

## **Notice of Sale of Assets of Cox & Kings Limited**

### **Cox & Kings Limited (In Liquidation)**

(Registered Office: Unit no. 313, 3rd Floor, Turf Estate, Mahalaxmi, Mumbai 400011)  
**Administrative Office: Todi Estate, Unit No. 48, A-Wing 4<sup>th</sup> floor, Sun Mill Compound, Above  
Post office, Lower Parel (W), Mumbai 400013**

**Liquidator: Mr. Ashutosh Agarwala**

#### **Address for Correspondence**

Peninsula Business Park, Tower B, 19th Floor, Lower Parel, Mumbai 400013, India  
Email ID: [ip.coxandkings@excedor.com](mailto:ip.coxandkings@excedor.com)

### **E-Auction for Sale of Assets of Cox & Kings Limited**

**Under**

**Insolvency and Bankruptcy Code, 2016**

**Date and Time of Auction:**

**12<sup>th</sup> June, 2023 from 2.00 PM to 4.00 PM**

**(With unlimited extension of 5 minutes each)**

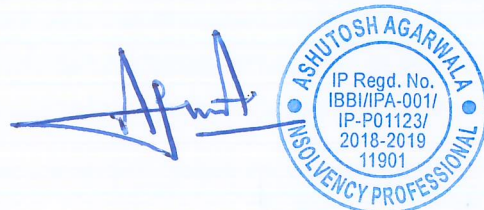
Notice for sale of Assets of M/s. Cox & Kings Limited -In Liquidation (“Company”) by the Liquidator appointed by the Hon’ble National Company Law Tribunal, Mumbai Bench vide order dated 16<sup>th</sup> December 2021. The sale of Assets will be done by the Liquidator on E-Auction Platform on the portal (<https://www.eauctions.co.in>) of M/s Linkstar Infosys Private Limited.

<b>Lot</b>	<b>Description of Assets</b>	<b>Reserve Price in INR (Assets for Sale)</b>	<b>Earnest Money Deposit (EMD) in INR</b>
1.	Sale of M/s Cox & Kings Limited – In Liquidation (“Company”) as a Going Concern	Rs. 22.96 Crores	Rs. 45.92 lacs
2.	Sale of Trade Receivables of M/s Cox & Kings Limited outstanding as on 14 <sup>th</sup> May, 2023	Rs. 9.73 Crores	Rs. 9.73 lacs

*The sale of Assets is grouped in 2 (two) Lots and the Eligible Bidders may Bid for each individual lot or for multiple lots.*

#### **Terms and Condition of the E-Auction are as under:**

1. E-Auction will be conducted on “AS IS WHERE IS”, “AS IS WHAT IS” AND “WHATEVER THERE IS” basis. As such sale of the Assets of the Company is without any recourse or any kind of warranties and indemnities and is being conducted through approved E-Auction Service Provider M/s Linkstar Infosys Private Limited.



2. The complete E-Auction Process Document containing overview of the Assets of the Company along with Eligibility Documents and other supporting documents to be submitted by the Bidders including General Terms and Conditions of the E-Auction Process and the technical procedure for submission of Bids are available on website of the Company (<https://www.coxandkings.com/liquidation-process/>) and the website of the E-Auction Service Provider (<https://www.eauctions.co.in>).
3. The Qualified Bidders will be identified by the Liquidator and only the Qualified Bidders can participate in E-Auction Process on the E-Auction Platform (<https://www.eauctions.co.in>) after payment of Earnest Money Deposit (EMD). The E-Auction Service Provider (M/s Linkstar Infosys Private Limited) will provide User ID and Password by email to the Qualified Bidders on registration at the E-Auction Platform.
4. The Qualified Bidders, prior to submitting their Bid, should make their independent inquiries regarding the Company, Assets, Claims and Liabilities, Commercial and Financial Commitments, Operational and Maintenance charges, and other Recurring and Incidental business costs, if any, at their own expense and satisfy themselves.
5. The Successful Bidder shall be responsible for the applicable stamp duties, legal costs, transfer charges and fees, GST or any other taxes related to the sale of Assets under this E-Auction and for completing the documentation and obtaining the permissions relating to the sale of Assets of the Company and sale of Company as a going concern.
6. The sale shall be subject to provisions of Insolvency and Bankruptcy Code, 2016 and related regulations. For the sale of Company as a going concern, the Liquidator/ Successful Bidder would be mandatorily required to approach to Hon'ble NCLT, Mumbai Bench for suitable orders in accordance with the E-Auction Process Document.
7. The Liquidator has the absolute right to accept or reject or modify any or all the Bids or adjourn/postpone/cancel the E Auction at any stage without assigning any reason thereof.



**Ashutosh Agarwala, Liquidator**  
**On behalf of Cox & Kings Limited**  
**IBBI Registration No.: IBBI/IPA-001/IP-P01123/2018-2019/11901**  
**IBBI Registered Off.: D-1005, Ashok Towers, Dr. S. S. Rao Road,**  
**Parel, Mumbai City, Maharashtra – 400012.**

**Place: Mumbai**

**Date: 16<sup>th</sup> May, 2023**

# E-AUCTION PROCESS INFORMATION DOCUMENT

## Terms & Conditions

For

Participation in E-Auction Process for Sale of Assets of Cox & Kings Limited - In Liquidation ("Company") under the provisions of Insolvency and Bankruptcy Code, 2016, pursuant to the liquidation order of the Hon'ble National Company Law Tribunal, Mumbai Bench ("NCLT") dated 16<sup>th</sup> December 2021, published on 20<sup>th</sup> December 2021 at the website of Hon'ble NCLT

Date of Public Advertisement:

16.05.2023

Date of E-Auction:

12.06.2023

Issued by:

Ashutosh Agarwala, Liquidator

(IBBI Registration No.: IBBI/IPA-001/IP-P01123/2018-2019/11901)

On behalf of

Cox & Kings Limited - In Liquidation

(Registered office: 313, 3<sup>rd</sup> Floor, Turf Estate, Mahalaxmi, Mumbai - 400011)

Administrative office: Todi Estate, Unit No. 48, A-Wing 4th floor, Sun Mill

Compound, Above Post office, Lower Parel (W), Mumbai 400013 Email:

[ip.coxandkings@excedor.com](mailto:ip.coxandkings@excedor.com)

This is to inform all concerned that Mr. Ashutosh Agarwala is a Registered Insolvency Professional with Insolvency and Bankruptcy Board of India("IBBI") with Registration No. IBBI/IPA-001/IP-P01123/2018-2019/11901 and has been appointed as the Liquidator of Cox & Kings Limited by Hon'ble NCLT, Mumbai Bench, vide its order dated 16<sup>th</sup> December 2021, published on 20<sup>th</sup> December 2021 at the NCLT website. The affairs, business, and property of Cox & Kings Limited (in Liquidation) are being managed by the Liquidator.

