascribed to them in the EAuction Process Information Document.

You are requested to unconditionally accept this LoI by countersigning this LoI and returning the same to me.

Yours faithfully,

\_\_\_\_\_  
Liquidator  
M/s Empee Sugars and Chemicals Limited

**Unconditionally agreed and accepted by:**

For

Authorized Signatory

## ANNEXURE VI: BOARD RESOLUTIONS

(On the letter head of the Bidder)

**CERTIFIED TRUE COPY OF RESOLUTION PASSED BY THE BOARD OF DIRECTORS (“BOARD”) OF [Insert name of the Bidder] (“COMPANY”) IN THE MEETING HELD ON [Insert Date], AT [Insert Time] AT [Insert Place] AND CONCLUDED AT**

**WHEREAS** pursuant to the process document dated [●] (“**Process Document**”), issued by Liquidator of M/s. Empee Sugars and Chemicals Limited (“ESCL”), in relation to submission of bids for sale of Assets of Corporate Debtor, the Company, being the Bidder, is desirous of submitting a Bid for the Company in accordance with the requirements of the Process Document.

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

**“RESOLVED THAT [insert name and designation of Authorised Representative],** of the Company, be and is hereby authorized to take all the steps required to be taken by the Company for the submission of the Bid in accordance with the terms of the Process Document, including the following:

(a) Submit the Bid(s) and other requisite documents, in accordance with the terms of the Process Document;

(b) Execute all other agreements, deeds, writings and powers of attorney as may be required in relation to the Process Document, including any amendments or modifications as may be suggested by the Liquidator of ESCL to any of such executed agreements, documents or other writings and in general to do all such acts, deeds and all things as maybe required or considered necessary under or in respect of the Process Document;

(c) Submit necessary clarifications or information in relation to the Bid(s), as may be required in accordance with the Process Document;

(d) participate in thee-auction through online in the EAuction portal maintained by the agency engaged by the Liquidator for the submission of Financial Proposal / Bid value as per the terms of the Process Document;

(e) pay such amounts and consideration, in the manner as may be agreed with the Liquidator, in accordance with the procedure set out under the Process Document in furtherance of or under the Financial Proposal; and

(f) 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** in addition to the foregoing resolution, [insert name of Managing Director] of the Company be and is here by authorized to execute a power of attorney in favour of [*insert name and designation of Authorised Representative*] appointing the aforesaid [*insert name and designation of Authorised Representative*], to exercise all or any of the powers set out under this resolution”“

**RESOLVED FURTHER THAT** a certified copy of the fore going resolution be furnished as may be required, under the signature of [*insert name and designation of Authorised Representative*].”

Certified to be true

**For the Company**

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