

E-AUCTION PROCESS INFORMATION DOCUMENT

Invitation of bids for E-Auction towards Sale of the Corporate Debtor EMC Limited (In Liquidation) as a going concern under Regulations 32(e) read with regulation 32A and 33(1) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 on “As is where is” “As is what is” “Whatever there is” and “Without recourse basis”

By an order of the Hon`ble National Company Law Tribunal, Kolkata Bench (“NCLT”) on 21st November, 2023

Date of Sale Notice

16th February, 2024

Date and Time of E-Auction

14th March, 2024 from 3 p.m. to 5 p.m.

Issued by:

Mr. Raj Singhania

Liquidator

IBBI Regn. No. IBBI/IPA-001/IP-P00188/2017-2018/10367

EMC LIMITED

CIN: U70100WB2010PLC151197

(A company under liquidation process vide NCLT order dated November 21, 2023)

Registered Office of the company: 51, Canal East Road, Kolkata- 700085, West Bengal

Website : www.emcpower.com

Email Id: rp.emcltd@gmail.com

Mr. Raj Singhania is a Registered Insolvency Professional with the Insolvency and Bankruptcy Board of India (IBBI). His IBBI Registration Number: IBBI/IPA-001/IP-P00188/2017-18/10367 and the AFA is valid till 16.04.2024. Mr. Raj Singhania has been appointed as the Liquidator of M/s. EMC Limited (In Liquidation) (“Corporate Debtor” or “Company”) by Hon`ble National Company Law Tribunal (NCLT), Kolkata Bench vide its order in IA No. 842/KB/2023 in CP (IB) No. 1237/KB/2018 dated 21.11.2023 to manage, protect, sell and liquidate the properties, assets and business of EMC Limited (In Liquidation). In the first meeting of the SCC, the SCC has recommended to sale the company as going concern in accordance with Regulation 32 (e) of the Liquidation Regulations. Hence this auction.

Address for Correspondence:

Central Plaza Building, 41 B B Ganguly Street,

5th Floor, Room No. 5A, Kolkata- 700012

Email Id: rp.emcltd@gmail.com

NOTES:

- 1. This E-Auction Process Document is issued only for the Interested Bidders.**
- 2. Terms and conditions, timelines, etc. for participating in the Electronic Auction are provided in the E-Auction Process Information Document.**
- 3. The timelines, notifications, updates and other details for the e-auction process are also available on the website <https://www.eauctions.co.in> and/or can be obtained by a request email addressed to the Liquidator at rp.emcltd@gmail.com**
- 4. The term “Sale of the Company as a going concern” wherever used in this document shall mean, Sale of the Company on Going Concern basis in accordance with the provisions of Insolvency & Bankruptcy Code, 2016 (“IBC”), Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (“Liquidation Process Regulations”) and this E-auction Process Information Document, all as amended and applicable from time to time.**
- 5. Bidder(s) desirous to submit their Bids have to submit their Bids on E-auction Portal <https://www.eauctions.co.in>**

DISCLAIMER

- 1. This E-Auction Process Information Document is issued by Mr. Raj Singhania, the Liquidator appointed by Hon’ble NCLT, Kolkata Bench, in the matter of EMC Limited (In Liquidation) for general information purposes only.*
- 2. The purpose of this document is to lay out the process for submitting the E-Auction Bids for the EMC Limited (In Liquidation) (the “Company” or “EMC” or “Corporate Debtor”) as a going concern in accordance with the Insolvency and Bankruptcy Code, 2016 (“IBC”) and regulations thereunder along with stipulating the terms and conditions of Sale.*
- 3. E-Auction Process Information Document is for providing guidance for participating in the process of Sale of Company on going concern basis in accordance with the provisions of this E-auction Process Information Document, IBC and Liquidation Process Regulations. 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 or any commitment whatsoever. This E-Auction Process Information Document does not solicit any action based on the material contained herein.*
- 4. 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 or local body. Nothing herein or in materials relating to the E-auction Process Information Document should be construed as legal, financial accounting, regulatory, tax or any other advice by the Liquidator.*
- 5. It is to be noted that no information being provided in this E-Auction Process Document is claimed to be comprehensive. Independent due diligence of the intended user of this document or the bidder is highly recommended.*

6. *This E-Auction Process Document and information contained herein or disclosed later, should not be printed, reproduced, transmitted, sold, distributed, or published by the recipient, without prior written approval from the Liquidator.*
7. *Neither the Liquidator, or his team, Associates, consultants etc. shall be liable for any damages, whether direct or indirect, remote or non-remote, causative or non-causative, including consequential losses and/or 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.*
8. *Further, apart from the provisions set out in this E-Auction Process Information Document, the E-Auction process applicant shall be responsible for fully satisfying/ meeting the requirements and provisions of the Insolvency and Bankruptcy Code, 2016 and of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, as well as all laws in force that are or may be applicable to the applicant or the sale process and for obtaining requisite regulatory approvals.*
9. *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.*
10. *By procuring this E-auction Process Information Document the interested bidders shall obtain access to the Data.*
11. *Under no circumstances shall the E-Auction Participant make any contact, direct or indirect, by any mode whatsoever, with the Company, its promoters, personnel, advisors or its past employees, consultants, auditors etc. until the Liquidator gives his prior Written Permission.*
12. *The Company is proposed to be sold as a going concern on “As is where is basis”, “As is what is basis”, “Whatever there is basis” and “No recourse basis” on the terms and conditions stipulated in this document and the proposed sale of the Company 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 assets of the Company.*
13. *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 such as site visits etc.*

14. *This E-Auction Process Information Document is neither an agreement nor an offer by the Liquidator to the Prospective Bidder(s) 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 Document may not be complete, accurate, adequate or correct and the Liquidator shall not be responsible and/or liable for the veracity thereof. 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. The decision to participate in the E-Auction Process shall be strictly at the bidder's risk and cost.*

15. *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 Document.*

INDEX

SL.NO.	PARTICULARS	PAGENO.
A.	Information must be read before bidding	6-7
B.	Key Definitions	8-10
C.	Introduction	11
D.	Overview of The Company	12-13
E.	Eligibility	14-16
F.	Documents Required to Be Submitted to Ascertain Eligibility of The Bidder	17-18
G.	Additional Documents Required to Be Submitted By Bidder along with EMD	18
H.	Physical Verification and Site Visit	18
I.	Due Diligence	18-19
J.	Assets To Be Auctioned and Reserve Prices	19
K.	Earnest Money Deposit (EMD)	20-22
L.	Declaration Of Successful Bidder and Completion of Sale	22-24
M.	Fraudulent and Corrupt Practices	25-26
N.	Costs, Expenses and Tax Implications	26-27
O.	Governing Law and Jurisdiction	27
P.	Timetable	27-28
Q.	Terms and Conditions of E-Auction	28-32

ANNEXURES

SL.NO.	PARTICULARS	PAGE NO.
I.	Affidavit and Undertaking	33-36
II.	Bid Application form	37-38
III.	Declaration by Bidder	39-40
IV.	Confidentiality Undertaking	41-43
V.	Technical Terms and Conditions of E-Auction Sale	44
VI.	Description of Assets	45
VII	Details of Outstanding/Live Bank Guarantees	46-50
Format A	Earnest Money- Bank Guarantee	51-53
Format B	Earnest Money Amount Payment by An Associate Company	54

A. INFORMATION MUST BE READ BEFORE BIDDING

1. This E-Auction Process Information Document has been issued for the purpose of carrying out electronic auction (e-Auction) sale of EMC Limited (In Liquidation) (the “Company” or “EMC” or “Corporate Debtor”) as a going concern under the provisions of the Insolvency and Bankruptcy Code (“IBC” or the “Code”), 2016 and the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (Liquidation Process Regulations), all as amended and applicable from time to time.
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 except for Terms of sale, forfeiture of EMD for non-payment of final consideration amount within the stipulated period from the LOI date.
3. The information contained in this E-Auction Process Information Document or subsequently provided to prospective Bidder(s), whether verbally or in documentary or any other form by or on behalf of the Liquidator, is provided to prospective Bidder(s) subject to the terms and conditions as set out in this E- Auction Process Information Document.
4. 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.
5. The issuance of this E-Auction Process Document does not imply that the Liquidator is bound to select a Bidder or to appoint the Preferred Bidder as Successful Bidder for the assets of the company and the Liquidator reserves the right to reject all or any of the Bidders or bids without assigning any reason whatsoever, at its sole and absolute discretion.
6. Linkstar Infosys Pvt. Ltd.,9-C, Vardan Complex, Near Vimal House, Lakhudi Circle, Navrangpura, Ahmedabad-380014, Ahmedabad, India (“E-Auction Service Provider”) has been appointed as the E-Auction Service Provider. The Sale of the Company as a going concern shall be undertaken by the E-Auction Service Provider for and on behalf of the Seller through an e-auction platform provided on the website portal of the E-Auction Service Provider (Platform).
7. The title document relating to the properties shall be available on request to be made to the Liquidator by email at rp.emcltd@gmail.com. Please find appended the details of the properties/assets of the Company in “**Annexure VI**”.
8. Other details with respect to the e- auction are as follows:

Type of Bid	E-Auction
Seller	Raj Singhanian, Liquidator of EMC Limited (In Liquidation)

Website of E-Auction service provider	http://www.eauctions.co.in/
E-Auction Service Provider	Linkstar Infosys Pvt. Ltd., 9-C, Vardan Complex, Near Vimal House, Lakhudi Circle, Navrangpura, Ahmedabad – 380014
Contact person	Mr. Vijay Pipaliya
Email id	admin@eauctions.co.in
Phone No.	+91-9870099713
Annexures and Formats	Annexure I: Affidavit and Undertaking Annexure II: Bid Application Form Annexure III: Declaration by Bidder Annexure IV: Confidentiality Undertaking Annexure V: Technical Terms and Conditions of E-Auction Sale Annexure VI: Description of Assets Annexure VII: Details of Outstanding Live Bank Guarantees Format A. Earnest Money- Bank Guarantee Format B. Earnest Money Amount Payment by An Associate Company
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 the part of the Bidders or any technical glitch.

