

## ANNEXURE-1

### TERMS AND CONDITION OF E-AUCTION

#### 1. INTRODUCTION

The **E-Auction** of the Sunil Hitech Engineers Limited (in Liquidation) as a going concern/ Assets of Corporate Debtor in parcel shall be conducted in accordance with the provisions of the Insolvency and Bankruptcy Code (IBC), 2016 and the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (Liquidation Process Regulations) by Avil Menezes, Liquidator of Sunil Hitech Engineers Limited (in Liquidation).

The E-Auction will be conducted on “**AS IS WHERE IS BASIS**”, “**AS IS WHAT IS BASIS**”, “**WHATEVER THERE IS BASIS**” And “**NO RECOURSE BASIS**” as on handover date through approved e-auction service provider **E- Procurement Technologies Ltd (Auction Tiger)**.

E-Auction Sale Notice and the Process Memorandum containing Annexures that are required to be submitted for participating in the E-Auction are available on website <https://ncltauction.auctiontiger.net>

(On going to the link, [https:// ncltauction.auctiontiger.net](https://ncltauction.auctiontiger.net), Bidders will have to search for the mentioned Company by using either one of the two options:

- i (i) Company’s Name (i.e. Sunil Hitech Engineers Limited ), or by,
- ii (ii) State and asset type.

You may contact +91 9137058928 , email [auction.shel@gmail.com](mailto:auction.shel@gmail.com)

#### 2. LAST DATE FOR SUBMISSION OF ELIGIBILITY DOCUMENTS

The Last date for submission of Eligibility Documents is 08<sup>th</sup> July 2022

#### 3. ELGIBILITY CRITERIA

The eligibility criteria of the Bidder participating in sale of the Corporate Debtor as going concern (Option A) / assets in parcel (Option B) shall have the term ascribed in Clause 5 of the Process Memorandum.

#### 4. RESERVE PRICE AND EMD

Qualified Bidders may submit their Bids for purchasing the Corporate Debtor as a going concern. Details are as follows:

Sr No	Particulars	Reserve Price	EMD	Incremental Bid Amount
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<b>Option A: Sale of Corporate Debtor as a Going Concern</b>				
<b>Date and Time of Auction: 14<sup>th</sup> July 2022 at 12:00 P.M. to 1:00 P.M.</b>				
1	Sale of Corporate Debtor as a whole on a going concern basis including Land and Building, Plant & Machinery, Financial Assets, Legal matters and Ongoing/upcoming Arbitration Matters (Under regulation 32(e) of Liquidation Regulations, 2016)	40,00,00,000	4,00,00,000	50,00,000
<b>Option B: Sale of Assets in parcels</b>				
<b>Date and Time of Auction: 14<sup>th</sup> July 2022 at 02:00 P.M. to 3:00 P.M</b>				
1	Assignment of Ongoing & upcoming Arbitration Matters	1,00,00,000	10,00,000	1,00,000
	<b><u>Plant &amp; Machinery (Block wise)</u></b>			
2	Jhabua – Hydra Crane ESCORT 14 TON HR38M0880	1,70,000	17,000	10,000
3	Firozabad – Honda City UP 83 AQ 3771	1,65,000	16,500	10,000
4	Movable Assets at Butibori	5,10,000	51,000	30,000
5	Inventory at Chandrapur	44,000	4,000	5,000

## **5. GENERATION OF USER ID FOR PARTICIPATION IN E-AUCTION THROUGH E-AUCTION SERVICE PROVIDER.**

**5.1.** After submission of all documents / EMD by the Qualified Bidder to the satisfaction of the Liquidator, **M/S E-PROCUREMENT TECHNOLOGIES LIMITED (Auction Tiger), AHMEDABAD** will provide User id and password after due verification of PAN of the Qualified Bidders to participate in the e-auction process on 14<sup>th</sup> July 2022.

**5.2.** Qualified Bidders shall hold a valid email ID {e-mail ID}` is necessary for the Qualified Bidder as all the relevant information and allotment of ID & password by M/S E-Procurement Technologies Limited, Ahmedabad will be conveyed through e-mail.