**Sd/-**

**Ashutosh Agarwala,**

**Liquidator of Cox & Kings Limited,**

IBBI Registration No. IBBI/IPA-001/IP-P01123/2018-2019/11901

**Address for Communication:**

c/o Excedor Resolvency Private Limited,  
Peninsula Business Park, Tower B, 19<sup>th</sup> Floor,  
Lower Parel, Mumbai 400013, Maharashtra, India.

Email: [ip.coxandkings@excedor.com](mailto:ip.coxandkings@excedor.com)

**Registered Office Address:**

D-1005, Ashok Towers, Dr. S. S. Rao Road,  
Parel, Mumbai 400012.

Email: [ashutosh.agarwala@gmail.com](mailto:ashutosh.agarwala@gmail.com)

**Date: 16<sup>th</sup> May 2023**

**Place: Mumbai**

**NOTES:**

1. This E-Auction Process Document is issued only for the Bidders interested in participating in the sale of Assets of Cox & Kings Limited in the liquidation process.
2. The terms and conditions, deadlines, and other information for participating in the online E-Auction for the sale of Assets are provided in this E-Auction Process Document. The Bidders desirous to submit their Bids must submit their Bids at the E-Auction Platform on the portal of the E-Auction Service Provider.
3. The timelines, notifications and other details of the E-Auction Process are available on the website (<https://www.coxandkings.com/liquidation-process/>) of Cox & Kings Limited and will also be available on the website (<https://www.eauctions.co.in/>) of the E-Auction Service Provider.
4. The term "sale of Company" or "sale of Business" wherever used in this document shall mean, sale of the Company or the Business as a going concern in accordance with the provisions of IBC, Liquidation Process Regulations, and this E-Auction Process Document.
5. The entire E-Auction Process shall be subject to extent Regulations, the Code and approval of the Adjudicating Authority.



## DISCLAIMER

*This E-Auction Process Document is issued by Mr. Ashutosh Agarwala, (an insolvency professional with Registration No. IBBI/IPA-001/IP-P01123/2018-2019/11901), the Liquidator appointed by the Hon'ble National Company Law Tribunal, Mumbai Bench vide its order dated 16<sup>th</sup> December, 2021, published on 20<sup>th</sup> December, 2021 at the NCLT website, for general information purposes only to provide general information, without regard to specific objectives, suitability, financial situations and the requirements of any particular person.*

*The purpose of this E-Auction Process Document is to lay out the process for submitting the Bids by the prospective Bidders through E- Auction for participating in the process of Sale of Company/ Business/ Assets in accordance with the provisions of E-Auction Process Document, IBC, and Liquidation Process Regulations. Neither this E-Auction Process Document nor anything contained herein shall form the basis of or be relied upon in connection with any contract, agreement, undertaking, understanding or any commitment whatsoever. This E-Auction Process Document does not solicit any action based on the material contained herein.*

*This E-Auction Process 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 by any stock exchange in India or any other jurisdiction. Nothing herein contained or materials relating to the E-Auction Process Document should be construed as legal, financial, accounting, regulatory or tax advice by the Liquidator.*

*It is to be noted that no information being provided in this E-Auction Process Document or Data Room claims to be comprehensive. Independent due diligence of the intended user/ recipient of this E-Auction Process Document or by the Bidder is highly recommended. While this information has been prepared in good faith, no representation or warranty, expressed or implied, is or will be made and no responsibility or liability is or will be accepted is or will be expressly disclaimed by the Liquidator or by any of his representatives, officers, agents, or the Company or in relation to the accuracy, fairness, authenticity or completeness of this E-Auction Process Document or any other written or oral information made available to any prospective Bidder or its advisors. In so far as the information contained in this E-Auction Process Document includes current and historical information, the accuracy, adequacy, authenticity, correctness, fairness, and completeness of such information cannot be guaranteed. By acceptance of this E-Auction Process Document, the Bidder shall be deemed to have acknowledged that it has not relied upon any representation and warranty made by the Liquidator.*

*This E-Auction Process Document and information contained herein or disclosed should not be printed, reproduced, transmitted, sold, distributed, or published by the recipient of this E-Auction Process Document, without prior written approval from the Liquidator. Distributing or taking/ ending/ dispatching/ transmitting this E-Auction Process Document in certain foreign jurisdictions may be restricted by law, and Persons in whose possession this E-Auction Process Document comes should inform themselves about, and observe, any such restrictions. Neither the Liquidator, nor his professional advisors, affiliates, directors, employees, agents, representatives, or managers of the process shall be liable for any damages, whether direct or indirect, special, or consequential including loss of revenue or profits that may arise from or in connection with the use of this E-Auction Process Document, including for the Bidder not being selected as a Successful Bidder or on account of any decision taken by the Liquidator.*

*Neither the Liquidator, nor his Insolvency Professional Entity providing IP support services, its / his Partners, Directors, colleagues, advisors, agents, employees, representatives, affiliates, etc. shall be liable for any damages, whether direct or indirect, including loss of revenue or profits that may arise from or in connection with the use of this E-Auction Process Document, including for the Bidder not being selected as a Successful Bidder or on account of any decision taken by the Liquidator.*