9. All terms and conditions with respect to the sale of the Company as a going concern shall be in accordance with the provisions of IBC and Liquidation Process Regulations read with the directions issued by the Liquidator and Hon'ble National Company Law Tribunal (NCLT from time to time) and the E-Auction Process shall be governed by decisions of the Liquidator, taken in consultation with the Stakeholders' Consultation Committee. As mandated, the Liquidator shall exercise all rights with respect to sale of the Company and it would be open to the Liquidator to appoint such experts, professionals or other persons, as the Liquidator might think necessary to facilitate the Liquidator in conducting the sale of the Company.
10. 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 appended hereto.

B. KEY DEFINITIONS

“**Adjudicating Authority**” or “**NCLT**” shall mean the Hon’ble Bench of the National Company Law Tribunal at Kolkata;

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

“**Applicable Laws**” shall mean, 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 other body applicable for such transactions including but not limited to the IBC, Liquidation Process Regulations, Companies Act, 1956 / 2013 (as applicable), Competition Act, 2002 , Transfer of Property Act, 1882, Sale of Goods Act, 1930, Foreign Exchange Management Act, 1999, whether in effect as of the date of this E-Auction Process Information Document or thereafter and each as amended from time to time;

“**Agency**” or “**Service Provider**” or “**Linkstar**” means Linkstar Infosys Private Limited(<https://www.eauctions.co.in>)

“**Bid**” means, any bid submitted by the Bidder(s) as required in terms of this E-Auction Process Information Document and in accordance with the provisions of IBC read with the Liquidation Process Regulations and any other Applicable Laws;

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

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

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

“**Company**” or “**Corporate Debtor**” shall mean ‘EMC Limited’ a company incorporated in India under the Companies Act of 1956, having its registered office at 51, Canal East Road, Kolkata- 700085, West Bengal, India;

“**Confidentiality Undertaking**” shall mean an undertaking as specified in **Annexure IV** herewith;

“**Control**” shall include the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholdings or management rights or shareholders agreements or voting agreements or in any other manner more specifically mentioned in section 2(27) of the Companies Act, 2013;

“E-Auction Process” or **“E-Auction”** shall mean the electronic auction process for sale of the Company as a going concern 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 Company as a going concern basis in accordance with the provisions of IBC and Liquidation Process Regulations;

“E-Auction Process Participant” or **“E-Auction Process Applicant”** or **“Bidder”** mean, Person or Persons who submitted a bid as per the E-Auction Process Information Document; and shall include an Eligible Bidder or the Successful Bidder, as the case may be, and as the context requires;

“E-Auction Process Information Document” or **“E-Auction Process Document”** means this document including all the annexures and appendices hereto, for the purposes of setting out the terms of sale and the process for submission of a bid and selection of Successful Bid in accordance with the provisions of the IBC and shall include all supplements, modifications, amendments, alterations or clarifications thereto issued in accordance with the terms hereof.

“Eligible Bidder(s)” shall mean a Bidder who fulfills the eligibility criteria listed out in the E-Auction Process Information Document to the satisfaction of the Liquidator;

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

“Liquidator” means Mr. Raj Singhania, a Registered Insolvency Professional with the Insolvency and Bankruptcy Board of India (IBBI) having Registration number as IBBI/IPA-001/IP-P00188/2017-2018/10367. Mr. Raj Singhania has been appointed as the Liquidator of EMC LIMITED (In Liquidation) by Hon`ble National Company Law Tribunal (NCLT), Kolkata Bench vide order dated 21st November, 2023 to manage, protect, sell and liquidate the properties, assets and business of EMC Limited (In Liquidation);

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

“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 Company on going concern basis, including the balance sale payment by Successful Bidder as per the provisions of IBC and the Liquidation Process Regulations.

“Person” includes an individual, a Hindu undivided family, a limited liability company, a trust, a partnership firm, an association, a corporation, a body corporate, a limited liability partnership, bank or financial institution and any other entity established under a statute and also includes a person resident outside India;

“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;

“Reserve Price” shall mean the minimum price at which a bid will be accepted on the auction portal from a participating eligible bidder;

“Seller” shall mean Raj Singhania acting as liquidator of the company appointed by Hon’ble NCLT, Kolkata.

“Successful Bidder” or **“Successful E-Auction Process Participant”** or **“Successful E-Auction Process Applicant”** means, the Bidder whose bid is approved and who is declared successful by the Liquidator.

“Terms of Sale” shall mean the terms and conditions stipulated in clause ‘Q’ of this document and will essentially form part of the e-auction process;

Capitalized terms used herein but not defined otherwise shall have the 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.

C. INTRODUCTION

1. The Company's Liquidation Process has been initiated under the provisions of the IBC and the Liquidation Process Regulations by an order of the Hon'ble NCLT, Kolkata Bench dated 21.11.2023 and the Liquidation has commenced with effect from 21.11.2023. Further as per the said order dated 21.11.2023, Mr. Raj Singhanian has been appointed as the Liquidator.
2. It is the endeavour of the Liquidator to sell the assets and properties of the Company as a going concern, comprising the liquidation estate of the Company in the manner specified under Regulation 32(e) read with Regulation 32A and 33(1) 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 as the case may be, and as per directions, if any, of the NCLT in respect of the liquidation process of the Company and in the manner specified in this E-Auction Process Information Document.
3. 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 as the case may be, and as per directions, if any, of the NCLT in respect of the liquidation process of the Company and in the manner specified in this E-Auction Process Information Document.
4. 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 may be and other Applicable Laws more particularly with regard to 'sale as a going concern'
5. The Assets and Properties of the Corporate Debtor, as more fully detailed in Annexure VI herein, includes the assets over which the Financial Creditor(s) of the Corporate Debtor held security interest, which since stands relinquished. The aforementioned assets form part of the Liquidation Estate of the Corporate Debtor.

D. OVERVIEW OF THE COMPANY - BRIEF BACKGROUND

- EMC Limited, with over seven decades of experience, is one of India's pioneering EPC companies and a world-class provider of end-to-end power systems solutions across the world
- EMC is a global company with a presence in Power Transmission, Power Distribution, Balance of Plant and Railways.
- Since 1953, EMC has built critical power & infrastructure assets for India & its clients globally which made it a valued brand
- The Company belong to the elite group of companies qualified to execute 765 kV transmission line projects and offer complete turnkey solutions in the field of power transmission systems and associated sub-systems
- Some of its notable projects are :
 - 765 kV S/C Seoni – Mewad Transmission Line which is one of the first 765 kV lines to be completed in India
 - 400 kV D/C RAPP 5&6 – Kankroli Transmission Line. The line passes through challenging terrain in Rajasthan
 - 400 kV D/C line from Kishenpur to Kishtwar in J&K. The line passes through Pir Panjal range (mountain terrain)
 - Railway Electrification from Vizianagaram to Singapur Road, Total 138.84 RKM / 369 TKMs
 - Railway Electrification from Rewari to Phulera, Total 213 RKM / 264.40 TKMs
- The Company has built over 14,000 km of transmission lines of up to 765 kV.
- It is the first Company in India to obtain ISO certification for our transmission lines business segment. We obtained our ISO 9001 certification in 1997 and are also accredited with ISO 14001 certification by KVQA.
- The Company is committed towards clean and green energy. It has successfully commissioned the 5 MW solar plant at Naini, Allahabad on March 04, 2012 under the Government of India's Jawaharlal Nehru National Solar Mission. It has signed the power purchase agreement with NTPC Vidyut Vyapar Nigam ensuring a sale for the next 25 years. The environment-friendly plant provides sustainable and renewable energy. EMC earns an average annual revenue of INR 7.5 Crores from its solar unit

➤ **Advantages of acquiring this company :**

- Ready platform for delivering integrated solutions that meet the exacting standards of excellence in global power systems based EPC sector
 - With over five decades of unrivalled experience in the Power Systems based EPC Sector, EMC is having advantage of having relationship with almost all major power utility companies in India including Power Grid Corporation, NTPC and other State Electricity distribution utilities
 - The company has a team of experienced professional having expertise in the field of power transmission line and adequate network to arrange various kind of manpower requirement for executing field work across different terrains.
- The Company has executed transmission line projects outside India as well and is presently executing a project in Tanzania with a local JV partner.

E. ELIGIBILITY

An E-Auction Process Applicant shall not be eligible to submit a bid for purchasing the Corporate Debtor as a going concern if it fails to meet the eligibility criteria as set out in Section 29A of the IBC (as amended from time to time). The Stakeholder's Consultation Committee has not recommended any other criteria for being eligible to submit a bid for purchasing the Corporate Debtor as a going concern.

A careful reading of Section 29A 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 wilful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 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 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 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 for two years or more under any Act specified under the Twelfth Schedule; or 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; 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 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 bidder 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 bidder has not otherwise contributed to the preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction;

h. has executed a guarantee in favours 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 e-auction 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 *Explanation* I shall apply to a bidder where such bidder 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 Organization 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 register 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.