Mr. Ram Prasad

Contact: 06351896834

E-mail: [NCLT@auctiontiger.net](mailto:NCLT@auctiontiger.net) [support@auctiontiger.net](mailto:support@auctiontiger.net) [ramprasad@auctiontiger.net](mailto:ramprasad@auctiontiger.net)

## **6. BIDDING THROUGH E-AUCTION SERVICE PROVIDER PLATFORM ON THE APPOINTED DAY**

The Sale of the Corporate Debtor as a going concern (Option A) / Assets of corporate debtor in parcels (Option B) shall take place through online e-auction service provider, E-Procurement Technologies Ltd – Auction Tiger via website <https://ncltauction.auctiontiger.net> on 14<sup>th</sup> July 2022 between 12:00 PM to 03:00 PM with unlimited extension of “5 minutes” i.e. the end time of the e-auction will be extended by 5 minutes each time if bid is made within the last 5 minutes before closure of auction. The highest bid amount (not below the Reserve Price) at any given point shall be visible to other Qualified Bidders. The Qualified Bidder may improve their offer in multiple of “Bid Incremental Value”. The Bid Incremental Value is

- INR 50,00,000 (Rupees Fifty Lakhs Only) for Option A,
- INR 1,00,000 (Rupees One Lakh Only) for Option B.1,
- INR 10,000 (Rupees Ten Thousand Only) for Option B.2,
- INR 10,000 (Rupees Ten Thousand Only) for Option B.3
- INR 30,000 (Rupees Thirty Thousand Only) for Option B.4
- INR 5,000 (Rupees Five Thousand Only) for Option B.5

Bidding in both the options shall be allowed on submission of EMD for each Option/lot. EMD has to be paid separately for each asset class/option. The EMD paid to one asset class / option cannot be adjusted / clubbed for other asset classes/ option.

If E-auction under Option A gets through then the highest bidder shall be declared as the successful bidder and E-auction under option B shall stand cancelled.

In case E-auction under Option A doesn't conclude by 01:45 PM, the Liquidator at his discretion may decide to postpone proposed E-auctions under Option B for 1 Hr at a time and the same shall be intimated to all Bidders.

## **7. MANNER OF PAYMENT & TRANSFER OF CORPORATE DEBTOR**

**7.1.** The Successful Bidder shall deposit the balance consideration (after adjustment of the EMD) of the sale price within 30/15 days of such demand as prescribed in the process memorandum. On payment of the full amount, the sale shall stand completed and the Liquidator shall execute the certificate of sale/invoice/Transfer document and the subject matter of the sale shall be delivered to the Successful Bidder in the manner specified in the terms of process memorandum.

**7.2.** The certificate of sale/ sale deed/ Invoice / Transfer Documents will be issued in the name of the Successful Bidder only and will not be issued in any other name(s).

**7.3.** The sale attracts stamp duty, registration charges etc. as per relevant laws, rules and regulations.

**7.4.** The Successful Bidder shall bear the applicable stamp duties/additional stamp duty/ transfer charges, fees etc. and all the statutory/ non-statutory dues, taxes, rates, assessment charges, fees etc. owing to anybody in respect of the assets.

**7.5.** Successful Bidder/ purchaser has to bear the cess or other applicable tax i.e. GST, TDS etc.

**7.6.** The Successful Bidder/ purchaser will also be responsible for evaluating completeness of applicability of taxes in India at the time of closure and will be responsible for paying all such taxes.

**7.7.** The sale shall be subject to provisions of IBC and Liquidation Process Regulations, 2016

## **8. OTHER TERMS AND CONDITIONS**

**8.1.** Neither the Liquidator nor M/S E-procurement Technologies Limited will be held responsible for any internet network problem /power failure/ any other technical lapses/failure etc. In order to ward-off such contingent situation the Qualified Bidders are requested to ensure that they are technically well equipped with adequate power back-up etc. for successfully participating in the e-auction event.