*Further, apart from the provisions set out in this E-Auction Process Document, the Bidder shall be responsible for fully satisfying the requirements and provisions of IBC and Liquidation Process Regulations as well as all laws in force that are or may be applicable to the Bidder or the intended manner of sale envisaged under this E-Auction Process Document and for obtaining consents, waiver from requisite regulatory and statutory approvals from the concerned regulators, third parties and governmental authorities in order to consummate the sale process as contemplated in the E- Auction Process Document.*

*Under no circumstances shall the Bidder or its officers, employees, agents, and professional advisers make any contact, direct or indirect, by any mode whatsoever, with the Company or with the management, employees, customers, agents, or suppliers of the Company until the Liquidator gives his written permission. 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 Confidentiality Undertaking and provisions of IBC.*

*No Person, including the Bidder shall be entitled under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise to claim for any loss, damage, cost or expense which may arise from or be incurred or suffered on account of anything contained in this E-Auction Process Document or otherwise, including the accuracy, adequacy, authenticity, correctness, completeness or reliability of the information or opinions contained in this E-Auction Process Document and any assessment, assumption, statement, or information contained therein or deemed to form part of this E-Auction Process Document, and the Liquidator or any of his respective advisors, consultants and representatives and the Company, do not have any responsibility or liability for any such information or opinions and therefore, any liability or responsibility is hereby expressly disclaimed.*

*All expenses incurred towards legal actions and matters, and movement/ shifting/ stockpiling/ safekeeping/ maintaining/ operating of the Assets of the Company post the E-Auction Process should be borne by the Successful Bidder. The Liquidator shall not be held responsible / liable to pay any expenses towards such expenses relating or incidental to the Assets sold in the E-Auction Process.*

*The sale of the Assets of the Company is proposed to be done on "as is where is basis", "as is what is basis", "whatever there is basis" and "no recourse" basis and the proposed sale of the Assets 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/ immoveable Assets of the Company.*

*The Bidders shall bear all its costs and charges associated with or relating to the preparation and submission of their Bids 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. The issue of this E-*

*Auction Process Document does not imply that the Liquidator is bound to select a Bidder as a Successful Bidder in respect of its Bid and the Liquidator reserves the right to reject at any stage all or any of the Bidder or Bid without assigning any reason whatsoever and without incurring any liability whatsoever.*

*All terms and conditions with respect to the sale of Assets or sale of Business of the Company as a going concern or sale of Company as a going concern shall be governed by the directions of the Liquidator, the Adjudicating Authority (defined herein below) and in accordance with the provisions of Applicable Laws. As mandated by the Adjudicating Authority, the Liquidator shall exercise all rights with respect to sale of the Assets/ Business/ Company and it would be open to the Liquidator to appoint such experts, professionals, or other persons, as the Liquidator might think necessary, to enable the sale of the Assets/ Business/ Company.*

*This E-Auction Process Document is neither an agreement nor an offer by the Liquidator to the prospective Bidders or any other person. The objective of this E-Auction Process Document is to provide prospective Bidders with information that may be useful to them in making their Bid. 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. 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 Document and may get independent advice from appropriate sources.*

*The Liquidator may at its 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 Document. Further, the Bidder must specifically note that the Liquidator reserves the right to change, update, amend, supplement, modify, add to, delay, or otherwise annul or cease the E-Auction Process at any point in time, for any reason whatsoever determined in their sole discretion without any obligation, including to notify any person of such revision or changes. In providing this document, the Liquidator or its Representatives do not undertake any obligation to provide the Bidders with access to any additional information or to update, expand, revise, or amend the information, or to correct any inaccuracies which may become apparent in this or any other document.*

*Information provided in this E-Auction Process Document and the Data Room to the Bidder(s) has been collected and collated from several sources. This E-Auction Process Document and Data Room may not be all inclusive and may not contain all the information that the recipient may consider material for the purpose of submission of its Bid. 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.*

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

*Neither the information in this E-Auction Process Document nor any other written or oral information*

*provided by the Liquidator, or any of his respective advisors, consultants and representatives is intended to form the basis of or the inducement for submission of any document or information or the Bid by any prospective Bidder or for any investment activity.*

*It is to be noted that by procuring a copy of this E-Auction Process Document, the recipient accepts the terms of this Disclaimer, which forms an integral part of this E-Auction Process Document.*

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## 1. IMPORTANT INFORMATION

- 1.1 This E-Auction Process Document has been issued for the purpose of carrying out the E-Auction for sale of Assets/ Business/ Company in accordance with the provisions of IBC and Liquidation Process Regulations.
- 1.2 The information provided in this E-Auction Process Document should be read together with the provisions of the IBC and the Liquidation Process Regulations. In the event of a conflict between this E-Auction Process Document and the IBC or the Liquidation Process Regulations, the provisions of the IBC or the Liquidation Process Regulations, as the case may be, shall always prevail.
- 1.3 The information contained in this E-Auction Process Document or subsequently provided to Bidder(s), whether verbally or in documentary or electronically or in Data Room or any other form by or on behalf of the Liquidator, is provided to Bidder(s) on the terms and conditions as set out in this E-Auction Process Document.
- 1.4 This E-Auction Process Document is neither an agreement nor an offer by the Liquidator to the prospective Bidders or any other Person. The purpose of this E-Auction Process Document is to provide interested Bidder with the information that may be useful to them in making their bids pursuant to this E-Auction Process Document. The assumptions, information, statements contained in the E-Auction Process Document may not be complete, accurate, adequate, or correct. Each Bidder should therefore conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements, and information contained in this E-Auction Process Document or the Data Room and obtain independent advice from appropriate sources.
- 1.5 The Liquidator has no responsibility towards the authenticity of the registrations/subscriptions of the trademarks, brand names and domain names of the Company. The prospective Bidders(s) is/are advised to conduct their own legal diligence towards continuing with the said trademarks and domain names. This E-Auction Process Document does not constitute advice and the Liquidator should not be held responsible for any sort of claim on trademarks, brand names and domain names of the Company by any constitution/ party including related party(ies). The Liquidator hereby excludes any warranty, express or implied by any party on the trademarks and domain names of the Company and no responsibility is taken by the Liquidator regarding any implications on the future usage of the trademarks, and domain names of the Company.
- 1.6 The Liquidator also hereby disclaims any and all liability for any statements made or omitted to be made in this E-Auction Process Document, any action taken or omitted to be taken pursuant to this E-Auction Process Document. 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

Document. Further, the Bidders must specifically note that the Liquidator reserves the right to change, update, amend, supplement, modify, add to, delay or otherwise annul or cease the liquidation proceedings at any point in time, for any reason whatsoever determined in his sole discretion without obligation to notify any Person of such revision or changes.

