

Sanghvi Forging & Engineering Limited (“SFEL”)

CIN: L28910GJ1989PLC012015

(Company under Corporate Insolvency Resolution Process)

Process Memorandum for Expression of Interest to submit Resolution Plan

1. Brief Synopsis of the Company

Introduction:

The Corporate Insolvency Resolution Process of Sanghvi Forging & Engineering Ltd. has commenced with effect from 30th August, 2019 vide an order by the National Company Law Tribunal (NCLT), Ahmedabad Bench. Mr. Parthiv Parikh bearing IBBI Reg. No **IBBI/IPA-002/IP-N00369/2017-2018/11063** has been appointed as the Resolution Professional (**the RP**) to conduct the Corporate Insolvency Resolution Process in accordance with the provisions of the Code. Accordingly, the RP has floated invitation for Expression of Interest to submit Resolution Plan on August 22, 2020 in the prescribed Form-G in accordance with section 25 of IBC read with sub-regulation (5) of regulation 36A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

Sanghvi Forging & Engineering Ltd. (Corporate Debtor) is a company incorporated under the Companies Act on 16.03.1989 and registered with the Registrar of Companies, Ahmedabad. The registered office of the corporate debtor is situated at 244 /6 & 7, GIDC Estate, Waghodia, Vadodara, Gujarat – 391760.

Transaction Process:

The transaction process for the Corporate Debtor as aforesaid shall be completed in Two Stages, brief of which is discussed as under:

Stage I:

- Submission of EOI by interested Resolution Applicants (RAs).
- Shortlisting of Resolution Applicants (RAs) by Committee of Creditors (CoC)/Resolution Professional

Stage II:

- Submission of duly executed Undertaking by shortlisted (RAs) in order to obtain Request For Resolution Plan (RFRP), Evaluation Matrix, Information Memorandum and other relevant information of the corporate debtor.
- Submission of Resolution Plan by RA along with requisite documents.

2. SUBMISSION OF EOI:

- Submission of unconditional Eoi by Prospective Resolution Applicant in the appended EOI format, who meet Eligibility Criteria as set out in "Annexure – A" along with an undertaking in this regard in the format as set out in "Annexure -B" and relevant records.
- EOI shall be submitted in the prescribed format as set out in "Annexure – C" hereto alongwith the details and documents as set out in "Annexure – D" hereto.
- Undertaking by RA under section 29A of IBC as set out in "Annexure – E" hereto along with the relevant records to establish the same.
- Undertaking by RA that it/he/she shall intimate the RP forthwith if in-eligibility under the IBC later on arises during the CIR Process in "Annexure – F"
- Undertaking to the effect that every information and records provided in the Eoi is true and correct and submission of wrong information will render the RA ineligible to submit the resolution plan and the refundable deposit or Rs.25,00,000/- shall be forfeited and the penal action will be taken in Annexure-G.
- Execution of NDA by Prospective Resolution Applicant in accordance with the provision of the Code as set out in "Annexure–H".
- Sharing of IM and access to Virtual Data Room (VDR) for further information with Prospective Resolution Applicant.
- Sharing of detailed Process Memorandum with the Prospective Resolution Applicant outlining the process and manner of submission of Resolution Plan.
- Submission of Resolution Plan in accordance with the provision of the Code, along with Refundable Deposit etc. within the timelines and manner specified in the Process Memorandum

EOI in the prescribed format along with the annexures is required to be sent by emailing it at rp.sanghviforge@rbsa.in or parthiv.parikh25@gmail.com or through speed post / registered post / courier or hand delivering at RBSA Restructuring Advisors LLP 912, Venus Atlantis, Corporate Park, Anand Nagar Road, Prahlad Nagar, Ahmedabad-380015

3. PROCESS POST RECEIPT OF EOI:

EOIs received will be reviewed by RP and / or members of CoC. Qualified and shortlisted RAs will be informed about the same. The Bid Process Memorandum containing the evaluation matrix and terms and conditions of submitting Resolution Plan would be issued to the shortlisted parties pursuant thereto. Access to Information Memorandum (IM), data room for Due Diligence and other relevant information will be provided to qualified and shortlisted RA and such other person as may be stipulated under the Code or rules or regulations framed thereunder.