**8.2.** The Liquidator reserves the right to alter, modify or relax any of the terms and conditions mentioned in this document in the interest of the liquidation process of the Company. Any such alteration, modification or relaxation shall be binding on the interested Bidder.

**8.3.** Bid document with conditional offer will be treated as invalid. Correspondence about any change /modification in the offer after submission of Bid document will not be entertained.

**8.4.** Bids not received in the prescribed bid form or below Reserve Price or incomplete in any respect or unsigned or not accompanied by NEFT/RTGS/Bank Transfer for the requisite EMD are liable to be summarily rejected at the sole discretion of Liquidator.

**8.5.** The sale shall be subject to provisions of IBC, 2016 and Liquidation Process Regulations made thereunder.

**8.6.** Capitalized terms not defined herein shall have the same meaning as provided in the Process Memorandum.

\* The timeline for payment of final sale consideration may be extended at the sole discretion of Liquidator, to the extent permissible under the applicable laws and regulations. In case the final sale consideration is not paid within the timeline, the Liquidator shall forfeit EMD.

**ANNEXURE 2**  
**APPLICATION FORM**

Date:

**To,**  
**Mr. Avil Menezes (Liquidator),**  
**Sunil Hitech Engineers Limited (In Liquidation).**  
416, Crystal Paradise,  
Off Veera Desai Road, Andheri West  
Mumbai- 400053

**REF. ADVERTISEMENT ISSUED IN BUSINESS STANDARD (ENGLISH) PAN INDIA, NAVSHAKTI (MARATHI), IN NAGPUR EDITION ON 13<sup>th</sup> JUNE 2022 & HOSTED ON THE WEBSITE [HTTPS://NCLTAUCTION.AUCTIONTIGER.NET](https://ncltauction.auctiontiger.net) FOR SALE OF THE SUNIL HITECH ENGINEERS LIMITED (IN LIQUIDATION) As A GOING CONCERN (OPTION A)/ ASSETS OF CORPORATE DEBTOR IN PARCELS (OPTION B)**

I/We/ M/s am desirous in participating in the e-auction of the Sunil Hitech Engineers Limited (under Liquidation) as a going concern (option a)/ assets of corporate debtor in parcels (option b)\_announced by you in the newspaper publication dated ..... in ..... (name of media journal).

<b>BID for:</b>	
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I/We /M/s., the Bidder/s, do hereby state that, I/we/M/s. have read the Process Memorandum and the terms and conditions of bid and the above advertisement and understood them fully. I/We/M/s. hereby unconditionally agree to conform with and to be bound by the said conditions. My/Our offer for purchase of the Asset is as under:

1	(a)	Full Name of the Bidder with Telephone Nos.	
		Mobile Nos.	
		E-mail ID.	
	(b)	Address of the Bidder along with the address proof	
	(1)	Office	

	(II)	Residence	
	(c)	(III)	Identity Proof (Self-attested)
		(i)	Pan Card*
		(ii)	Aadhaar Card*
		(iii)	Passport <sup>§</sup>
		(iv)	Voter ID Card
		(v)	Driving License
		*	Compulsory for Indians
		§	Compulsory for NRIs
		(Provide authority letter in case of a partnership firm/LLP/or any other legal entity and board resolution in a form set out in Annexure 5 in case of a company)	
2.	Constitution documents (Sole Proprietary/Partnership/Company) (in case of company/firm, also give names of Directors / partners with contact numbers)		