- 1.7 The issuance of this E-Auction Process Document does not imply that the Liquidator is bound to select a Bidder or to appoint the preferred Bidder as Successful Bidder for the sale of the Assets/ Business/ Company and the Liquidator reserves the right to reject all or any of the Bidders or their Bid(s) without assigning any reason whatsoever.
- 1.8 The name and details of the E-Auction Service Provider shall be published on the website (<https://www.coxandkings.com/liquidation-process/>) of Cox & Kings Limited and on the website (<https://www.eauctions.co.in/>) of E-Auction Service Provider. The sale of the Company as contemplated in this E-Auction Process Document shall be undertaken by the E-Auction Service Provider for and on behalf of the Liquidator through an E-Auction Platform provided on the website portal of the E-Auction Service Provider (“**E-Auction Platform**”). Other details with respect to the E- Auction along with the relevant annexures and formats are provided herein:

Type of Bid	E-Auction (online only)
Seller	Ashutosh Agarwala (Liquidator on behalf of Cox & Kings Limited - In Liquidation)
Website of E-Auction Service Provider	<a href="https://www.eauctions.co.in/">https://www.eauctions.co.in/</a>
E-Auction Service Provider	Linkstar Infosys Private Limited, 9-C, Vardan Exclusive, Near Vittahalbhai Patel colony, Near Lakhudi Talavadi, Navrangpura, Ahmedabad-380014 Contact: Mr. Dixit Prajapati Email ID: <a href="mailto:admin@eauctions.co.in">admin@eauctions.co.in</a> Mobile No: +91 7874138237/ 9870099713
Annexures and Formats	<b>Annexure I:</b> Technical Terms of E-Auction Process for online Bids on the E-Auction Platform <b>Annexure II:</b> Bid Application Form (to be duly filled in and signed and stamped by the bidder and submitted/ uploaded) <b>Annexure III:</b> Affidavit of Compliance with Section 29A of IBC (to be duly signed, stamped and notarized) <b>Annexure IV:</b> Confidentiality Undertaking <b>Annexure V:</b> Earnest Money Deposit Form <b>Format 1:</b> Format of Board Resolution to be submitted, (wherever applicable)

	<p><b>Format 2:</b> Format of the Bank Guarantee for submission of EMD by the Bidder (wherever applicable)</p> <p><b>Format 3:</b> Format for letter for submission of EMD by Associate/ Associate Company (where applicable)</p>
Special Instructions	<p>Any last-minute bidding may lead to lapses or mistakes. Neither the E-Auction Service Provider nor the Liquidator shall be responsible for any lapses/ inability of the Bidder to submit the Bids due to any reason whatsoever including technical glitches on the E-Auction Platform. It is advisable to submit the Bids well before the prescribed timeline and avoid last minute submissions.</p>

- 1.9 All terms and conditions with respect to sale of Assets/ Business/ Company shall be governed in accordance with the provisions of IBC and Liquidation Process Regulations read with the directions issued by the Liquidator and the Hon'ble NCLT from time to time. As mandated, the Liquidator shall exercise all rights with respect to sale of the Assets/ Business/ 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 such sale.
- 1.10 The Annexures and Formats to this E-Auction Process Document shall form an integral part hereof and this E-Auction Process Document shall always be read in conjunction with the Annexures and Formats appended hereto.
- 1.11 All title documents in relation to Assets of the Company as is available with the Liquidator shall be made available to Qualified Bidder(s) on request to the Liquidator through Data Room maintained at the link provided by the Data Room Service Provider. Nothing contained in this E-Auction Process Document shall be deemed to relieve, wholly or partially, directly or indirectly, the Bidder from their compliance with the IBC, any other law in force, and/or any instrument having the force of law, as may be applicable to them.
- 1.12 All incidental expenses incurred towards the sale of the Assets/ Business/ Company should be borne by the successful Bidder(s). The Liquidator shall not be held responsible/ liable to pay any such expenses.
- 1.13 In no circumstances shall the Auction Participant(s) or its officers, employees, agents and professional advisers make any contact, direct or indirect, by any mode whatsoever, with the management, employees, customers, agents or suppliers of the Company unless a prior written consent is obtained from the Liquidator.
- 1.14 The Assets are proposed to be sold on "As is where is basis", "As is what is basis", "Whatever there is basis" and "No recourse basis" and the proposed sale of Assets does not entail transfer of any title on the Assets except the title which the Company had as on date of transfer on the Assets being sold in this E-Auction.

- 1.15 The Bidders shall inform themselves concerning, and shall observe and comply with, any applicable legal requirements.
- 1.16 This E-Auction Process Document is neither transferable nor assignable.
- 1.17 The laws of the Republic of India are applicable to this E-Auction Process Document.