The qualified and shortlisted RA will be given time to carry out further due-diligence (DD) and submit their Resolution Plan, in accordance with the provisions of the Request for Resolution Plan that will be issued by the RP in accordance with the provisions of the IBC,2016. For any clarifications, please write to: rp.sanghiviforge@rbsa.in or parthiv.parikh25@gmail.com

4. NOTES AND OTHER TERMS AND CONDITIONS:

- (i) The EOI Process Memorandum is not an offer or invitation for sale or the solicitation of an offer to buy, purchase or subscribe to any securities, if any, of BFBP.
- (ii) CoC / RP reserve the right to withdraw this EOI Process Memorandum and / or cancel the Resolution Plan process at any stage. Mere submission of the EOI shall not create any rights in favour of the RA and the decision of the CoC / RP regarding the resolution plan process shall be final and binding on all parties concerned including RAs. The CoC / RP further reserves the right to (a) amend, extend, vary or modify the terms and conditions regarding submission of Resolution plan, including but not limited to Evaluation Matrix, timelines regarding submission of Resolution Plans; and (b) disqualify and / or reject any RA at any stage of the bid process without assigning any reason and without any liability, including any tortuous liability.
- (iii) Amendments or Clarifications concerning submission of EOI and / or Information regarding extension, if any, of time for submission of Resolution Plan shall be communicated to all the person who will show interest after the publishing Form G.
- (iv) No agreements with RP or any official, representative, affiliates, associate, advisor, agent, director, partner or employee of the RP or SFEL or any member of the CoC or verbal communication by them shall affect or modify any terms of this EOI.
- (v) No claims against or liability of the RP or SFEL or any member of the CoC or any of their official, representative, affiliates, associate, advisor, agent, director, partner or employee would arise or be sustained out of this EOI.
- (vi) By submitting a proposal, each RA shall be deemed to acknowledge that it has carefully read the entire EOI, its terms and conditions and eligibility criteria and has fully informed itself as to all the existing terms, conditions and limitations.

Sd/-

Parthiv Parikh
Resolution Professional
IBBI/IPA-002/IP-N00369/2017-2018/11063
Sanghvi Forging & Engineering Limited
(Under Corporate Insolvency Resolution Process)
Email ID: Parthiv.parikh25@gmail.com ; rp.sanghiviforge@rbsa.in

Address for correspondence:
RBSA Restructuring Advisors LLP
912, Venus Atlantis Corporate Park,
Anand Nagar Road,
Prahlad Nagar,
Ahmedabad-380015

Date: August 22, 2020
Place: Ahmedabad

Attachments: Annexures – A to H

“ANNEXURE – A”

ELIGIBILITY CRITERIA

(Pursuant to section 25(2)(h) of the Insolvency and Bankruptcy Code,2016 to invite prospective resolution applicant(s) to submit Resolution Plan)

The eligibility criteria for submission of Resolution Plan for Sanghvi Forging & Engineering Limited are as follows:

- (a) Prospective Resolution Applicant must be an eligible person, should not suffer from any legal disability to act as Resolution Applicant under the provisions of the Insolvency and Bankruptcy Code, 2016 or to act as Promoter under any of the laws in force as applicable over him/it.
- (b) The prospective Resolution Applicant shall provide **refundable deposit of INR 25 lacs (Rupees Twenty Five Lakhs Only)** in the favour of Sanghvi Forging & Engineering Limited – In CIRP by way of demand draft payable at Ahmedabad (RP Office) or direct credit in the State Bank Account (Name of account - Sanghvi Forging & Engineering Limited, Branch- IFB Branch-Vadodara, Account No. - 37646500223 and IFSC Code - SBIN0032643)
- (c) Potential Resolution Applicant’s competence and capability are proposed to be established broadly by the following parameters:
 1. Financial Capacity
 2. Provisions of Section 29A of IBC