1. I/We/M/s. further declare that I/We/M/s. intend to purchase the above referred assets of corporate debtor from the Liquidator on “**AS IS WHERE IS BASIS**”, “**AS IS WHAT IS BASIS**”, “**WHATEVER THERE IS BASIS**” And “**NO RECOURSE BASIS**” as **on handover date** for our/ its own use / business and that the information revealed by me/us in this Application Form is true and correct to the best of my/our knowledge and belief.
2. I/We/M/s. certify that I/We/M/s. am/are eligible to be a Bidder, under Section 29A read with Sec.35(f) of IBC 2016 and affidavit for the same is enclosed herewith.
3. I/We/M/s certify that I/We/M/s. am/are eligible to be a Bidder, in accordance to the Eligibility criteria laid down in Clause 5 of the Process memorandum dated 13<sup>th</sup> June 2022.
4. 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 process.
5. I/We/M/s. agree if any of the statement / information revealed by me/us is found incorrect, my/our bid document is liable to be cancelled and, in such case, the EMD paid by me/us is liable to be forfeited by the Liquidator and the Liquidator is at liberty to annul the offer made to me/us at any point of time.

6. I/We /M/s. also agree that after my/our offer given in my/our bid for purchase of the assets of Corporate Debtor is accepted by the Liquidator, if I/We/M/s. fail to accept the terms and conditions of this Process Memorandum or Letter of Intent or fail to complete the transaction within the time limit as specified in the Letter of Intent for any reason whatsoever and / or fail to fulfil any/all the terms and conditions of the bid document and Letter of Intent, the EMD paid by me/us along with the bid document is liable to be forfeited by the Liquidator and that the Liquidator has also a right to proceed against me / us for specific performance of the contract.
7. I/We/M/s. will not claim any interest from the date of submission of offer in case the process of sale is delayed for any reason.
8. The general terms and conditions of sale as mentioned in Process memorandum issued by Liquidator dated 13<sup>th</sup> June 2022 are received, read and acceptable to me / us.

**NOTE: Each page of this form shall be duly signed by Bidder.**

Place:

Date:

**Signature of the Bidder**

( \_\_\_\_\_ )

**[Rubber stamp of the proprietor/company/firm]**

**Name**

**Designation**

**Enclosures:**

- a. Address Proof given under point 1(B)(I) and 1(B)(II)
- b. Self-attested copy of Identity Proof given under point 1(C)(III).
- c. Authority Letter of the authorized representative bidding in case of any bidder other than proprietorship firm. given under point 1(C)(III).
- d. Affidavit under section 29A.
- e. Confidentiality Undertaking
- f. Copy of the resolution passed by the board of directors of the Auction Participant (in case the Auction Participant is a company).

- g. Copy of the memorandum and articles of association and certificate of incorporation 74 or other equivalent organizational document (as applicable in the case of the jurisdiction of incorporation of the prospective Bidder and, in case the prospective Bidder is a special purpose vehicle set up for submitting the Bid, of the Parent Company), including amendments, if any, certified by the company secretary, or equivalent or a director of the prospective Bidder (as an annexure to this Format)
- h. If the prospective Bidder is a consortium, then copy of the Memorandum and Articles of Association and certificate of incorporation or other equivalent organizational document (as applicable in the case of a foreign company), including their amendments of each of the consortium member (certified by the company secretary or a director) (as attachment to this document).
- i. Annual report or audited financials of the prospective Bidder, Parent Company and corporate guarantor, if applicable for the preceding 3 (three) years. A certificate from the statutory auditor/ chartered account as on 31st March 2021 and/or 31st March 2022 for (a) net worth (in case the prospective Bidder is a corporate including limited liability partnership), and (b) total assets under management (AUM) in case the prospective Bidder is a financial investor, fund, private equity investor, non-banking financial company, asset reconstruction company, banks or financial institution, in each case as provided in the eligibility criteria provided in the E-Auction Process Memorandum. In case you are relying on the eligibility criteria of your Group Company, please also provide such details for the relevant Group entity along with documentary evidence in the form of a certificate from a practicing company secretary or statutory auditor to establish such relationship.
- j. Credit opinion report from the principal bank of the prospective Bidder and its Parent company;
- k. External rating report if available for the prospective Bidder and the Parent Company /Ultimate Parent. In case not provided, the prospective Bidder will be treated as unrated;
- l. Please provide details in following format for directors of prospective Bidder, and in case the prospective Bidder is a special purpose vehicle set up for submitting the Bid, provide details of directors of the Parent Company as per format below:

Name	Designation	Identification Nos. (DIN, PAN, Passport)	Full Address	Other Directorships

The prospective Bidder shall submit photocopy of the passport for each of the Directors and other 'know your customer' details. Please confirm if any of the above have been disqualified to act as a director under the provisions of the Companies Act, and if so, please share all relevant details of the same.