## 2. KEY DEFINITIONS

- 2.1 “**Adjudicating Authority**” or “**NCLT**” shall mean the Hon’ble National Company Law Tribunal, Mumbai Bench;
- 2.2 “**Affidavit**” shall mean the affidavit and undertaking provided by the Bidder in respect of the eligibility under section 29A of IBC substantially in form and manner as annexed in **Annexure III** hereto;
- 2.3 “**Affiliate**” means a company that, directly or indirectly: (a) Controls; or (b) is Controlled by; or (c) is under the Common Control of; the Company or the Bidder, as the case may be;
- 2.4 “**Applicable Law(s)**” shall mean, any or all the applicable laws, codes, regulations, rules, guidelines, circulars, re-enactments, revisions, applications and adaptations thereto, judgments, decrees, injunctions, writs and orders of any court, arbitrator or governmental agency or authority, rules, regulations, orders and interpretations of any governmental authority, court or statutory or other body applicable for such transactions including but not limited to the IBC, IBBI Regulations, IBBI Liquidation Process Regulations, Companies Act, 1956 / 2013 (as applicable), Competition Act, 2002, Income Tax Act, 1961, The Goods and Services Tax Act, 2017, Transfer of Property Act, 1882, Sale of Goods Act, 1930, Foreign Exchange Management Act, 1999, whether in effect as of the date of this E-Auction Process Document or thereafter and each as amended from time to time;
- 2.5 “**Asset or Assets**” shall mean the asset(s) of the Company to be sold on standalone or collective basis in accordance as per the provisions of Regulations 32(a) to 32(d) of the IBBI (Liquidation Process) Regulations, 2016 and shall include the groups or parcels of assets identified under Regulations 32A(2) or 32A(3) of IBBI (Liquidation Process) Regulations, 2016 for sale as a going concern on “as is where is, as is what is, whatever there is, and no recourse basis” under Regulations 32(e) or 32(f) of IBBI (Liquidation Process) Regulations, 2016; and, unless the context otherwise requires, any reference to the sale of Assets(s) shall be construed as including a reference to the Assets identified for sale with the sale of Business(s) and sale of Company or Corporate Debtor as a going concern.
- 2.6 “**Bid(s)**” means, any bid or offer along with other documents, submitted by the Bidder(s) as required in terms of the Public Advertisement of sale and E-Auction Process Document issued by the Liquidator and in accordance with the provisions of IBC read together with

the Liquidation Process Regulations as amended from time to time and the Applicable Law(s);

- 2.7 **“Bidder(s)” / “Auction Participant(s)”** shall mean a Person or Persons as the case may be, who is/ are interested in taking part in the E-Auction Process or has/ have submitted a Bid as per the E-Auction Process Document and completed the eligibility check formalities to the satisfaction of the Liquidator; and shall include a Qualified Bidder or the Successful Bidder, as the case may be, and as the context requires;
- 2.8 **“Bid Application Form”** shall mean the form as specified in **Annexure II** of this E-Auction Process Document to be provided by the Bidder along with the other information and documents set out therein;
- 2.9 **“Business or Business(s)”** shall mean the business(s) of the Company to be sold as a going concern in accordance with the Regulation 32(f) of the IBBI (Liquidation Process) Regulations, 2016, and, unless the context otherwise requires, any reference to the sale of Business(s) shall be construed as including a reference to the group of assets and liabilities as identified under Regulation 32A(2) or 32A(3) of IBBI (Liquidation Process) Regulations, 2016 for sale as a going concern on “as is where is, as is what is, whatever there is, and no recourse basis”;
- 2.10 **“Company” / “Corporate Debtor”** shall mean Cox & Kings Limited, a company incorporated in India, having its registered office at 313, 3<sup>rd</sup> Floor, Turf Estate, Mahalaxmi, Mumbai – 400013 and Administrative office at Todi Estate, Unit No. 48, A - Wing 4th floor, Sun Mill Compound, Above Post Office, Lower Parel West, Mumbai – 400013, unless the context otherwise requires, any reference to the sale of Company or Corporate Debtor shall be construed as including a reference to the group of assets and liabilities as identified under Regulation 32A(2) or 32A(3) of IBBI (Liquidation Process) Regulations, 2016 for sale as a going concern on “as is where is, as is what is, whatever there is, and no recourse basis” in accordance with the Regulation 32(e) of the IBBI (Liquidation Process) Regulations, 2016;
- 2.11 **“Confidential Information”** shall mean any and all information and other materials disclosed, furnished, communicated or supplied by the Company to any bidder, in written or electronic or verbal form, including without limitation, and shall be determined to include (without limitation) the following types of information of a similar nature: any commercial and/ or financial information, improvement, know how, intellectual property, discoveries, ideas, concepts, papers, techniques, models, data, documentation, manuals, flow charts, research, process, procedures, functions and other information related to price lists and pricing policies and any other information which the Company identifies to be confidential at the time of disclosure to the relevant Bidder, and shall include any information that is provided by the Liquidator or his representatives pursuant to the liquidation process or through the Confidentiality Undertaking or which contain or otherwise reflect or are generated from any Confidential Information and conspicuously



designated as “Confidential” or “Proprietary” at the time of written disclosure by the Bidder or any Bidder’s Representatives.

- 2.12 “**Confidentiality Undertaking**” shall mean an undertaking as specified in **Annexure IV** herewith;
- 2.13 “**Conflict of Interest**” shall mean an event or circumstance, determined at the discretion of the Liquidator, where a Bidder is found to be in a position to have access to information about, or influence the Bid of another Bidder pursuant to a relationship (excluding any commercial relationship which may be existing between the Bidder and the Company pursuant to the ordinary course of business of the Bidder or the Company) with the Company, group companies of the Company, or affiliates of the Company, directly or indirectly, or by any other means including colluding with other Bidders, the Company, group companies of the Company or affiliates of the Company;
- 2.14 “**Control**” (together with its correlative meanings, “Controlled by”, “Controlling” or “under common Control with”) has the meaning ascribed to it in the Companies Act, 2013 and shall mean a Person holding more than 50% (fifty percent) of the voting share capital in a company or the ability to appoint majority of the directors on the board of another company or the ability of a company to direct or cause direction of the management and policies of another company, whether by operation of law or by contract or otherwise;
- 2.15 “**Connected Person**” has the meaning ascribed to it in the IBC.
- 2.16 “**Data Room**” shall mean the virtual data room maintained by the Liquidator, created for the Qualified Bidders to access information in relation to the Company under terms of the Confidentiality Undertaking.;
- 2.17 “**E-Auction Process**” / “**Bidding Process**” / “**E-Auction**” shall mean the electronic online auction process for sale of the Company conducted in accordance with the provisions of IBC, Liquidation Process Regulations, Applicable Law(s) and this E-Auction Process Document inviting Bid from the Bidders for consummating the sale of Assets/ Business/ Company in accordance with the provisions of IBC and Liquidation Process Regulations;
- 2.18 “**E-Auction Process Document**” means this document including all the Annexures, Formats hereto, Information Sheet(s), Data Room information / documents, for the purposes of setting out the process for submission of a Bid and selection of Successful Bidder in accordance with the provisions of the IBC and Liquidation Process Regulations and shall include all supplements, modifications, amendments, addendums, alterations or clarifications thereto issued in accordance with the terms hereof;
- 2.19 “**E-Auction Service Provider**” means M/s Linkstar Infosys Private Limited or any other E-Auction agency engaged by the Liquidator of the Company in relation to the E-Auction Process.