1. Financial Capacity Eligibility Criteria:

- Minimum Consolidated Net-Worth of INR 25 Cr (Rupees Twenty-Five Crores) or more as on 31st March, 2019. However, Prospective Resolution Applicants need to share CA Certified Net worth Certificate for Investor(s)/ Company/LLP/Partnership Firms.
- Minimum Asset under Management (AUM) or funds deployed of INR 50 Cr or more as on 31st March, 2019. However, Prospective Resolution Applicants need to share CA Certified Asset under management certificate for a Financial Institutions/investment companies/PE Investors/NBFCs/ARC.
- Consortium Potential Resolution Applicants must also have Minimum net worth of INR 10 Crores or more as on 31st March, 2019 of every individual and total net worth of consortium members INR 25 Crores. However, Prospective Resolution Applicants need to share CA Certified Net worth certificate.

Provisions of Section 29A of Insolvency and Bankruptcy Code, 2016

Potential Resolution Applicant must be eligible to submit Resolution Plan in accordance with provision of Section 29A of IBC. For this purpose, the Potential Resolution Applicant should give a declaration supported by affidavit stating that it does not suffer from any disqualification provided in Section 29A of IBC. In case of Resolution Applicants submitting the Resolution Plan jointly, the declaration and affidavit needs to be submitted by each such Resolution Applicant. However, a Resolution Applicant(s) suffering from a disqualification under Section 29A(c) may submit a resolution plan, provided that it undertakes that it will make payment of all overdue amounts with interest thereon and charges relating to non-performing asset accounts before submission of resolution plan and that it will submit a written acknowledgement of such payment at least one day before the last day of submission of resolution plan.

Exchange Rate:

For the purpose of evaluation of the EOI, the exchange rate to be used for conversion into INR (Indian Rupees) shall be RBI Reference rate on the last working day that precedes the date of the EOI.

Annexure-B

Undertaking under Regulation 36A(7)(a) of CIRP Regulations,2016

(To be notarized on stamp paper)

**In the matter of Corporate Insolvency Resolution Process of Sanghvi Forging & Engineering Limited
under the provisions of the Insolvency and Bankruptcy Code, 2016**

AFFIDAVIT

I, [Name of Deponent], son of / daughter of [Name of Deponent's father] aged [Age of Deponent] resident of [Address of Deponent], the Deponent, do hereby solemnly affirm, state and declare as under:

1. That I am fully conversant with the facts and circumstances of the matter and am also duly empowered and competent to swear and affirm this affidavit.
2. That I am duly authorized to submit this declaration by virtue of [state where the authority is drawn from] (Board Resolution or other)
3. That I have understood the provisions of section 25(2)(h) of the Insolvency and Bankruptcy Code, 2016 ("IBC") and the eligibility criteria as laid down by the Resolution Professional with the approval of the Committee of Creditors as more detailed in **Annexure A**.
4. I confirm and affirm that the Resolution Applicant meets the eligibility criteria as mentioned hereinabove in true letter and spirit.
5. That I confirm that the said declaration and disclosure is true and correct.

Deponent

Verification

Verified at [Place] at this [Date] day of [Month] 2020, that the content of the above affidavit are true and correct to my personal knowledge, nothing is false in it and no material facts have been concealed therefrom.

Deponent

“ANNEXURE – C”

FORMAT OF EXPRESSION OF INTEREST (EOI)

(On the Letterhead of the Potential Resolution Applicant Submitting EOI)

To,
Mr. Parthiv Parikh,
Resolution Professional for Sanghvi Forging & Engineering Limited
RBSA Restructuring Advisors LLP
912, Venus Atlantis,
Corporate Park,
Anand Nagar Road,
Pralhad Nagar,
Ahmedabad-380015

Subject: Expression of Interest ("EOI") for submitting Resolution Plan for Sanghvi Forging & Engineering Limited ("Corporate Debtor").