F. DOCUMENTS REQUIRED TO BE SUBMITTED BY BIDDER

- a. In view of the foregoing, the intending Bidder would need to submit the following forms, documents and authorizations as part of the Bid so as to enable the Liquidator to examine the eligibility of the intending Bidder:
1. Ownership Structure and Composition of the E-Auction Process Applicant / Bidder, Proof of Identification (KYC), Current Address-Proof, PAN card, Valid email ID, Landline and/or Mobile Phone number.
 2. Authorization to the Signatory (in case the Bidder is a legal entity).
 3. Affidavit and Undertaking by the E-Auction Process Applicant (through Authorized Signatory, in case the bidder is a legal entity). The Format for the Affidavit and Undertaking is attached vide **Annexure I**.
 4. Confidentiality Undertaking in specified format as per **Annexure IV**.
 5. An intending Bidder shall submit the duly filled, signed and stamped Bid Application Form provided in **Annexure II** herein, together with the duly filled, signed and stamped Bid Declaration Form by Bidders provided in **Annexure III**.
- b. The aforementioned documents are to be uploaded on the stipulated E-Auction platform on or before 6 p.m. on 2nd March, 2024 or send to the Liquidator.
- c. Upon submission of the above documents within the stipulated time, the Liquidator shall examine the said documents to ascertain the eligibility of the Bidder. All Bidders found to be meeting the prescribed criteria above shall be notified as the Qualified Bidder(s), and shall be entitled to take part in the E-Auction Process on the appointed date and time. The qualified bidders will be intimated on or before 04.03.2024.
- d. The Bid Application Form of the Bidders/ E-Auction Process Applicants not meeting the eligibility criteria according to the Liquidator shall stand rejected.
- e. It is reiterated that the Liquidator, at his sole and absolute discretion, may declare any of the Bidder(s) as disqualified for non-substantiation of information furnished by way of the above documents and/or non-adherence of stipulated timelines and/or for any other reason whatsoever.
- f. Only the Bidder(s) who have submitted documents stipulated in item nos. 1-4 of Clause F (a) above shall gain access to documents and additional information required for due

diligence. It is clarified that a Bidder shall not have any vested right to inspect, conduct due diligence of the assets/ premises of Corporate Debtor.

- g. The qualified bidders have to submit the EMD on or before 5.00 PM of 12th March 2024 to be eligible for e-auction participation.

G. ADDITIONAL DOCUMENTS REQUIRED TO BE SUBMITTED BY BIDDER

- a. It is to be noted that at any stage of the E-Auction process, the Liquidator may ask for additional documents/ information from the intending Bidder(s) within the stipulated time to evaluate their eligibility and capability.
- b. The Liquidator, at his absolute discretion may disqualify the intending Bidder(s) for non-submission of such requested documents and/or information within the stipulated time.

H. PHYSICAL VERIFICATION AND SITE VISIT

Intending Bidder(s) after submitting documents as set out in documents stipulated in item nos. 1-5 of Clause F (a) above, may request the Liquidator to arrange for physical inspection of the site of the Corporate Debtor, whereupon the Liquidator shall take steps to facilitate such visit. The inspection window will remain open from 04.03.2024 till 6.00 PM of 12.03.2024 for the qualified bidders. The Bidder(s) are expected to make their own arrangements including accommodation for the Site Visit. All costs and expenses incurred in relation to such Site Visit shall be borne by the intending Bidder. The intending Bidder may intimate its preferred date for purpose of the Site Visit to the Liquidator via email to rp.emcltd@gmail.com in advance. The purpose of the Site Visit shall be to facilitate the intending Bidder to ascertain the current status of the Corporate Debtor including the situation of assets, 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. The Liquidator reserves the right to not arrange a site visit for any reason whatsoever, irrespective of the request of the intending Bidder.

I. DUE DILIGENCE

- a. The Liquidator shall endeavour to provide necessary assistance so as to facilitate the conduct of due diligence by intending Bidder(s) who have submitted documents stipulated in item nos. 1-5 of Clause F (a) above, upon request to that effect by such interested Bidder.
- b. The information and documents, which in the opinion of the Liquidator are required to form an informed opinion by the Bidder, shall be provided by the Liquidator in good faith, but without any obligation for their completeness, accuracy and legality.

- c. The Corporate Debtor is proposed to be sold on “As is where is basis”, “As is what is basis”, “Whatever there is basis” and “No recourse” basis on the terms and conditions stipulated in this document and the proposed sale of the Company as a going concern does not entail transfer of any title, except the title which the Company has on its assets as on date of transfer.
- d. All local taxes / maintenance fee / electricity / water charges/ stamp duty/ any statutory or other dues etc., outstanding as on date or yet to fall due in respect of the relevant asset should be ascertained by the E-Auction Process Applicant on its own, including the legal ramification thereof.

J. ASSETS TO BE AUCTIONED AND RESERVE PRICE/EMD & INCREMENTAL BID

The Liquidator proposes sale of the Company as a going concern on “as is where is basis”, “as is what is basis”, “whatever there is basis” and “no recourse basis” along with the terms and conditions stipulated in this document.

The sale of the Company as a going concern shall result in transfer of ownership and control over the Company including the entire available assets of the Company as described in this Process Information Document in favour of the Successful Bidder. The cut-off date for the purposes of determination of all assets and liabilities of the Company shall be the liquidation commencement date i.e. November 21, 2023.

Particulars of E-Auction:

	(Amount Rs.)		
Asset/Location	Reserve Price	Earnest Money Deposit	Incremental Bid
Sale of Corporate Debtor as going concern along with its assets including Land and Building, Plant & Machinery, Inventory, Securities and other assets situated at various locations other than those which do not form part of Liquidation Estate..	173,00,00,000/-	10,00,00,000/ -	50,00,000/-

It is to be noted that the bidder(s) cannot place a bid at a value below the reserve price. Further, the bidder(s) can increase their bid by a minimum incremental amount of Rs.50 lakh or in multiples of this amount.

Particulars of Assets:

Sale of Corporate Debtor as a going concern comprising of Land and Building, Plant and Machinery and Other Assets as briefly described in **Annexure VI** and also other terms and conditions relating to its ongoing projects and corresponding bank guarantees outstanding as on the date of e-auction. Other relevant details about the assets will be made available on request to be made to the Liquidator by email at rp.emcltd@gmail.com

K. EARNEST MONEY DEPOSIT (EMD)

- a. After being intimated by the Liquidator as qualified E-Auction Process Applicants upon submission of their bid application form and completion of due diligence, a qualified bidder must submit an amount of Rs. 10,00,00,000/- (Rupees Ten Crores) as Earnest Money Deposit by remittance of funds in the bank account of company as per details given below or by way of Demand Draft or NEFT/RTGS or by way of a bank guarantee issued by any scheduled commercial bank in India (“Bank”) in favour of the Beneficiary, i.e., **EMC LIMITED (IN LIQUIDATION)** accompanied by a letter in the format set out in **Format A** (Earnest Money - Bank Guarantee) provided in this E-Auction Process Document. Where the Earnest Money Deposit is provided by way of a Bank Guarantee, such Bank Guarantee shall be valid from the date of issuance for a period of not less than 6 (six) months with a claim period of a further period of 6 (six) months.

- b. It may be noted that the Bidder may request the Liquidator to permit the Bidder to submit the Earnest Money through its Associate or Associate Company. Such payment of the Earnest Money by an Associate or Associate Company of the Bidder shall be accompanied by a letter in the format set out in **Format B** (Earnest Money by an Associate / Associate Company). Such an Associate or Associate Company must also be eligible to be a Bidder as per the requirements specified in this E-Auction Process Document.

Provided that, the Liquidator reserves the right to accept such a request at its sole discretion and upon such terms and conditions as it may deem fit, including but not limited to requiring such a party to submit any authorization documents or other necessary details/documents.

The Earnest Money Deposit, which would not be bearing any interest, has to be paid before 5 p.m. on 12th March 2024 through RTGS / NEFT to the following account of the company as provided under:

Account Number	7666347785
Beneficiary Name	EMC LIMITED (IN LIQUIDATION)
Bank Name	Indian Bank
Branch	Chowranghee Branch, Kolkata
IFSC Code	IDIB000K746

- c. The entire EMD amount shall be remitted by the Bidder (s) from its bank account only and to be owned by the Bidder or its associate, as the case may be in compliance of conditions as mentioned above.
- d. Bidders shall preserve the remittance Challan/document and shall produce the same in front of the Liquidator as and when demanded.
- e. All the payments to be made by the Bidder under the e-auction shall be intimated to the Liquidator at rp.emcltd@gmail.com on immediate basis. It should be noted that no interest will be paid to the E-auction process applicant in relation to any Earnest Money amount.

Forfeiture of Earnest Money Deposit / Invocation of Bank Guarantee from the E-Auction Process Applicant / Bidder

- a. The Earnest Money Deposit, paid by bank transfer or demand draft may be forfeited, or in the case of a Bank Guarantee may be invoked, at any time, upon the occurrence of any of the following events:
 - 1. if there is a breach of any of the conditions under this E-Auction Process Document by the Bidder or in case Bidder is found to have made any mis-representation; or
 - 2. if a Bidder is found to have made a false or misleading declaration of eligibility as per the conditions set out in Section 29A of the IBC (as amended from time to time); or
 - 3. If a qualified Bidder after submission of EMD fails to participate in the E-Auction Process on the appointed date and the auction process fails; or
 - 4. If the Bidder is identified as the Successful Bidder and it fails to extend the validity of the Earnest Money through the bank guarantee or does not accept the Letter of Intent issued by the Liquidator; or
 - 5. If the Successful Bidder fails to make the complete payment as per the terms of the Letter of Intent issued by the Liquidator.