- 2.20 **“Eligibility Criteria”** shall mean the legal criteria as specified in the Clause 5 of this E-Auction Process Document;
- 2.21 **“Final Order”** shall mean the final non-appealable order passed by the Judicial Authority (including in an appeal) pursuant to the application/ appeal filed by the Liquidator/ Successful Bidder before such Judicial Authority, whether approving or rejecting the sale of Assets/ Business/ Company under Liquidation to the Successful Bidder;
- 2.22 **“Final Approval Order”** shall mean order of any of the Judicial Authority (in original application to NCLT or in an appeal) approving the sale of Assets/ Business/ Company under Liquidation to the Successful Bidder;
- 2.23 **“IBC”/ “Code”** shall mean Insolvency and Bankruptcy Code, 2016 as amended from time to time;
- 2.24 **“Letter of Intent” or “LOI”** shall mean the letter of intent issued by the Liquidator to the Successful Bidder detailing out the terms and conditions to complete the sale of Assets/ Business/ Company, including the terms of payment of Sale Consideration by Successful Bidder as per the provisions of IBC and the Liquidation Process Regulations;
- 2.25 **“Liquidation Bank Account”** means the Bank Account maintained by the Company under the name of Cox & Kings Limited - In Liquidation in State Bank of India with authorization to the Liquidator for its operations.
- 2.26 **“Liquidation Process Regulations”/ “Liquidation Regulations”** means, the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016 as amended from time to time;
- 2.27 **“Liquidator”** means Mr. Ashutosh Agarwala, an insolvency professional registered with Insolvency and Bankruptcy Board of India (IBBI) having Registration Number IBBI/IPA-001/IP-P01123/2018-2019/11901, appointed by NCLT, vide its order dated 16<sup>th</sup> December 2021;
- 2.28 **“Person” or “Person(s)”** shall mean an individual, a partnership firm, an association, a corporation, a limited company, a trust, a body corporate, bank or financial institution or any other body, whether incorporated or not;
- 2.29 **“Public Advertisement” or “Sale Notice”** shall mean an announcement in newspaper(s) inviting an expression of interest from the Bidders, who are desirous to submit their Bid to participate in the liquidation process of the Company in accordance with the provisions of IBC and Liquidation Process Regulations;
- 2.30 **“Qualified Bidder(s)”** shall mean a Bidder who fulfills the eligibility criteria and submitted all Eligibility Documents with supporting documents listed out in the E-Auction Process

Document to the satisfaction of the Liquidator;

- 2.31 **“Representatives”** shall include partners, directors, officers, employees, affiliates, agents, consultants, advisors or such other representatives of the relevant Person expressly authorized by such Person pursuant to corporate authorizations, powers of attorney, or contract;
- 2.32 **“Reserve Price”** shall mean the minimum price fixed by the Liquidator arrived at for the Assets of the Company, pursuant to the provisions of the Liquidation Process Regulations which a Qualified Bidder would have to match or bid in excess, to become eligible for being considered as a Successful Bidder;
- 2.33 **“Sale Consideration”** shall mean the Bid of the Successful Bidder in E-Auction for the purchase of Assets plus all the applicable Taxes and all the statutory payments, etc. payable by the Successful Bidder;
- 2.34 **“Sale Certificate” or “Certificate of Sale”** means a certificate to be issued by the Liquidator to the Successful Bidder in relation to the sale of Assets/ Business/ Company on a going concern basis in terms of the Liquidation Regulations.
- 2.35 **“Site Visit”** shall mean a visit to the Site; and
- 2.36 **“Successful Bidder”** means, the Qualified Bidder whose Bid is approved and who is declared successful by the Liquidator at the end of the determined E-Auction phase as per the provision of this E-Auction Process Document, under the provisions of IBC and the Liquidation Process Regulations;
- 2.37 **“Taxes”** means any taxes including any stamp duty, interest tax, excise duties, custom duties, value added tax, sales tax, local taxes, charges, cess, income tax, TDS, TCS, GST, CST, entry tax, octroi and any impost or surcharge of like nature (whether central or state or local) charged, levied or imposed by any governmental authority, as per the requirements of Applicable Laws.

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

### **3. BRIEF INTRODUCTION**

- 3.1 Application was filed under Section 7 of the IBC to initiate Corporate Insolvency Resolution Process (**“CIRP”**) of the Company as per the provisions of IBC, wherein the application was admitted by the NCLT vide its order dated 22<sup>nd</sup> October 2019 (**“CIRP Order”**). Pursuant to the CIRP Order, Mr. Alok Agarwal was appointed as the Interim Resolution Professional (**“IRP”**) of the Company by NCLT and was responsible for the management of the affairs of the Company. Subsequently, Mr. Ashutosh Agarwala was appointed as

the Resolution Professional (“RP”) vide Order dated 10<sup>th</sup> January, 2020 of NCLT. Thereafter, the RP was vested with the responsibility of managing the affairs of the Company and to further perform all such duties and functions as prescribed under Section 17 read with 23(2) of IBC.