Dear Sir,

1. In response to the Form G advertised in _____ dated August 22, 2020 ("Advertisement") and published on the official website of the Insolvency and Bankruptcy Board of India i.e. www.ibbi.gov.in inviting EOI for submission of Resolution Plans ("Resolution Plan") as per the provisions of the Insolvency and Bankruptcy Code, 2016 ("Code"), we confirm that we have understood the eligibility criteria mentioned in the Detailed Invitation for Expression of Interest for Sanghvi Forging & Engineering Limited as was provided to us via e-mail dated _____ and meet the necessary thresholds mentioned therein and submit our EOI for submission of a Resolution Plan for the Corporate Debtor.
2. I, _____, [insert name of the signatory] confirm that I am duly authorized to submit this EOI on behalf of _____ [insert the name of the entity submitting the EOI]
(Attach Board Resolution in this regard)
3. The information furnished by us in this EOI including documentary proofs, is true, correct, complete, accurate in all material respects. Further, we acknowledge or confirm (as applicable) that:
 - a. The Resolution Professional ("RP") may, on the directions of the Committee of Creditors (constituted under the Code) ("CoC"), have the right to cancel the process without any prior intimation to us or modify or vary the terms without assigning any reason, whatsoever and without any liability. Any clarifications, amendment or extensions of time, etc. in relation to the process would be intimated to me at _____ (specify e-mail id) and the RP is not required to separately intimate us in this respect. We are aware that the timelines for diligence and other processes will not be extended without prior approval of the RP, which approval may be provided by the RP at its sole discretion. No financial obligation shall accrue to the RP or the Corporate Debtor in such an event;
 - b. The Corporate Debtor is on an "as is where is" basis and the RP, CoC, the current shareholders or promoters of the Corporate Debtor will not be providing any representations or warranties;
 - c. We have read and understood the terms and conditions stipulated in the detailed Invitation for Expression of Interest and acknowledge that the RP reserves the right to accept or reject any EOI without assigning any reason whatsoever and without any liability to the applicant;

- d. The RP reserves the right to request for additional information or clarification, as it deems fit, from us for the purposes of the EOI;
- e. We will continue to meet the eligibility criteria throughout the process, and will intimate the RP of any change in the information provided by us along with our EOI, which may impact our ability to participate in this process, within 3 (three) business days of such change;
- f. We have read and understood the provisions of the Code and the rules and regulations issued there under. We are aware that our submission of the EOI does not give us the right to be a part of the CoC;
- g. The RP and the Corporate Debtor shall, in no circumstances, be responsible to bear or reimburse any expenses or costs incurred by us in respect of submission of this EOI; and
- h. Information Memorandum will be provided to the qualified and shortlisted Resolution Applicants as per the provisions of Code;
- i. The information contained in the Information Memorandum are for reference only which we are free to testify with the prior approval of the RP. We understand that the RP nowhere guarantee the authenticity of the details provided in the Information Memorandum;
- j. If we are shortlisted, we will submit the Resolution Plan complying the provisions of the Insolvency & Bankruptcy Code, 2016 within the timelines laid down;
- k. We have attached the supporting documents required to be submitted with EOI as provide in the detailed Expression of Interest

Thanking you.

Yours truly,

On behalf of the Firm / Company / Organization:

Signature:

Name of Signatory:

Designation:

Company Seal / Stamp

Place:

Date:

Enclosures: Annexures

"ANNEXURE – D"