Set-Off of Earnest Money of the Successful Bidder

- a. Unless expressly indicated by the Bidder and subject to discretion of liquidator, the Earnest Money may be set-off against or used as part of the consideration that the Successful Bidder proposes to offer in relation to the acquisition of the Company.

- b. In case the auction fails, then the Earnest Money paid by the e-auction process applicant, who is not classified as Successful Bidder shall be returned (without interest) as per timelines provided in Clause P.

Issuance of Letter of Intent and Transaction Documents

- a. The Successful Bidder, within a period of 3 days from issuance of Letter of Intent (LOI) by the Liquidator, shall be required to accept a letter of intent (LOI), the terms of which shall be binding on him.
- b. A sale certificate and / or conveyance document and/ or transfer documents for the relevant asset/assets shall be issued / executed between the Successful Bidder and the Company upon receipt of the balance sale consideration and acceptance of the LOI.

Default by Successful Bidder and its Results

- a. In the event of the Successful Bidder withdrawing his E-Auction Application or fails to comply with terms & conditions, the Beneficiary/Liquidator shall have the right to forfeit/invoke/encash the Earnest Money/Bank Guarantee furnished by the Successful Bidder.

L. DECLARATION OF SUCCESSFUL BIDDER AND COMPLETION OF SALE

- a. The Liquidator at the end of the E-Auction Process, shall declare the Successful Bidder for the Company. The Successful Bidder shall be determined on the basis of highest bid received for the Company to be sold as a going concern by the Liquidator via the E-Auction Process. In case of any dispute / discrepancy, the liquidator shall assess the E-Auction applications and declare the Successful Bidder offering maximum value for the auctioned Company as a going concern. This right of selecting and declaring the Successful Bidder (s) shall solely rest with the Liquidator at all times. In case of any default of any terms & conditions of E-auction Process including default in payment by the Successful Bidder, the liquidator may declare the next highest bidder as the Successful Bidder or put the sale to re-auction, at his discretion.
- b. In case of any stay of proceedings by the competent authority, the auction may either be deferred or cancelled and persons participating in the sale shall have no right to claim damages, compensation or cost for such postponement or cancellation.
- c. The sale of the Corporate Debtor as a going concern shall result in transfer of ownership and control over the Corporate Debtor including the entire available assets and properties of the Company as described in this E-Auction Process Information Document and forming part of Liquidation Estate in favour of the Successful Bidder. The cut-off

date for the purposes of determination of all assets and liabilities of the Company shall be the Liquidation Commencement Date i.e. November 21, 2023.

- d. The Successful Bidder shall be required to provide balance sale consideration within 30 (Thirty) days of the date of issuance of the LoI in a single tranche payment. However, in terms of Clause 12 of Schedule 1 of the liquidation Regulations, any payment after 30 days from the date of demand shall attract interest @ 12% and the transaction has to be completed within 90 days. Where the Successful Bidder has provided Earnest Money Deposit by way of remittance through NEFT/RTGS to the bank account of the Company or Demand Draft, the balance sale consideration shall be an amount equal to the bid sum reduced by the Earnest Money Deposit already paid (plus any applicable GST, if any). Where the Successful Bidder has provided Earnest Money Deposit by way of Bank Guarantee, the balance sale consideration shall be an amount equal to 100% of the bid sum (plus applicable GST, if any).
- e. On payment of the full amount of sale consideration and any applicable GST (if any) and further subject to extinguishment of existing shares in the Company and issue of fresh shares in favour of the Successful Bidder, the transfer of the Corporate Debtor as a going concern shall stand completed, and the Liquidator shall execute relevant certificates/ documents in this regard and the ownership and control of the Company shall stand transferred in favour of the Successful Bidder. Relevant documents/ certificates evidencing transfer of the Corporate Debtor as a going concern in favour of the Successful Bidder will be issued and / or will be executed in the name of the Successful Bidder only and will not be issued in any other name(s). 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.
- f. Except for the outstanding Bank Guarantees issued on behalf of the company which are live and presently neither released nor invoked by the beneficiaries as given in Annexure VII, all known or unknown, claimed or unclaimed, disclosed or undisclosed liabilities / obligations/ risk as on the Liquidation Commencement Date including prior claims of all creditors whether secured unsecured, workers, employees, statutory authorities on account of Income Tax, Sales Tax, GST, Service Tax, DGFT, Excise, Customs, PF, ESI etc. on account of transactions prior to the Liquidation Commencement Date and falls due before that date shall be extinguished / waived / infructuous once the distribution of the purchase consideration / bid amount is made by the Liquidator, as per the provisions of the code and regulations thereof and specifically as per Section 53 of The Insolvency and Bankruptcy Code, 2016 as full and final settlement of their dues.
- g. For any specific relief/waiver, the Successful Bidder may approach to the Adjudicating Authority.
- h. The transfer of ownership and control of the Company shall take place by way of writing off/extinguishment of the entire existing shareholding of the Company and issuance of

fresh equity shares to the Successful Bidder. The shares shall be issued only in the name of the Successful Bidder and its nominees who are 'eligible' in terms of section 29A of IBC and will not be issued in any other name. The Successful Bidder shall bear all the necessary expenses like applicable stamp duties/additional stamp duty / transfer charges, registration expenses, fees, etc., for acquisition of ownership/ control over the Company.

- i. Where the Successful Bidder has provided Earnest Money Deposit by way of Bank Guarantee and pending completion of the sale, the Successful Bidder shall re-issue or extend such Bank Guarantee at least 15 (fifteen) days prior to the expiry of its valid period. Provided, however, upon transfer of the Corporate Debtor as a going concern in the manner envisaged above, the Bank Guarantee shall be returned within 7 (seven) days therefrom.
- j. The sale of the Company as a going concern shall be subject to conditions prescribed under the IBC and provisions and Regulations thereunder.
- k. Default in payment of the sale consideration (in cases where the EMD has been submitted by way of bank guarantee) or balance sale consideration, as the case may be towards acquisition of the Company as a going concern and any applicable GST, if any, by the Successful Bidder will result in disqualification of the Successful Bidder, including forfeiture of Earnest Money Deposit or invocation of bank guarantee, as the case may be.
- l. The Successful Bidder(s) shall deposit the balance sale consideration within 30 (Thirty) days from the date of such demand. Payments after 30 (thirty) days shall attract interest at the rate of 12% per annum. However, in terms of Clause 12 of Schedule 1 of the liquidation Regulations any payment after 30 days from the date of demand shall attract interest @ 12% p.a. and the transaction has to be completed within 90 days. The sale of the Company as a going concern to the Successful Bidder shall be cancelled if entire sale consideration (in cases where the EMD has been submitted by way of bank guarantee) or balance sale consideration, as the case may be, is not received within 90 (ninety) days.
- m. The EMD of unsuccessful Bidders shall be refunded within 7 Working Days from the date of announcement of successful bidder. The EMD shall not bear any interest in any circumstances.

M. FRAUDULENT AND CORRUPT PRACTICES

The E-Auction Process Applicant / Bidder shall observe the highest standard of ethics 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 Information Document, or in the Letter of Intent, the Liquidator shall reject an auction bid, revoke the Letter of Intent, as the case may be, without being liable in any manner whatsoever to the E-Auction Process Applicant, if the Liquidator, at his discretion, determines that the E-Auction process applicant 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 Beneficiary 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 Document or Applicable Law.

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

“Coercive practice” shall mean impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the auction Process;

“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 18 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 or associate of the Liquidator or the Company, in relation to any matter concerning the auction process;

“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;

“Restrictive practice” shall mean forming a cartel or arriving at any understanding or arrangement among the auction process Applicants with the objective of restricting or manipulating a full and fair competition in the auction Process; and

“Undesirable practice” shall mean (i) establishing contact with any person connected with or employed or engaged by the liquidator with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the auction Process; or (ii) having a Conflict of Interest.

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

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

N. COSTS, EXPENSES AND TAX IMPLICATIONS

- a. The e-Auction Process Applicant/Bidder shall be responsible for all the costs incurred by 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.

It is hereby clarified that the E-Auction Process Applicant shall make its own arrangements including accommodation for the discussion Meeting (if organized) or Site Visit and all costs and expenses incurred in that relation shall be borne by the E-Auction Process Applicant.

- b. The E-Auction Process Applicant shall not be entitled to receive any reimbursement of any expenses which may have been incurred while carrying out the due diligence, search of title to the assets and matters incidental thereto or for any purpose in connection with the E-Auction Process.
- c. It is to be noted that all taxes applicable (including stamp duty implications and registration/transfer charges) on sale of assets would be borne by the Successful Bidder, wherever applicable.
- i. The sale may attract stamp duty, registration charges 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. for transfer of asset (s)/property (ies) in his / her/its name.
 - iii. The payment of all statutory / non-statutory dues, taxes, rates, assessments, charges, fees, maintenance, utility bills etc. owed by company to anybody in respect of the asset(s)/Property(ies), if at all payable, shall be the sole responsibility of Successful Bidder.
 - iv. Successful bidder has to bear the cess or other applicable tax i.e. Goods and Service Tax (GST), TDS, TCS etc.
 - v. The Successful Bidder will bear all expenses for removal of asset(s), delivery including loading, unloading, transport, weightment, labour, manpower charges etc.
 - vi. The Successful Bidder will be responsible for any damage to assets/properties of the company during the process of removal, delivery of asset(s) and will make good the cost of damage to the company. The amount of damage decided by the liquidator will be final.