- 3.2 Since no Resolution Plan was received during CIRP period, application for liquidation of the Company was filed before the NCLT by the Resolution Professional after obtaining approval of Committee of Creditors. The said Application for liquidation of Cox & Kings Limited was admitted by the NCLT vide its order dated 16<sup>th</sup> December 2021 (“**Liquidation Order**”) and the Liquidation Order was published on 20<sup>th</sup> December 2021 at the NCLT website. The Liquidation Order directed the commencement of liquidation process of the Company as per Section 33 of the IBC read with Liquidation Process Regulations. Pursuant to the Liquidation Order, the Resolution Professional was appointed as the Liquidator to perform the duties and functions as per the provisions of the IBC and Liquidation Process Regulations.
- 3.3 In the 14<sup>th</sup> COC Meeting held on 7<sup>th</sup> January 2021 the COC Members had recommended sale of the Corporate Debtor or the business of Corporate Debtor as a going concern during the liquidation period. The sale as a going concern envisaged sale of all the assets and liabilities of the Corporate Debtor subject to the relinquishment of security interest over the secured assets by all the Secured Creditors during the liquidation period. Accordingly, the Liquidation Order of Hon’ble NCLT, Mumbai Bench, dated 16<sup>th</sup> December 2021 stated that “the Liquidator, as desired by the Committee of Creditors (COC) shall first try to sell the Corporate Debtor as a going concern”.
- 3.4 However, the sale of the Company on going concern basis along with all its assets and liabilities could not materialize as Tourism Finance Corporation of India Ltd. (TFCI), a Secured Financial Creditor, had not relinquished its security interest on the specific secured assets of the Corporate Debtor while submitting their claim. TFCI would realize its security interest and utilize the proceeds from the sale of the said secured assets for settlement of their unpaid debts. Consequently, the sale of Corporate Debtor as a going concern could not be undertaken in the first three (3) months of the liquidation period as per the applicable regulations.
- 3.5 The Liquidator is now undertaking the E-Auction for the sale of Assets/ Business/ Company and inviting the Bidders to participate in the E-Auction for sale of Assets/ Business/ Company on going concern basis after grouping the identified assets and liabilities of the Company in consultation with Stakeholders’ Consultation Committee and in accordance with the provisions of IBC, Liquidation Process Regulations and any other Applicable Law(s), read with the terms laid down in this E-Auction Process Document.
- 3.6 The E-Auction would be conducted in the manner specified in the Liquidation Process Regulations and any other rules, regulations, orders, circulars, directions or notifications issued pursuant to or under 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 as specified in this E-Auction Process Document.

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

#### **4. OVERVIEW OF THE COMPANY**

- 4.1 Cox & Kings Limited, (CIN: L63040MH1939PLC011352), was incorporated on June 7, 1939, under the Companies Act, 1956 for undertaking the business of tourism and travel services. The Registered Office of the Company is currently situated at: 313, 3rd Floor, Turf Estate, Mahalaxmi, Mumbai – 400011 and was earlier situated at: Turner Morrison Building, 16 Bank Street, Fort, Mumbai Maharashtra 400001. The Administrative office of the Company is now situated at Todi Estate, Unit No. 48, A - Wing 4th floor, Sun Mill Compound, Above Post Office, Lower Parel West, Mumbai – 400013. The securities of the Company were listed on the stock exchanges - BSE and NSE. However, the trading in securities of the Company was suspended with effect from 11<sup>th</sup> February 2022 after the Liquidation Order dated 16<sup>th</sup> December 2021 of Hon'ble NCLT.

- 4.2 The Company had operations in 22 countries across 4 continents and was offering its services through 12 branch sales offices and 169 franchisees across India and has catered to more than 7 million customers. The Company used to provide end to end travel solutions including land, air, cruise bookings, hotel bookings, in transit arrangements, local sightseeing, visa, passport and medical insurance assistance and such other destination management services. Additionally, it also provided travel arrangements for trade fairs, providing private air charter services and other similar services. The detailed information of the Company is also uploaded in the Data Room.

- 4.3 The Liquidator has kept the Company as a going concern during the liquidation period as well by maintaining resources needed to continue to operate the business independently and continuing to recover the trade receivables, monetize the financial assets, protect the intellectual property, and preserve the proprietary information and in turn maximizing the value to the stakeholders to the best extent possible

#### **5. ELIGIBILITY CRITERIA FOR THE BIDDERS**

- 5.1 A Bidder shall not be eligible to submit a Bid in relation to the sale of the Assets if it fails to meet the Eligibility Criteria as defined in the section 35(1)(f) of the IBC. The Liquidator shall not sell the Assets of the Company to any person who is not eligible to be a resolution applicant under Section 29A of IBC (as amended from time to time) and Section 29A of the IBC is reproduced as below for reference purposes only:

*“Sec 29A. Persons not eligible to be resolution applicant:*

*A person shall not be eligible to submit a resolution plan, if such person, or any other person acting jointly or in concert with such person-*

- a) is an un-discharged insolvent;*
- b) is a willful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 (10 of 1949);*
- c) at the time of submission of the resolution plan has an account, or an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, classified as 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 debt or and is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares, prior to the insolvency commencement date.*

*Explanation II - For the purposes of this clause, where a resolution applicant has an account, or an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, classified as non-performing asset and such account was acquired pursuant to a prior resolution plan approved under this Code, then, the provisions of this clause shall not apply to such resolution applicant for a period of three years from the date of approval of such resolution plan by the Adjudicating Authority under this Code;*

- d) has been convicted for any offence punishable with imprisonment–*
  - (i) for two years or more under any Act specified under the Twelfth Schedule; or*
  - (ii) for seven years or more under any law for the time being in force:*

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

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

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



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

- f) is prohibited by the Securities and Exchange Board of India from trading in securities or accessing the securities markets;*
- g) has been a promoter or in the management or control of a corporate debtor in which a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been made by the Adjudicating Authority under this Code:*

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

- h) has executed a guarantee in favour of a creditor in respect of a corporate debtor against which an application for insolvency resolution made by such creditor has been admitted under this Code and such guarantee has been invoked by the creditor and remains unpaid in full or part;*
- i) is subject to any disability, corresponding to clauses (a) to (h), under any law in a jurisdiction outside India; or*
- j) has a connected person not eligible under clauses (a) to (i).*