DETAILS AND SUPPORTING DOCUMENTS REQUIRED TO BE SUBMITTED WITH EOI

1. Profile of Resolution Applicant
2. **Legal Documents:** Copies of Certificate of Registration / Incorporation and Constitutional Documents (Memorandum and Articles of Association, etc.) of Resolution Applicant
3. **For TNW / NOF / AUM / Committed Funds:** Certified true copies of Audited financial statements of immediately preceding 3 (three) years of RA and / or its promoter / promoter group or any other group company as per eligibility criteria.
4. A notarized declaration from RA in order to demonstrate that the promoter / promoter group or any other group company are part of the same group, in case the interested party is using such entities for meeting the eligibility criteria. Please note that RA shall provide all relevant documents for its promoter / promoter group or any other group company, if required to meet the eligibility criteria.
5. Any other documents / information which Potential Resolution Applicant finds necessary to share or as may be notified by the RP from time to time.
6. Name and Address:
 - a. Name of the Firm/Company/Organisation:
 - b. Address:
 - c. Telephone No:
 - d. Fax:
 - e. Email:
 - f. PAN No. or equivalent details (with a copy thereof):
 - g. GST No. or equivalent details: (with a copy thereof)
5. Date of Establishment:
6. Nature of Establishment: [Body Corporate OR Financial Institutions / Funds /Investors]
7. Nature of Activity
8. Experience in EPC or/and Solar sector and other core areas:
9. Contact Person:
 - a. Name:
 - b. Designation:
 - c. Telephone No:
 - d. Email:

10. Group / Company Profile:

Group / Company Financial Profile (consolidated / standalone as applicable):

[Note: The Group / Company profile should necessarily include net worth and revenue numbers of the preceding three years. Where the entity/Investors submitting the EOI is a financial investor / fund Manager, please additionally provide details pertaining to “assets under management” for the immediately preceding three years for investment in Indian assets.]

For Body Corporate/Investors

INR Crores		FY 18-19	FY17-18	FY16-17
Revenue				
Network				

For Financial Institutions / Funds

INR Crores		FY 18-19	FY17-18	FY16-17
Assets				

11. Please furnish details, if any on the following:

- a. conviction for any offence, if any, during the preceding five years;
- b. criminal proceedings pending, if any;
- c. disqualification, if any, under Companies Act, 2013, to act as a director;
- d. identification as a wilful defaulter, if any, by any bank or financial institution or consortium thereof in accordance with the guidelines of the Reserve Bank of India;
- e. debarment, if any, from accessing to, or trading in, securities markets under any order or directions of the Securities and Exchange Board of India; and
- f. transactions, if any, with the corporate debtor in the preceding two years.
- g. History, if any, of the Company or affiliates of the Company being declared a ‘wilful defaulter’ or ‘non-cooperative borrower’ or ‘non-impaired asset’ or ‘non-performing asset’.

Note: In case of consortium, each member of consortium needs to submit the documents set out herein.

12. Applicant shall submit the following documentary proofs as a part of this Annexure:

- a. Applicable to Body Corporate: Audited financial statements for last 3 financial years ending 31.03.2019 and Un-audited Financial Statement for the year ending on 31.03.2020.
- b. Applicable to Financial Institutions / Funds /Investors (i) Financials for last year & latest Tax Return including wealth tax details for the last three years and Documentary evidence for Funds available for deployment

13. Details of Consortium Members, if any (being Resolution Applicant):

Name of the Member	% of share in the Consortium	Nominated as Lead (Y/N)

<<this space has been intentionally left blank>>

“ANNEXURE – E”

DECLARATION UNDER SECTION 29A OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016

(To be notarized on stamp paper)

In the matter of Corporate Insolvency Resolution Process of Sanghvi Forging & Engineering Limited under the provisions of the Insolvency and Bankruptcy Code, 2016

AFFIDAVIT

I, [Name of Deponent], son of / daughter of [Name of Deponent's father] aged [Age of Deponent] resident of [Address of Deponent], the Deponent, do hereby solemnly affirm, state and declare as under:

1. That I am fully conversant with the facts and circumstances of the matter and am also duly empowered and competent to swear and affirm this affidavit.
2. That I have understood the provisions of section 29A of the Insolvency and Bankruptcy Code, 2016 (“IBC”). I confirm that neither [name of the resolution applicant] nor any person acting jointly or in concert with [name of the resolution applicant] is ineligible under Section 29A of IBC to submit resolution plan (s) in the Corporate Insolvency Resolution Process of Sanghvi Forging & Engineering Limited under the provisions of the Insolvency and Bankruptcy Code, 2016.
3. That [name of resolution applicant] has not been rendered ineligible under the provisions of Section 29A of the Insolvency and Bankruptcy Code, 2016.
4. That I therefore, confirm that [name of the applicant] is eligible under Section 29A of the Insolvency and Bankruptcy Code, 2016 to submit a resolution plan for Sanghvi Forging & Engineering Limited.
5. That I confirm that the said declaration and disclosure is true and correct.
6. That I am duly authorized to submit this declaration by virtue of [state where the authority is drawn from]

Deponent

Verification

Verified at [Place] at this [Date] day of [Month] 2020, that the content of the above affidavit is true and correct to my personal knowledge, nothing is false in it and no material facts have been concealed therefrom.