- m. Details of Ownership Structure of the prospective Bidder (in case the prospective Bidder is a listed company, please provide details of persons owning 10% (ten percent) or more of the total paid up equity of the prospective Bidder).
- n. Please provide details of Parent Company, ultimate Parent and Group Companies of the prospective Bidder and corporate guarantor (if any corporate guarantee constitutes part of



the Bid), and their respective business activity. The determination of relationship of Parent Company, Ultimate Parent and/or the Group Companies of the prospective Bidder shall be as on date of submission of the Bid Application Form;

- o. Please provide a list of persons acting jointly, persons acting in concert and connected persons (as per Section 29A). Please also explain relationship of prospective Bidder with all connected persons. The Liquidator may request for credit opinion/ CIBIL Reports of connected persons as appropriate. [In case of any exemption available, please explain the same].

**ANNEXURE 3**

**Affidavit by the Bidder in respect of Section 29A**

(To be notarized on non-judicial stamp paper)

**ON RS. 100/- STAMP PAPER**

I, \_\_\_\_\_ [name of the chairman/ managing director/ director/ authorized person of prospective bid applicant, authorized by the Board of the Prospective Applicant for giving such affidavit, son of \_\_\_\_\_, aged about \_\_\_\_\_ years, currently residing at \_\_\_\_\_ and having Aadhaar/ Passport number \_\_\_\_\_, on behalf of \_\_\_\_\_ (**“Prospective Applicant”**), do solemnly affirm and state to the Mr. Avil Menezes (IBBI Registration No. IBBI / IPA-001 / IP-P00017 / 2016-17 / 10041) (**“Liquidator”**), the liquidator of Sunil Hitech Engineers Limited (**“Corporate Debtor”**), as follows:

1. That I am duly authorised and competent to make and affirm the instant affidavit for and on behalf of the Prospective Applicant in terms of the resolution of its board of directors/ power of attorney to provide other necessary details of such authorization. The said document is true, valid and genuine to the best of my knowledge, information and belief.
2. That the Prospective Applicant is not ineligible under Section 29A of the Insolvency and Bankruptcy Code, 2016 (**“IBC”**) to submit bid application for purchase of assets of Sunil Hitech Engineers Limited .
3. That none of the Prospective Applicant or any person acting jointly or in concert with the Prospective Applicant:
  - (a) is an undischarged insolvent;
  - (b) is a willful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949;

- (c) at the time of submission of the bid application 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 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 liquidation of the Corporate Debtor.
- (d) has been convicted for any offence punishable with imprisonment –
  - (i) for 2 (two) years or more under any Act specified under the Twelfth Schedule of the IBC;
  - or
  - (ii) for 7 (seven) years or more under any law for the time being in force:
- (e) is disqualified to act as a director under Companies Act, 2013;
- (f) is prohibited by the Securities Exchange Board of India from trading in securities or accessing the securities market;
- (g) has been a promoter or in the management or control of a company in which a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been made by the Adjudicating Authority under the IBC;
- (h) has executed a guarantee in favour of a creditor in respect of a corporate debtor against which an application for insolvency resolution made by such creditor has been admitted under this IBC 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), where ‘connected person’ means:

- (i) any person who is the promoter or in the management or control of the Prospective Applicant; or
- (ii) any person who shall be the promoter or in management or control of the business of the Corporate Debtor during the e-auction process; or
- (iii) the holding company, subsidiary company, associate company or related party of a person referred to in clauses (i) and (ii).