- d. It is expressly stated that the Liquidator does not take or assume any responsibility for any dues, statutory or otherwise, of the Company, including such dues, if any, which may affect transfer of the liquidation assets in the name of the Successful Bidder and such dues, if any, will have to be borne / paid by the Successful Bidder over and above the bid amount.
- e. The E-Auction process applicant shall be responsible for fully satisfying the requirements of the IBC and the related 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 relevant assets.
- f. It is expressly stipulated that there are no implied obligations on the part of the Liquidator and it shall be solely the obligation of the Successful bidder, at his cost, to do all acts, things and deeds whatsoever for the completion of the sale. The entire responsibility for completion of all procedures, formalities, compliances, approvals etc. required for completion of the sale shall be that of the Successful bidder.
- g. Where the successful bidder after making the entire consideration amount and issue of handover letter by the Liquidator does not take possession/control of the assets within 15 days of such letter from the Liquidator, It shall bear all costs relating to preservation of the assets of the CD and also pay the Liquidator custodian fee at the mutually agreed amount.

O. GOVERNING LAW AND JURISDICTION

- a. This E-Auction Process Document, 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 E-Auction Process shall be subject to the exclusive jurisdiction of the Adjudicating Authority, courts and tribunals at Kolkata, West Bengal, India.

P. TIMETABLE

Sl. No.	EVENT	Timeline
1	Public Advertisement of E-auction	16th February, 2024
2	Opening of Auction Portal and this E-Auction Process Information Document made available on websites as per terms and Conditions	16th February, 2024

3	Documents submission, KYC, Confidentiality Undertakings and submission of Expression of Interest	Till 6 p.m. of 2 nd March, 2024
4	Intimation to Qualified Bidders	4 th March, 2024
4	Inspection and Due diligence	From 4 th March, 2024 until 12 th March, 2024 before 6 p.m.
5	EMD submission	Latest by 12 th March, 2024 before 5 p.m.
6	E – Auction	14 th March, 2024 (3.00 p.m. to 5.00 p.m.) with unlimited extension of 5 minutes each.
7	Announcement of successful bidder and issue of Letter of Intent (Tentative)	15 th March, 2024
8	Acceptance of Letter of Intent by the Successful bidder	By 16 th March, 2024
9	Return of EMD to Unsuccessful bidder(s)	Latest by 22 nd March, 2024
10	Payment of balance consideration by successful bidder	Within 30 days of the date of Letter of Intent. Payments made after thirty days shall attract interest at the rate of 12% p.a. The sale shall be cancelled if the payment is not received within ninety days from the date of demand.

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

In case the final sale consideration is not paid within the timeline, the Liquidator shall forfeit/encash/invoke EMD and / or bank guarantee.

Q. MANDATORY TERMS AND CONDITIONS OF SALE/E-AUCTION

In addition, following terms and conditions apply:

- a. E-Auction is being held on “AS IS WHERE IS”, “AS IS WHAT IS”, “WHATEVER THERE IS” AND “WITHOUT RECOURSE BASIS” and will be conducted “On Line”. The auction will be conducted through the approved service provider Linkstar Infosys Pvt.Ltd, at the web portal www.eauctions.co.in E-Auction Process document containing E-Auction bid form, Declaration by bidder, General terms and conditions of online auction sales are available on website <https://www.eauctions.co.in>. Interested

bidder(s) can register, bid and receive confirmation of their bid by electronic means. The requisition of additional information, if any, be sent to E-mail Id: **admin@eauctions.co.in** with the identity of the Applicant.

- b. Any asset being a property of the company and not part of Liquidation Estate shall not be covered and will not be available for sale/transfer under this e-auction process.
- c. Outstanding Bank Guarantees :** The Corporate Debtor (CD) is presently having operations and continuing on a Going Concern Basis. It has undertaken various EPC contracts which are under various stages of completion including under warranty period. Against such projects, the company has issued Bank Guarantees (BG) and out of those some of the bank guarantees (as on the date of publication of these documents) are neither released nor invoked and as such are Live Bank Guarantees. These Bank guarantees are contingent in nature and in future can be invoked/released by the beneficiaries depending upon the status of execution/completion of the project.

One of the mandatory terms of sale of the Company as going concern as approved by the Stakeholders Consultation Committee in its 3rd SCC meeting dated 07.02.2024 is that the successful bidder will have to take into consideration these contingent liabilities in the form of bank guarantees in addition to the bid amount which it will pay for acquiring the assets of the company as going concern. The total amount of live bank guarantees as on the date of publication of sale notice is approximately Rs 190 Crores. The details of such BGs along with the relevant project and its completion status is annexed to this document and marked as **Annexure – VII**

Also, there are fixed deposits of approximately Rs. 30 Crores which have been given as margin money against the live bank guarantees and are not considered as the assets of the Corporate Debtor. Hence in case any BG is invoked, margin money will be adjusted first and where BGs are released corresponding Fixed deposits will become asset of the corporate debtor.

In this regard- post completion of e-Auction, the obligation of the successful bidder will be :-

- a) ***To indemnify the bankers who have issued the bank guarantees as per Annexure - VII that in the event of any of the BGs getting invoked for reasons whatsoever, the successful bidder shall bear the liability towards such invoked Bank Guarantees and reimburse the entire amount to the respective Bank after adjustment of margin money, if any.***
- b) ***To pay renewal commission to the Bank as and when any of the BG is required to be extended/renewed at the request of the Beneficiary.***
- c) ***Inform the respective banker for renewal of BG at least 15 days prior to its expiry.***

The Obligation of the Bankers (presently forming part of the SCC) with regard to outstanding BGs :-

- a) They shall renew the Bank Guarantee as and when a request is received from the Successful bidder at the instance of beneficiaries.***
 - b) Will charge commission on renewal of bank guarantees on the same terms and conditions which was prevailing at the Liquidation commencement date.***
 - c) Will issue no due certificate corresponding to each bank guarantee as and when the same gets released.***
- d. The Intending Bidder(s) should make their own independent inquiries regarding the encumbrances, title of assets put on auction and claims/rights/dues/ affecting the assets, and should conduct their own due diligence prior to submitting their bid. The e-Auction advertisement does not constitute and will not be deemed to constitute any commitment or any representation of the Liquidator. The property/asset is being sold with all the existing and future encumbrances/claims/dues/demands whether known or unknown to the Liquidator. Liquidator shall not be responsible in any of way for any third-party claims/ rights/ dues.
- e. The Information in respect of the property/asset has been stated to the best of knowledge of the Liquidator, however, he shall not be responsible for any error, misstatement or omission in the said particulars. It should be noted that the Liquidator does not make any representation as to the correctness, validity, existence or adequacy or otherwise of any information pertaining to the Assets nor does he provide any guarantee or warranty as to the ownership of property/asset or the conditions of the asset or its quality for any specific purpose or use.
- f. The Intending Bidder(s) should submit the evidence for Earnest Money Deposit (EMD) deposit like UTR number along with the Request Letter for participation in E-auction, self- attested copies of (i) Proof of identification (KYC) viz. Voter ID card/ Driving License/ Passport/Aadhar Card/MOA & AOA etc., (ii) Current Address-Proof for communication, (iii) PAN card of Bidder, (iv) Valid Email ID, (v) contact number (Mobile/Landline) of the bidder etc., to the office of Liquidator by **12th March, 2024 latest by 6 p.m.** Scanned copies of the original of these documents can also be submitted to the Email ID of Liquidator.
- g. Name of Qualified Bidder(s) will be identified and conveyed by Liquidator to participate in online e-auction on the portal **<https://www.eauctions.co.in>** Agency will provide User ID & Password to the Bidder(s) after due verification of KYC of the Bidder(s).

- h. It is the responsibility of the interested bidder(s) to inspect and satisfy themselves about the property/asset before submission of the bid.
- i. 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.
- j. The E-Auction / bidding of the company as a going concern for “EMC LIMITED (IN LIQUIDATION)” 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 bid by a minimum incremental amount of Rs. 50 lakhs. In case bid is placed in the last 5 minutes of the closing time of the e-auction, the closing time will automatically get extended for 5 minutes.
- k. The EMD of unsuccessful bidder(s) shall be refunded within the timelines as mentioned in clause P. The EMD shall not bear any interest in any circumstances.
- l. In case of the Successful Bidder(s), the EMD (whether in the form of a Demand Draft or a Bank Guarantee) may be banked or invoked.
- m. The Liquidator will issue a Letter of Intent (LOI) to the Successful Bidder, detailing the Total Payable Amount and other Terms and Conditions. The Successful Bidder shall have to deposit the balance sale consideration within 30 days of such demand. The payments made after thirty days shall attract interest at the rate of 12 percent p.a. The sale shall be cancelled if the payment is not received within ninety days and forfeiture of amount already paid and the property/asset may be offered to second highest bidder or put to re-auction and the defaulting bidder shall have no claim / right in respect of property / asset/ amount, whatsoever.
- n. The Successful Bidder shall bear the applicable stamp duties/ additional stamp duty, transfer charges, registration charges, fees, Taxes, GST, etc. and also all the statutory/ non statutory dues, taxes, rates, assessment charges, fees, maintenance, utility bills etc. owing to anybody, if at all payable.
- o. 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 e-auction or withdraw any property/asset or portion thereof from the auction proceedings at any stage without assigning any reason therefore.
- p. The sale certificate and / or conveyance document and/or sale deed and/ or transfer documents and/or Lease deed etc. will be issued and such relevant document as applicable will be 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).
- q. The sale shall be subject to conditions prescribed under the Insolvency & Bankruptcy Code, 2016, provisions and regulations thereunder.
- r. The decision of the Liquidator on declaration of Successful Bidder shall be final and binding on all the Bidders.