Deponent

“ANNEXURE – F”

DECLARATION UNDER REGULATION 36A(7)(e) OF CIRP REGULATIONS, 2016

(To be notarized on stamp paper)

In the matter of Corporate Insolvency Resolution Process of Sanghvi Forging & Engineering Limited under the provisions of the Insolvency and Bankruptcy Code, 2016

AFFIDAVIT

I, [Name of Deponent], son of / daughter of [Name of Deponent’s father] aged [Age of Deponent] resident of [Address of Deponent], the Deponent, do hereby solemnly affirm, state and declare as under:

1. That I am fully conversant with the facts and circumstances of the matter and am also duly empowered and competent to swear and affirm this affidavit.
2. That I have understood the provisions of section 29A of the Insolvency and Bankruptcy Code, 2016 (“IBC”).
3. That I affirm that I shall intimate the Resolution Professional in case I [name of the resolution applicant] or any person acting jointly or in concert with [name of the resolution applicant] becomes ineligible under Section 29A of IBC to submit resolution plan (s) in the Corporate Insolvency Resolution Process of Sanghvi Forging & Engineering Limited under the provisions of the Insolvency and Bankruptcy Code, 2016.
4. That I shall be rendered ineligible to submit the Resolution Plan and the Resolution Professional shall not be held liable for any of the action including rejection of the EOI or Resolution Plan in that event.
5. That I confirm that the said declaration and disclosure is true and correct.
6. That I am duly authorized to submit this declaration by virtue of [state where the authority is drawn from]

Deponent

Verification

Verified at [Place] at this [Date] day of [Month] 2020, that the content of the above affidavit is true and correct to my personal knowledge, nothing is false in it and no material facts have been concealed therefrom.

Deponent

"ANNEXURE – G"

DECLARATION UNDER REGULATION 36A(7)(f) of the CIRP REGULATIONS, 2016

(To be notarized on stamp paper)

In the matter of Corporate Insolvency Resolution Process of Sanghvi Forging & Engineering Limited under the provisions of the Insolvency and Bankruptcy Code, 2016

AFFIDAVIT

I, [Name of Deponent], son of / daughter of [Name of Deponent's father] aged [Age of Deponent] resident of [Address of Deponent], the Deponent, do hereby solemnly affirm, state and declare as under:

1. That I am fully conversant with the facts and circumstances of the matter and am also duly empowered and competent to swear and affirm this affidavit.
2. That I am personally aware about the truthness and correctness of all the information/ details/ record/documents provided/submitted in the Expression of Interest to submit Resolution Plan.
3. That I affirm that the information/ details/record/ documents provided/submitted are true and correct and no part of it is false or incorrect and nothing material has been concealed therefrom.
4. That in case any of the information/ details/record/ documents is found to be false or incorrect, the (name of the resolution applicant) shall be held ineligible to submit Resolution Plan and the refundable deposit of Rs. 25,00,000/- (Rupees Twenty Five Lakhs Only) shall be forfeited.
5. That further appropriate penal action may be taken against me in that event.
6. That I confirm that the said declaration and disclosure is true and correct.
7. That I am duly authorized to submit this declaration by virtue of [state where the authority is drawn from]

Deponent

Verification

Verified at [Place] at this [Date] day of [Month] 2020, that the content of the above affidavit is true and correct to my personal knowledge, nothing is false in it and no material facts have been concealed therefrom.