4. That the Prospective Applicant unconditionally and irrevocably represents, and confirms that it is eligible under the terms and provisions of the IBC (read with the relevant regulations framed there under) to submit an application and it shall provide all documents, representations and information as may be required by the Liquidator to substantiate that the Prospective Applicant is eligible under the IBC to submit an application in respect of purchase of assets of Sunil Hitech Engineers Limited .
5. That the Prospective Applicant unconditionally and irrevocably undertakes that it shall provide all data documents and information as may be required by the Liquidator to verify the statements made under this affidavit.
6. That the Prospective Applicant understands that the Liquidator may evaluate the bid application to be submitted by the Prospective Applicant or any other person acting jointly with it and such evaluation shall be on the basis of the confirmations, representations and warranties provided by the Prospective Applicant under this affidavit.
7. If, at any time after the submission of this affidavit and before the declaration of the Successful Bidder under the e-auction process of Sunil Hitech Engineers Limited by the Liquidator under the IBC, the Prospective Applicant becomes ineligible to be a Prospective Applicant as per the provisions of the IBC (and in particular Section 29A of the IBC), the fact of such ineligibility shall be forthwith brought to the attention of the Liquidator.

Solemnly affirmed at \_\_\_\_\_

on the \_\_\_\_\_ day of \_\_\_\_\_ 2022

**DEPONENT**

**Before me,**

**Notary/Oath Commissioner**

**VERIFICATION:**

I, \_\_\_\_\_ [name of the chairman/managing director/director/authorised person of Prospective Applicant, authorized by the Board of the Prospective Applicant company (in case of a company) for giving such affidavit] the deponent above named, on behalf of \_\_\_\_\_, currently residing at \_\_\_\_\_, do hereby solemnly state on oath and declare and verify that the contents of the above affidavit are true, correct and complete to the best of my knowledge and nothing material has been concealed therein.

Verified at \_\_\_\_\_, on this the \_\_\_\_\_ day of \_\_\_\_\_ 2022

**DEPONENT**

## ANNEXURE 4

### CONFIDENTIALITY UNDERTAKING

(To be notarized on non-judicial stamp paper)

**ON RS. 100/- STAMP PAPER**

This Confidentiality Undertaking has been signed by (Name of potential Bidders) having its office at \_\_\_\_\_ acting through Mr. (Name of person authorised by potential Bidder(s)), the authorized signatory/authorized representative (“**Bidder**”), which expression shall, unless repugnant to the context, be deemed to include its successors, assigns or legal representative) in favour of Mr. Avil Menezes, an Insolvency Professional having registration no. IBBI / IPA-001 / IP-P00017 / 2016-17 / 10041

WHEREAS Sunil Hitech Engineers Limited , a company registered under Companies, Act, 1956 (thereafter referred as the “**Company**”) is undergoing liquidation vide NCLT Mumbai Bench (“NCLT”) order dated June 25, 2019, vide the said NCLT Order Mr. Avil Menezes, a registered insolvency professional with Insolvency and Bankruptcy Board of India (IBBI) having registration number IBBI / IPA-001 / IP-P00017 / 2016-17 / 10041 has been appointed as liquidator to manage, protect, sell and liquidate the property, assets, business and other affairs of Sunil Hitech Engineers Limited (“**Liquidator**”).

WHEREAS the Liquidator has invited prospective Bidders for the purpose of submission of bid through e-auction process in respect of The Sale of the Corporate Debtor as a going concern(Option A)/ Assets of corporate debtor in parcels (Option B) in accordance with the provisions of Process Memorandum and provisions of 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 data room and during the course of due diligence and shall not use such information to cause an undue gain or undue loss to itself or

any other person and comply with the requirements under IBC and Liquidation Process Regulations.