- s. Any amount recovered by the Liquidator from any party as dues to the corporate debtor including the bank balances and forfeited earnest money if any, which are deposited into the Liquidation account maintained by the Liquidator will be considered to be realised by the Liquidator and the same will be distributed among the stakeholders in accordance with section 53 of the Code and will not form part of the assets to be taken over by the successful bidder.
- t. Any amount which is realised by the Liquidator after the sale of assets to the successful bidder pursuant to any claim being filed by the Liquidator/Resolution Professional will be deposited in the Liquidation account maintained by the Liquidator and will not form part of the assets to be taken over by the successful bidder. The same will also be distributed among the stakeholders in accordance with section 53 of the Code.
- u. Any asset/liability which is considered to be outside the purview of Liquidation Estate by virtue of section 36(4), will be dealt in by the Liquidator in accordance with the applicable laws and shall not be used for recovery in Liquidation.



Raj Singhania

Reg. No: IBBI/IPA-001/IP-P00188/ 2017-18/10367
Liquidator-EMC Limited (In Liquidation)

AFA Valid till 16.04.2024

Address: 41 B B Ganguly Street
Central Plaza, 5th Floor, Room No. 5A
Kolkata – 700 012
Registered E-mail Id: rajsinghania_ca@yahoo.co.in
E-mail Id for correspondence: **rp.emcltd@gmail.com**



Date: 16.02.2024
Place: Kolkata

AFFIDAVIT AND UNDERTAKING

[To be notarized and stamped with adequate value as per the stamp laws prevailing in the Indian state of execution of this Affidavit]

Date:

To,

Mr. Raj Singhanian,

Liquidator-EMC Limited (In Liquidation)

Having his registered office at: 41 B B Ganguly Street

Central Plaza, 5th Floor, Room No. 5A

Kolkata – 700 012

“Liquidator”

Sub: Disclosure and Undertaking on eligibility under section 29A of the Insolvency and Bankruptcy Code, 2016.

Dear Sir,

- A. I hereby submit this declaration under Section 29A of the Insolvency and Bankruptcy Code, 2016 (“Code”) as amended:

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

- a. is an undischarged insolvent;
- b. is a wilful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949;
- c. 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 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 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 for two years or more under any Act specified under the Twelfth Schedule; or 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; 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 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 bidder 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 bidder has not otherwise contributed to the preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction;

h. has executed a guarantee in favours 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

- iv. Any person who is the promoter or in the management or control of the e-auction process applicant; or
- v. 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
- vi. 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 bidder where such bidder 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:

(b) 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 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 register 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.

I therefore, confirm that **[insert name of bidder]** is eligible under Section 29A of the Insolvency and Bankruptcy Code, 2016 ("Code") as amended to submit its Bid for EMC Limited (In Liquidation).

- B. I undertake on behalf of **[insert name of bidder]**, that during the Liquidation Process, no person who would be considered as Connected Person and is not eligible to submit resolution plan under section 29A of Insolvency and Bankruptcy Code, 2016 and the regulation 38 of IBBI (Insolvency Resolution Process of Corporate Persons) regulations, 2016 shall be engaged in the management and control of corporate debtor.
- C. I declare and undertake that in case the [insert name of bidder] becomes ineligible at any stage during the Liquidation Process, it would inform the Liquidator forthwith on becoming ineligible.
- D. I also undertake that in case the [insert name of bidder] becomes ineligible at any time after submission of the EMD, then the EMD would be forfeited and the same would be deposited in the account of EMC Limited (In Liquidation).
- E. I also further undertake that my winning bid Amount will remain binding unless rejected by the Liquidator.
- F. I confirm that the said declaration and disclosure is true and correct.
- G. I am duly authorized to submit this declaration by virtue of

Solemnly affirmed at []
 On the [] day of [] 2024

Before me,
 Notary/Oath Commissioner

(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.

Verified at [], on this the [] day of [] 2024

(DEPONENT)

BID APPLICATION FORM

Date:

To,

**Mr. Raj Singhania,
Liquidator****EMC Limited (In Liquidation)**Having his registered office at: 41 B B Ganguly Street
Central Plaza, 5th Floor, Room No. 5A
Kolkata – 700 012

Dear Sir,

I am desirous of participating in the E- Auction announced by you in the newspaper Publication dated 16.02.2024 in Business Standard/Financial Express/Aajkaal/Website of IBBI/Corporate Debtor, _____ edition:

Details of Corporate DebtorName of the Corporate Debtor
Current Account number
Bank & Branch

IFSC Code**EMC Limited (In Liquidation)**
7666347785
Indian Bank,
Chowranghee Branch, Kolkata
IDIB000K746**Details of Bidder**Name of the Bidder
Constitution of Bidder
Contact No.
E-mail ID
PAN No.
Address**Details of Earnest Money:**

Description of Asset	
Reserve price	
Earnest Money deposited	
Mode of Earnest Money payment	
Payer's bank and account number	

Bank details of Bidder (for refund of Earnest Money as may be applicable):

Name	
Account Number	
Bank Name	
Branch	
IFSCCode	

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 password for us to enable us to take part in the e-Auction.

I/We/M/s. _____ hereby declare that we have inspected the assets and properties and ascertained the quality and quantity, etc. and gone through and have understood the Terms & Conditions of sale and shall be abided by the same.

Signature:
(seal in case of Company / Firm)

Declaration and Undertaking by Bidder
(To be notarized)

To,
Mr. Raj Singhania,
Liquidator
EMC Limited (In Liquidation)
Having his registered office at: 41 B B Ganguly Street
Central Plaza, 5th Floor, Room No. 5A
Kolkata – 700 012

Dear Sir,

1. I/We, (*insert name and address of the Interested Bidder*) aforesaid do hereby state that, I/We have read the entire terms and conditions for the sale of the Company as a going concern 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 have specifically read the terms and conditions relating to the Outstanding Bank Guarantees issued by the company as mentioned in Clause Q (c) of the e-auction process information document stated hereinabove and unconditionally accept the same.
3. I / We declare that the Earnest Money Deposit (EMD) 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 bid 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 EMD and / or any monies paid by me / us is liable to be forfeited by the Seller (“Liquidator”) and the Seller will be at liberty to annul the offer made to me/us at any point of time.
5. I / We also agree that after my /our offer given in my /our bid for purchase of property (ies)/asset(s) 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 EMD and other monies paid by me / us along with the bid form and thereafter, are liable to be forfeited. 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. In case final sale consideration is not paid within timeline, the liquidator shall forfeit EMD and/ or Bank Guarantee.
6. I/We also agree that in the eventuality of forfeiture of the amount by the Liquidator, I/We shall neither have claim on the Assets for which my/our bid was approved nor on any part of the sum for which it may be subsequently sold.

7. I / We understand that the EMD of all Bidders shall be retained by the Liquidator and returned only after the successful conclusion of the sale of property (ies) /asset(s). I / We, state that I / We, have fully understood the terms and conditions therein and agree to be bound by the same.
8. I / We confirm that our participation in the e-auction process, submission of bid or acquisition of the property (ies) /asset(s) pursuant to the provisions of the E-Auction Process Document will not conflict with, or result in a breach of, or constitute a default under (i) our constitutional documents; or (ii) any applicable laws; or (iii) any authorization or approval of any government agency or body; or (iv) any judgement, 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 property (ies) /asset(s)/Liabilities connected to the assets being offered for sale.
11. I/We confirm that the Seller/liquidator/ company and their employees, associates, consultants etc. 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 hereby confirm that I/we are eligible to purchase the assets of the Company under Section 29A of the Insolvency and Bankruptcy Code, 2016.

(Signature with STAMP)

Name:

Address:

Email:

Mobile:

CONFIDENTIALITY UNDERTAKING

(on stamp paper of Rs.100)

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

WHEREAS M/s. EMC Limited (In Liquidation), a company registered under Companies Act,1956, (hereafter referred as the "**Company**") is undergoing liquidation vide NCLT Kolkata Bench ("**NCLT**") order dated 21st November, 2023. **Mr.Raj Singhania**, a registered insolvency professional with Insolvency and Bankruptcy Board of India (IBBI) having registration number IBBI/IPA-001/IP-P00188/2017-18/10367 has been appointed as liquidator to manage, protect, sell and liquidate the property, assets, business and other affairs of M/s EMC Limited (In Liquidation) ("**Liquidator**").

WHEREAS the Liquidator has invited prospective 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 the Insolvency and Bankruptcy Code, 2016, ("**IBC**") read with the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations,2016 ("**Liquidation Process Regulations**").

WHEREAS the Liquidator is required to share certain data, documents in relation to the Company for facilitating the prospective Bidder(s) in their due diligence after receiving an undertaking from each of the potential Bidder(s) to the effect that such member shall maintain confidentiality of the information received from the office of the liquidator and during the course of due diligence and shall not use such information to cause an undue gain or undue loss to itself or any other person and comply with the requirements under IBC and Liquidation Process Regulations.