Deponent

“ANNEXURE – H”

CONFIDENTIALITY UNDERTAKING

(To be executed on stamp paper)

To,
Mr. Parthiv Parikh,
Resolution Professional for Sanghvi Forging & Engineering Limited

Subject: Undertaking Under Section 29 of the Insolvency and Bankruptcy Code, 2016 (IBC) and Regulation 36 (4) of the Insolvency And Bankruptcy Board of India (Insolvency Resolution Process For Corporate Persons) Regulations, 2016 (CIRP Regulations) to maintain Confidentiality

This confidentiality undertaking has been signed by _____, a Potential Resolution Applicant (as per Section 5(25) of Insolvency & Bankruptcy Code, 2016 (“Code”)), having its office at _____ acting through Mr. / Ms. _____, the authorized signatory / authorized representative (“**Resolution Applicant**”, which expression shall, unless repugnant to the context, include its successors, legal representatives, permitted assigns and administrators in business) on _____ day of _____, 2020 in favor of Mr. Parthiv Parikh, Resolution Professional for Sanghvi Forging & Engineering Limited having registration no. **IBBI/IPA-002/IP-N00369/2017-18/11063**.

WHEREAS Sanghvi Forging & Engineering Limited, a company registered under Companies, Act, 1956 (hereafter referred as “Corporate Debtor”) is under corporate insolvency resolution process vide NCLT, Ahmedabad order dated August 30, 2019 and later on Mr. Parthiv Parikh was appointed as the Resolution Professional for the Corporate Debtor by the NCLT, Ahmedabad Bench vide order dated May, 26 2020 in accordance with Section 22 of the Insolvency & Bankruptcy Code, 2016 (“Code”)(“Resolution Professional”).

WHEREAS the Resolution Professional has prepared information memorandum as per Section 29 (1) of the Code and Regulation 36 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 in respect of the Corporate Debtor (“**Information Memorandum**”).

WHEREAS the Resolution Professional is required to share the information memorandum and any other information with a potential resolution applicant after receiving an undertaking from the Resolution Applicant to the effect that the Resolution Applicant shall maintain confidentiality of the information contained in the Information Memorandum and shall not use such information to cause an undue gain or undue loss to themselves or any other person and comply with the requirements under Section 29(2) of the Code.

<<this space has been intentionally left blank>>

THEREFORE, the Resolution Applicant hereby declares and undertakes as follows:

1. The Resolution Applicant declares and undertakes that it will not divulge to anyone in any manner (whether through oral or written communication or through any other mode of communication), any information concerning the Corporate Debtor, including but not limited to the existence, business, operations, financial position, disputes by or against the corporate debtor, or the day to day activities of the Corporate Debtor, disclosed to it through oral or written communication or through any other mode, whether by the Resolution Professional (or any other person on behalf of the Resolution Professional), and / or any part of the information contained in the Information Memorandum, , and all such information shall be hereinafter referred to as “**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 become Confidential Information.
2. The Resolution Applicant further unconditionally and irrevocably undertakes and declares that
 - a) the Confidential Information shall be kept confidential by the Resolution Applicant and shall be used solely for the purpose as allowed under the Code;
 - b) the Resolution Applicant shall not use the Confidential Information to cause any undue gain or undue loss to itself or any other person;
 - c) the Resolution Applicant shall comply with all provisions of law for the time being in force relating to confidentiality and insider trading;
 - d) the Resolution Applicant shall protect any intellectual property of the corporate debtor which it may have access to;
 - e) the Confidential Information may only be disclosed to and shared with its employees or third parties by the Resolution Applicant, in accordance with applicable laws, 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 corporate insolvency resolution process of the corporate debtor, provided that the Resolution Applicant 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 Resolution Applicant shall ensure that all Confidential Information is always kept safe and secured and is protected from any theft or leakage;
 - g) the Resolution Applicant shall immediately destroy and permanently erase all Confidential Information upon the approval of a resolution plan by the National Company Law Tribunal (“NCLT”) under Section 31(1) of the Code or upon an order for liquidation of the corporate debtor being passed by the NCLT under Section 33 of the Code, unless otherwise waived by the (i) Corporate Debtor in writing in the event of approval of resolution plan by the NCLT; or (ii) liquidator in writing in the event of an order for liquidation of the Corporate Debtor being passed by the NCLT under Section 33 of the Code;
 - h) the Resolution Applicant shall take all necessary steps to safeguard the privacy and confidentiality of the Confidential Information 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 corporate debtor, all information related to disputes by or against the corporate debtor and any other matter pertaining to the corporate debtor as may be specified in the Information Memorandum; and
 - i) the Resolution Applicant shall be responsible for any breach of obligations under this confidentiality undertaking and shall indemnify the Resolution Professional for any loss, damages and costs incurred by the Resolution Professional due to such breach of obligations by the Resolution Applicant 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 Resolution Applicant was already in the public domain without violation of any provisions of applicable laws;
 - b) information which, after disclosure to the Resolution Applicant becomes publicly available and accessible without violation of applicable laws or a breach of this confidentiality undertaking;
 - c) information which was in the possession of the Resolution Applicant prior to its disclosure, as evidenced by the records of the Resolution Applicant;
 - d) information that is received by the Resolution Applicant from a third party which is not in breach of its confidentiality obligations hereunder; and
 - e) information that is required to be disclosed by the Resolution Applicant (and to the extent required to be disclosed) pursuant to the requirements of applicable laws, or order of a judicial, regulatory or administrative authority, provided however the Resolution Applicant should use its best endeavours to provide prior intimation of such requirement to disclose to the Resolution Professional and cooperate in all manner required with the Resolution Professional if the Resolution Professional wishes to obtain an injunction or similar order against such requirement of disclosure.
4. No representation or warranty has been provided by the Resolution Professional in relation to the authenticity or adequacy of the information provided to the Resolution Applicant, including Confidential Information, and the Resolution Applicant would not have any claim against the Resolution Professional or any person acting on its behalf or the Corporate Debtor in relation to any information provided in the Information Memorandum.
5. Nothing contained herein shall be construed as granting or implying any transfer of rights (including license rights) to the Resolution Applicant pertaining to the Confidential Information, or any patents or other intellectual property protecting or relating to the Confidential Information.
6. Resolution Applicant agrees that it shall take reasonable measures to protect the secrecy of, and avoid disclosure and unauthorized use, destruction of the Confidential Information. Without limiting the foregoing, the Resolution Applicant shall take at least those measures to protect the Confidential Information that it takes to protect its own most highly confidential information.
7. Nothing in this confidentiality undertaking shall have the effect of limiting or restricting any liability arising as a result of fraud or wilful default.
8. Resolution Applicant shall immediately notify the Resolution Professional of any known or suspected breaches of this undertaking and shall give the Resolution Professional full co-operation in any search or scrutiny or investigation or legal actions that the Resolution Professional may decide to undertake.
9. Damages may not be an adequate remedy for a breach of this confidentiality undertaking and the Resolution Professional shall be entitled to the remedies of injunction, specific performance and other equitable relief for a threatened or actual breach of this confidentiality undertaking. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law, and the Resolution Professional shall be entitled to seek all or any one or more of such remedies against the Resolution Applicant.
10. The Resolution Applicant hereby represents and warrants that it has the requisite power and authority to execute, deliver and perform its obligations under this Agreement.
11. The terms of this confidentiality undertaking may be modified or waived only by a separate instrument in writing signed by the Resolution Applicant with the prior written consent of the Resolution Professional that expressly modifies or waives any such term.

12. If any provision of this undertaking is determined to be invalid, void or unenforceable for any reason, then the remaining provisions hereof shall remain unaffected and in full force and effect.

13. This confidentiality undertaking and any dispute, claim or obligation arising out of or in connection with it shall be governed by and construed in accordance with Indian laws and the courts at Ahmedabad shall have exclusive jurisdiction over matters arising out of or relating to this confidentiality undertaking.

Signed on behalf of

by Mr. _____

(Name and
Designation)
Authorised Signatory

<<this space has been intentionally left blank>>