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

1. The Bidder(s) shall not divulge any part of the information received pursuant to the Process Memorandum or accessed through the data room which shall mean the virtual data room maintained by the Liquidator, created for the Qualified Bidders to access information in relation to the Company (“Data Room”) or any other data shared by the Liquidator, through oral or written communication or through any mode to anyone and the same shall constitute “Confidential Information”. Any information or documents generated or derived by the recipients of Confidential Information that contains, reflects or is derived from any Confidential Information shall also be deemed as Confidential Information.
2. The Bidder (s) further unconditionally and irrevocably 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 unauthorised 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 The Sale of the Corporate Debtor as a going concern(Option A)/ Assets of corporate debtor in parcels (Option B) as provided under Process Memorandum and the Liquidation Process Regulations;
  - h. the Bidder(s) shall take all necessary steps to safeguard the privacy and confidentiality of the information received either pursuant to the Process Memorandum or through the access of the Data Room and shall use its best endeavors 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 Process Memorandum/ Data Room. 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 the Liquidator may be entitled to the remedies of injunction, specific performance and other equitable relief for a threatened or actual breach of this Confidentiality Undertaking.
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 Mumbai 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 Process Memorandum.

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

Signed on behalf of

(Name of Bidder(s))

by Mr. \_\_\_\_\_

(Name and Designation)

Authorised Signatory

Date:

Place:

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

**ANNEXURE – 5**

**BOARD RESOLUTION**

(On the letter head of the Bidder)

CERTIFIED TRUE COPY OF RESOLUTION PASSED BY THE BOARD OF DIRECTORS (“**BOARD**”) OF \_\_\_\_\_ ( **Company**) IN THE MEETING HELD ON [Insert Date], AT [Insert Time] AT [Insert Place]

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**WHEREAS** pursuant to the E-auction Process Memorandum for the sale of the Sunil Hitech Engineers Limited (In Liquidation) as a going concern (Option A)/ Assets of corporate debtor in parcels (Option B) dated 13<sup>th</sup> June 2022 , issued by Mr. Avil Menezes (IBBI Registration No. IBBI / IPA-001 / IP-P00017 / 2016-17 / 10041) (“**Liquidator**”), the liquidator of Sunil Hitech Engineers Limited , the Company being a prospective applicant is desirous of submitting a Bid Application for the purchase of assets of Sunil Hitech Engineers Limited in accordance with the requirements of the Process Memorandum published on <https://ncltauction.auctiontiger.net>, for the above-mentioned auction.

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

“**RESOLVED THAT** the draft of the Application Form placed before us is hereby approved for submission to the Liquidator of Sunil Hitech Engineers Limited , in accordance with the terms of the Process Memorandum.”

“**RESOLVED THAT Mr./Ms.** \_\_\_\_\_, be and is hereby authorised to take all the steps required to be taken by the Company for the submission of the Bid Application in accordance with the terms of the Process Memorandum, including the following:

- (a) submit the Application Form and other requisite documents, in accordance with the terms of the Process Memorandum;
- (b) execute all other agreements, deeds, forms, writings, affidavits and power of attorney as may be required in relation to the Process Memorandum, any amendments or modifications thereto as may be suggested by the Liquidator of Sunil Hitech Engineers Limited , to do any such executed agreements, documents or other writings and in general

to do all such acts, deeds and all things as may be required or considered necessary under or in respect of the Process Memorandum;

- (c) submit necessary clarifications or information in relation to the Bid Application, as may be required in accordance with the Process Memorandum by the Liquidator;
- (d) pay such amounts and consideration, in the manner as may be agreed with the Liquidator, in accordance with the procedure set out under the Process Memorandum;
- (e) to generally do or cause to be done all such acts, matters, deeds and things as may be necessary or desirable in connection with or incidental or for the purpose of implementation and giving effect to the above resolutions for and on behalf of the Company, and to comply with all other requirements in this regard.”