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

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

or undue loss to itself, the Company, Liquidator or any other person;

- c) the Bidder(s) shall comply with all provisions of Applicable Law(s) for the time being in force relating to confidentiality and insider trading;
 - d) the Bidder(s) shall protect any intellectual property of the Company which it may have access to;
 - e) the Confidential Information may only be disclosed to and shared with any employees or its advisors by the Bidder(s), in accordance with Applicable Law(s), including in relation to confidentiality and insider trading, and terms of this Confidentiality Undertaking on a strict need-to-know basis and only to the extent necessary for and in relation to the liquidation process of the Company, provided that the Bidder binds such employees and third parties, by way of an undertaking/ agreements, to terms at least as restrictive as those stated in this Confidentiality Undertaking.
 - f) The Bidder(s) shall ensure that all Confidential Information is kept safe and secured at all times and is protected from unauthorized access, use, dissemination, copying, any theft or leakage;
 - g) the Bidder(s) shall immediately destroy and permanently erase all Confidential Information upon the completion of sale of the Company as provided under E-Auction Process Information Document and the Liquidation Process Regulations;
 - h) the Bidder(s) shall take all necessary steps to safeguard the privacy and confidentiality of the information received from the office of the Liquidator and shall use its best endeavours to secure that no person acting on its behalf divulges or discloses or uses any part of the Confidential Information, including but not limited to the financial position of the Company, all information related to disputes by or against the Company and other matter pertaining to the Company; and
 - i) the Bidder(s) shall be responsible for any breach of obligations under this confidentiality undertaking (including any breach of confidentiality obligations by any employee or advisor or agent or director of the Bidder) and shall indemnify the Liquidator for any loss, damages, expenses and costs incurred by the Liquidator due to such breach of such obligations by the Bidder (s) or any person acting on its behalf.
3. Notwithstanding anything to the contrary contained herein, the following information shall however not be construed as Confidential Information:
- a) information which, at the time of disclosure to the Bidder(s) was already in the public domain without violation of any provisions of Applicable Law(s); or
 - b) information which, after disclosure to the Bidder(s) becomes publicly available and accessible without violation of Applicable Law(s) or a breach of this Confidentiality Undertaking; or
 - c) information which was, lawfully and without any breach of this Confidentiality Undertaking, in the possession of the Bidder (s) prior to its disclosure, as evidenced by the records of the Bidder(s).

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

Technical Terms & Conditions of e-auction sale

In addition, following terms and conditions apply:

1. Intending bidder(s) shall have a valid e-mail ID, valid PAN Card and KYC document to register with the E- Auction Service Provider.
2. Intending bidder(s) have to register with the e-auction service provider.
3. Only upon verification of the Bid Form and confirmation of remittance of EMD, the Eligible Bidder(s) will be declared and thereafter, permitted to access the Platform for bidding for a particular Property/asset.
4. The Bidder(s) shall be solely responsible for all consequences arising out of the bid submitted by him (including any wrongful bidding) and no complaint/ representation will be entertained in this regard by the Agency/ the Seller. Hence, Bidder(s) are cautioned to be careful to check the bid amount and alter/rectify their bid if required before confirming the bid submitted.
5. Bidder(s) should not disclose their User ID as well as password and other material information relating to the bidding to anyone else to safeguard its secrecy.
6. Bidder(s) are advised to change the password immediately on receipt thereof.
7. The Affidavit and Declaration as per the formats set out in Annexure I and 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 person duly authorized to sign the same.
8. All the aforementioned documents are required to be submitted/uploaded on the portal and the original physical copies thereof shall be provided by the Successful Bidder to the Seller in accordance with the Process Sale Document.
9. All bids placed are legally valid bids and are to be considered as bids from the Bidder himself. Once the bid is placed, the Bidder cannot reduce or withdraw the bid for whatever reason. If done so, the EMD amount shall be forfeited.
10. The highest bid on the auction shall supersede all the previous bids of the respective Bidder(s). The Bidder with the highest offer/ bid does not get any right to demand for acceptance of his bid.
11. After the conclusion of the e-auction, a message shall be generated automatically by the portal, of the outcome of the e-auction. The same shall not be construed as declaration of successful bidder. Only the Intimation sent by the Liquidator to the Successful Bidder by e-mail shall be construed as declaration of Successful Bidder.
12. Bidder(s) 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.

DETAILS/ DESCRIPTION OF ASSETS of the Company

The details and/or description of the assets of the company forming part of Liquidation estate and situated at various locations including the details of the Live projects can be obtained from the Liquidator by giving him a request mail after submission of confidentiality undertaking as per Annexure IV.

Details of Live Bank Guarantees

EMC LIMITED							
Statement of Live Bank Guarantees as on 16.02.2024							
Sr. No.	Bank	Project	BG Amount Live (Rs.) as on 16.02.2024	Valid upto	Claim Period	Beneficiary	Project Status
1	Indian Bank	Head Office	4,21,073	08-05-2024	08-05-2025	CESC LIMITED	As security to Electric Connection
2	Bank of India	635	8,57,32,179	30-06-2024	31-12-2024	JKPDD	Project is completed and under warranty period
3	Bank of India	652	4,06,77,668	31-03-2024	30-09-2024	UPPTCL	Project is completed and under warranty period
4	Bank of India	653	6,33,51,405	31-03-2024	30-09-2024	UPPTCL	Project is completed and under warranty period
5	Bank of Maharashtra	682	32,16,219	30-04-2024	30-04-2024	PGCIL	Project is under execution and expected to be completed by April 2024
6	Bank of Maharashtra	680	49,25,308	30-04-2024	30-04-2025	PGCIL	Project is under execution and expected to be completed by April 2024
7	Canara Bank	Quatro A/c	42,69,190	05-03-2024	05-04-2024	Sarguja Rail Corridor Pvt. Ltd.	Being executed by JV partners/ subsidiaries
8	Canara Bank	Quatro A/c	10,37,278	05-03-2024	05-04-2024	Sarguja Rail Corridor Pvt. Ltd.	Being executed by JV partners/ subsidiaries
9	Canara Bank	Quatro A/c	27,43,501	30-03-2024	30-04-2024	Sarguja Rail Corridor Pvt. Ltd.	Being executed by JV partners/ subsidiaries

10	Canara Bank	Quatro A/c	54,87,001	30-03-2024	30-04-2024	Sarguja Rail Corridor Pvt. Ltd.	Being executed by JV partners/subsidiaries
11	Central Bank of India	655	6,70,65,249	30-06-2024	30-06-2025	WBSETCL	Project is under execution and expected to be completed by March 2024
12	Central Bank of India	655	2,81,49,589	30-06-2024	30-06-2025	WBSETCL	Project is under execution and expected to be completed by March 2024
13	Central Bank of India	655	6,51,34,918	31-03-2024	31-03-2025	WBSETCL	Project is under execution and expected to be completed by March 2024
14	Central Bank of India	655	6,70,65,249	31-03-2024	31-03-2025	WBSETCL	Project is under execution and expected to be completed by March 2024
15	Central Bank of India	663	4,40,54,766	08-07-2024	08-01-2025	UPPTCL	Project is completed and under warranty period
16	Central Bank of India	663	14,21,62,983	09-07-2024	08-01-2025	UPPTCL	Project is completed and under warranty period
17	Central Bank of India	680	2,40,89,150	30-05-2024	30-11-2024	PGCIL	Project is under execution and expected to be completed by April 2024
18	Central Bank of India	680	1,48,84,678	30-05-2024	30-11-2024	PGCIL	Project is under execution and expected to be completed by April 2024
19	Central Bank of India	680	2,90,14,458	30-05-2024	30-11-2024	PGCIL	Project is under execution and expected to be completed by April 2024
20	Central Bank of India	681	3,41,46,615	30-05-2024	30-11-2024	PGCIL	Project is under execution and expected to be completed by April 2024
21	Central Bank of India	681	2,17,36,656	30-05-2024	30-11-2024	PGCIL	Project is under execution and

							expected to be completed by April 2024
22	Central Bank of India	Quatro A/c	4,12,80,444	30-05-2024	30-11-2024	PGCIL	Project is under execution and expected to be completed by April 2024
23	Central Bank of India	682	2,07,93,869	30-05-2024	30-11-2024	PGCIL	Project is under execution and expected to be completed by April 2024
24	Central Bank of India	682	1,98,36,187	30-05-2024	30-11-2024	PGCIL	Project is under execution and expected to be completed by April 2024
25	Central Bank of India	682	2,40,10,088	30-05-2024	30-11-2024	PGCIL	Project is under execution and expected to be completed by April 2024
26	Union Bank	639	4,73,54,014	31-01-2025	31-01-2025	SBPDCL	Project is completed and under warranty period
27	Union Bank	639	18,68,917	31-01-2025	31-01-2025	SBPDCL	Project is completed and under warranty period
28	Bank of Baroda	641	3,24,32,971	17-01-2024	17-01-2024	NBPDCL	Project is completed and under warranty period
29	Bank of Baroda	641	24,97,280	17-01-2024	17-01-2024	NBPDCL	Project is completed and under warranty period
30	Bank of Baroda	656	3,20,00,276	31-07-2024	31-12-2024	APTRANSCO	Project is under execution and expected to be completed by March 2024
31	IDBI Bank	656	3,34,14,585	31-07-2024	31-12-2024	APTRANSCO	Project is under execution and expected to be completed by March 2024
32	PNB	699	3,72,47,950	31-03-2024	31-03-2025	APTRANSCO	Project is under execution and expected to be

							completed by March 2024
33	PNB	699	8,21,90,080	31-03-2024	31-03-2025	APTRANSCO	Project is under execution and expected to be completed by March 2024
34	PNB	261	34,53,400	30-09-2024	31-12-2024	SAIL	Project is completed and under warranty period
35	PNB	652	2,58,46,684	30-06-2024	30-09-2024	UPPTCL	Project is completed and under warranty period
36	PNB	653	3,21,32,165	30-06-2024	30-09-2024	UPPTCL	Project is completed and under warranty period
37	PNB	680	74,42,340	30-06-2024	30-09-2024	PGCIL	Project is under execution and expected to be completed by April 2024
38	PNB	681	1,08,68,328	30-06-2024	30-09-2024	PGCIL	Project is under execution and expected to be completed by April 2024
39	PNB	682	99,18,094	30-06-2024	30-09-2024	PGCIL	Project is under execution and expected to be completed by April 2024
40	SBI	643	7,01,48,230	31-12-2024	31-12-2024	APTRANSCO	Project is completed and under warranty period
41	SBI	643	2,18,55,330	31-12-2024	31-12-2024	APTRANSCO	Project is completed and under warranty period
42	SBI	656	11,50,84,720	30-06-2024	30-06-2025	APTRANSCO	Project is under execution and expected to be completed by March 2024
43	SBI	656	2,92,63,623	30-06-2024	30-06-2025	APTRANSCO	Project is under execution and expected to be completed by March 2024