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

Certified to be true

**For the Company**

\_\_\_\_\_

**Director/Company Secretary**

**ANNEXURE 6**  
**EARNEST MONEY DEPOSIT FORM**

Date:

**To,**

**Mr. Avil Menezes (Liquidator),**

**Sunil Hitech Engineers Limited (In Liquidation).**

416, Crystal Paradise,

Off Veera Desai Road, Andheri West

Mumbai- 400053

**REF. ADVERTISEMENT ISSUED IN BUSINESS STANDARD (ENGLISH) PAN INDIA, NAVSHAKTI (MARATHI), IN NAGPUR EDITION ON 13<sup>TH</sup> JUNE 2022 & HOSTED ON THE WEBSITE [HTTPS://NCLTAUCTION.AUCTIONTIGER.NET](https://ncltauction.auctiontiger.net) FOR SALE OF THE SUNIL HITECH ENGINEERS LIMITED (IN LIQUIDATION) AS A GOING CONCERN (OPTION A)/ ASSETS OF CORPORATE DEBTOR IN PARCELS (OPTION B)**

I/We/ M/s am desirous in participating in the e-auction of the Sunil Hitech Engineers Limited (under Liquidation) as a going concern (option A)/ assets of corporate debtor in parcels (option B) announced by you in the newspaper publication dated ..... in ..... (name of media journal).

<b>BID for:</b>	
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I/We /M/s., the Bidder/s, do hereby state that, I/we/M/s. have read the Bid Document and the terms and conditions of the Bid and the above advertisement and understood them fully. I/We/M/s. hereby unconditionally agree to conform with and to be bound by the said conditions. My/Our offer for purchase of the Asset as appearing in the Bid document is as under:

1.	(a)	Full Name of the Bidder with Telephone Nos.  Mobile Nos. E-mail ID.	
	(b)	Address of the Bidder along with the address proof	

	(i)	Office	
	(ii)	Residence	
2.	<b>Details of EMD</b>		
	(i)	Mode of Payment	RTGS / NEFT/ Bank Transfer
	(ii)	UTR No.	
	(iii)	Date	
	(iv)	Account Holder's Name	
	(v)	Bank Name	
	(vi)	Branch Name	
	(vii)	IFSC Code	
	(v)	Amount Deposited	

1. I/We request you to kindly verify the same and arrange with the auction portal for issue of an ID and password to enable us to take part in the E-Auction.

2. I/We/M/s. agree if any of the statement / information revealed by me/us is found incorrect, my/our Bid document is liable to be cancelled and, in such case, the Earnest Money Deposit paid by me/us is liable to be forfeited by the Liquidator and the Liquidator is at liberty to annul the offer made to me/us at any point of time.

3. I/We /M/s. also agree that after my/our offer given in my/our bid for purchase of an asset(s) is accepted by the Liquidator and If I/We/M/s. breach any of the conditions under this Process Memorandum or am/are/is found to have made any misrepresentation or am/are/is found to be ineligible to submit the Bid under Section 29A of the IBC (as amended from time to time) or is found to have made a false or misleading declaration of eligibility under Section 29A of the IBC or is found to have made a false or misleading declaration of eligibility as laid down in Clause no 5 of process memorandum or am/are/is found to be, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the auction process or has, undertaken any action in respect of such process which results in the breach of any applicable law including the

Prevention of Corruption Act, 1988 or Default in payment of the balance sale consideration by the Successful Bidder within the timeframe set out this Process Memorandum or not able to complete the transaction within the time limit specified in the Process Memorandum for any reason whatsoever and / or fail to fulfil any/all the terms and conditions of the Process Memorandum, the Earnest Money Deposit paid by me/us along with the Bid document is liable to be forfeited by the Liquidator and that the Liquidator has also a right to proceed against me / us for specific performance of the contract.

4. I/We/M/s. will not claim any interest from the date of submission of Earnest Money in case the process of sale is delayed for any reason.

5. I/ We understand that the Earnest Money of all Bidders shall be retained by the Liquidator and returned only after the conclusion of the auction process as per the timelines mentioned. I/We state that I/We have fully understood the terms and conditions therein and agree to be bound by the same.

The general terms and conditions of sale are received, read and acceptable to me / us.

**NOTE: Each page of this form shall be duly signed by bidder.**

Place:

Date:

**Signature of the Bidder**

(M/s. \_\_\_\_\_)

**[Rubber stamp of the proprietor/company/firm]**

**Name**

**Designation**