44	SBI	258	1,86,00,000	31-08-2024	31-08-2024	SAIL	Project is completed and under warranty period
45	SBI	656	8,68,05,983	31-07-2024	31-07-2025	APTRANSCO	Project is under execution and expected to be completed by March 2024
46	SBI	258	80,772	31-08-2024	31-08-2024	SAIL	Project is completed and under warranty period
47	SBI	663	1,42,16,298	08-07-2024	08-01-2025	UPPTCL	Project is completed and under warranty period
48	SBI	673	32,00,00,000	31-12-2024	15-01-2025	TANESCO, TANZANIA	Being executed by JV partner (Energoinvest, Bosnia) and expected to be completed by March, 2024
49	SBI	681	71,33,829	30-04-2024	30-04-2024	PGCIL	Project is under execution and expected to be completed by April 2024
Total			1,89,71,41,590.00				

EARNEST MONEY - BANK GUARANTEE

(To be on non-judicial stamp paper of appropriate stamp duty value relevant to place of execution, purchased in the name of the Guarantor Bank)

To

**Mr. Raj Singhania,
Liquidator**

Having his registered office at: 41 B B Ganguly Street
Central Plaza, 5th Floor, Room No. 5A
Kolkata – 700 012

EMC Limited (In Liquidation)
through Liquidator (“Company” or “Beneficiary”)

WHEREAS

- A. [Insert name of the Bidder] incorporated in [India] / [insert name of country where guarantor is incorporated] under the [Companies Act,[1956/2013]] / [insert name of legislation under which the entity is incorporated] with corporate identity number [•], whose registered office is at [insert address] (“Bidder”) is required to provide an unconditional and irrevocable bank guarantee for an amount equal to INR XXXXX(Indian Rupees XXXXX only) in accordance with the terms of the E-Auction Process Document dated [•] (“E-Auction Process Document”) issued by the Liquidator seeking submission of bids for EMC LIMITED (IN LIQUIDATION) for sale as a going concern.
- B. This bank guarantee is required to be issued in favour of the Beneficiary, as per the terms of the E-Auction Process Document.
- C. We, [insert name of the bank] having our registered office at [insert address] (“Bank”) at the request of the Bidder, do hereby undertake to pay to the Beneficiary at [Kolkata] an amount not exceeding INR XXXXX (Indian Rupees XXXXX only) to secure the obligations of the Bidder under the E-Auction Process Document on demand from the Beneficiary on terms and conditions herein contained.
1. Now therefore, the Bank hereby issues in favour of the Beneficiary this irrevocable and unconditional payment bank guarantee (“Guarantee”) on behalf of the [Insert name of the Bidder] for an amount.
 2. The Bank for the purpose hereof unconditionally and irrevocably undertakes to pay to the Beneficiary without any demur, reservation, caveat, protest or recourse, immediately on receipt of first written demand made by the Beneficiary, a sum not exceeding the aggregate amount of INR XXXXX (Indian Rupees XXXXX).
 3. This Guarantee shall be valid and binding on the Bank up to and including [Insert date of validity of the Earnest Money] and shall in no event be terminable by notice or any change in the constitution of the Bank or the Beneficiary, by any other reasons whatsoever and our liability hereunder shall not be impaired or discharged by any

extension of time or variations or alternations made, given, or agreed with or without our knowledge or consent, by or between parties to the respective agreement.

4. The Bank hereby expressly agrees that the demand made on it under this Guarantee shall be conclusive evidence of that such payment is due and the Bank shall not require any other proof, in addition to the written demand from Beneficiary, made in any format, raised at the above mentioned address of the Bank, in order to make the said payment to the Beneficiary.
5. The Bank shall make payment hereunder notwithstanding any objection by [Insert name of the Bidder] and / or any other person or any dispute(s) raised by the [insert name of the Bidder] in any suit or proceeding pending before any court or tribunal relating thereto and the Bank's liability under this present being absolute and unequivocal. The Bank shall not require the Beneficiary to justify the invocation of this Guarantee, nor shall the Bank have any recourse against the procurer(s) in respect of any payment made hereunder.
6. This Guarantee shall be interpreted in accordance with the laws of India and the courts and tribunals at Kolkata, West Bengal shall have exclusive jurisdiction. The Bank represents that this Guarantee has been established in such form and with such content that it is fully enforceable in accordance with its terms as against the Bank in the manner provided herein.
7. This Guarantee shall not be affected in any manner by reason of merger, amalgamation, restructuring, liquidation, winding up, dissolution or any other change in the constitution of the Bank.
8. This Guarantee shall be a primary obligation of the Bank and accordingly the Beneficiary shall not be obliged before enforcing this Guarantee to take any action in any court or arbitral proceedings against the Bidder, to make any claim against or any demand on the Bidder or to give any notice to the Bidder or to exercise, levy or enforce any distress, diligence or other process against the Bidder. The Bank waives any such right to that extent.
9. The Bank further unconditionally agrees with the Beneficiary that the Beneficiary shall be at liberty, without Bank's consent and without affecting in any manner the Bank's obligations under this Guarantee, from time to time: (i) Vary and/or modify any of the terms of the E-Auction Process Document; (ii) Extend and/or postpone the time of performance of the obligations of the Bidder under the E-Auction Process Document; or (iii) Forbear or enforce any rights exercisable by the Beneficiary against the Bidder under the terms of the e-auction Process Document and the Bank shall not be relieved from its liability by reason of any such act or omission on the part of the Beneficiary or any indulgence by the Beneficiary to the Bidder or other thing whatsoever which under the law relating to sureties would, but for this provision, have the effect of relieving the Bank of its obligations under the Guarantee.
10. The Bank hereby agrees and acknowledges that the Beneficiary shall have a right to invoke this Guarantee either in part or in full, as it may deem fit.

11. Our liability under this Guarantee is restricted to INR XXXX (Indian Rupees XXXX only) and it shall remain in force until [Insert Earnest Money Validity Date], with an additional claim period of 6 (Six) months thereafter.

12. Failure to re-issue or extend this Guarantee in accordance with Clause 11 above shall entitle the Beneficiary to invoke this Guarantee.

In witness whereof the Bank, through its authorized officer, has set its hand and stamp on thisday of..... at.....

Witness:

1. Signature Name and Address. Name:

2.

Designation with Bank Stamp Name and Address

Attorney as per power of attorney No

For: [Insert Name of the Bank] Banker's Stamp and Full Address: Dated this day of 20

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

EARNEST MONEY AMOUNT PAYMENT BY AN ASSOCIATE COMPANY

To

Mr. Raj Singhania, Liquidator

EMC Limited (In Liquidation)

Having his registered office at: 41 B B Ganguly Street

Central Plaza, 5th Floor, Room No. 5A

Kolkata – 700 012

("Liquidator")

[Copy to:]

[Insert name of the Bidder with address]

Dear Sir,

Sub: Payment of the amounts of Earnest Money on behalf of the Bidder in relation to the auction of EMC LIMITED (IN LIQUIDATION) for sale as a going concern.

In light of the bid for EMC LIMITED (IN LIQUIDATION) for sale as a going concern submitted by [Insert name of the Bidder with address] in accordance with and subject to the provisions of the E-Auction Process Document dated [•] in relation to the captioned transaction ("E-Auction Process Document"), issued by the Liquidator,

[Insert name and address of the Associate Company and address of the head office] hereby declares and confirms it is [an / the] [Insert relationship of the Associate Company with the Bidder] of the Bidder ("Associate Company"), and the payment of the Earnest Money amount vide [Insert mode of payment] ("Payment") is on behalf of the Bidder. The Associate Company acknowledges that such amounts paid as Earnest Money shall be subject to the terms of this E-Auction Process Document and hereby waives any right to claim any refund or adjustment of the amounts of such Payment except in accordance with the terms of the E-Auction Process Document.

The Associate Company hereby represents and warrants that payment of amounts on behalf of the Bidder is in compliance with Applicable Law.

Capitalized terms used but not defined in this letter shall have the meanings ascribed to such terms in the E-Auction Process Document.

Thank you.

Yours sincerely,

[Signature and name of the Authorized Officer of the Associate Company]

Rubber stamp/ seal of the Associate Company

ACKNOWLEDGMENT

We hereby acknowledge and confirm the statements set out above by the Associate Company.

Yours sincerely,

[Signature and name of the Authorized Officer of the Bidder]

Rubber stamp/ seal of the Bidder