*Explanation I - For the purposes of this clause, the expression "connected person" means*

- (i) any person who is the promoter or in the management or control of the resolution applicant;*  
*or*
- (ii) any person who shall be the promoter or in management or control of the business of the corporate debtor during the implementation of the resolution plan; or*
- (iii) the holding company, subsidiary company, associate company or related party of a person referred to in clauses (i) and (ii)*

*Provided that nothing in clause (iii) of Explanation I shall apply to a resolution applicant where such applicant is a financial entity and is not a related party of the corporate debtor:*

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

## **6. DOCUMENTS REQUIRED FROM THE BIDDERS**

- 6.1 In addition to the above, the Auction Participant who fails to fulfil the requirements set out in this E-Auction Process Document, including but not limited to failure of providing the documents/ information to be submitted by the Auction Participants in terms of Clause 6 hereof, shall not be eligible to submit a Bid in the E-Auction Process for sale of Assets of the Company.
- 6.2 The Bidders would need to provide the ownership structure and composition of the Bidder, Proof of Identification, Current Address Proof, PAN card, valid e-mail ID, Landline and Mobile Phone Number, Authorization to the Signatory (in case the Bidder is a legal entity) and must submit the following documents to the satisfaction of the Liquidator:
  - a) Bid Application Form as provided in Annexure II hereof;
  - b) Affidavit in a format provided in Annexure III hereof;
  - c) Confidentiality Undertaking as provided in Annexure IV hereof;
  - d) Earnest Money Deposit Form as provided in Annexure V hereof;
  - e) Board Resolution/ Bank Guarantee wherever applicable;
  - f) Other necessary documents required by the Liquidator in this E-Auction Process Document to complete the eligibility check formalities as per the timelines prescribed in Clause 17 of this E-Auction Process Document.

All the documents for ascertaining the eligibility of the Bidder shall be collectively referred to as “**Eligibility Documents**”.

- 6.3 A Bidder may use additional sheets to submit the information for its detailed response. Additionally, at any stage of the E-Auction Process, the Liquidator may ask for any additional documents from the prospective Bidders to evaluate their eligibility. The Liquidator shall, at his discretion, disqualify the prospective Bidder for non-submission of the requested documents. A Bidder is required to submit information in accordance with this E-Auction Process Document and in compliance with the requirements set out under the Code and Liquidation Regulations. All requisite documents should be duly signed, and appropriately stamped /company seal affixed by the Bidder or an authorized representative of the Bidder and supported by evidence of authority of such Person (board resolution and/or power of attorney, as applicable, of the Bidder). Strict adherence to forms, documents, and authorizations wherever specified in the said document, is required.
- 6.4 A Bidder shall additionally provide documents evidencing source of funds of the Bidder for making the payments in terms of its Bid, including firm commitment letter from banks/financial institutions; and/or Bankers’ certificate evidencing availability of funds; and/or independent chartered accountant/statutory auditor certificate certifying quantum of investments held in the form of liquid assets; and/or any other document evidencing the source of funds to the satisfaction of the Liquidator. The Bidders should note that for the purpose of demonstrating source of funds, no reliance may be placed on the financial strength of any Persons that has on an earlier occasion, committed a default or breach in relation to an auction or tender process conducted by banks/ financial institutions or under any corporate insolvency resolution process/liquidation process under the IBC. Any such evidence shall be liable for rejection by the Liquidator.
- 6.5 Further, it should be noted that at any stage of the E-Auction Process, the Liquidator may ask for further documents from the Bidder(s) to evaluate their eligibility. The Liquidator, at his discretion may disqualify the Bidder(s) for non-submission of the requested documents. The Liquidator reserves the right, at its sole discretion to contact the Bidder’s banks, lenders, financing institutions and any other Person as may be necessary or expedient to verify the information/ documents submitted by the Bidder as part of its Bid, and each Bidder expressly consents to the same.
- 6.6 On the receipt of the Eligibility Documents relating to the Bidders, the Liquidator shall assess the Eligibility Documents of the Bidders to the satisfaction of the Liquidator and finalize the Qualified Bidders and declare the names of Qualified Bidders. The Qualified Bidders will gain access to the Data Room, information sheets, documentation, additional information in relation to the Company required for due diligence. Further, Site Visits and Discussion Meetings will also be arranged (if required) only for Qualified Bidders in accordance with Clause 7 hereof.

- 6.7 Upon completion of the due diligence, site visit and discussion meeting (if any) by the Qualified Bidders within the timeframe set out in Clause 17, the Qualified Bidders shall deposit the Earnest Money Deposit (EMD) in accordance with Clause 11 of this E-Auction Process Document within the time frame mentioned in clause 17 below. The Liquidator shall, at his discretion disqualify the Qualified Bidder for non-submission of the EMD.
- 6.8 All Eligibility Documents and the supporting documents shall be in the English language and if any document is not in English language, then the relevant document would need to be translated in English language along with an unconditional affidavit that the translation is true and correct and such translated document shall be considered as the final document. If any discrepancy is found in the original document and the translation, then the Bidder may be disqualified, and the Bid, if any, may be rejected.
- 6.9 All the requisite Eligibility Documents shall be submitted in person or by post or courier and email, unless otherwise notified and it is the responsibility of the Bidder alone to ensure that all necessary documents, along with the supporting documents, is delivered within the stipulated time and date at the address given below:

**Ashutosh Agarwala, Liquidator**  
**Cox & Kings Limited - In Liquidation,**  
**c/o Excedor Resolvency Private Limited,**  
**Peninsula Business Park, Tower B, 19<sup>th</sup> Floor,**  
**Lower Parel, Mumbai 400013, Maharashtra, India.**  
**Email: [ip.coxandkings@excedor.com](mailto:ip.coxandkings@excedor.com)**

- 6.10 The Liquidator or any of his representatives are not responsible for non-receipt of necessary documents and supporting / additional documents. It is hereby clarified that the physically submitted documents and supporting/ additional documents shall be considered as the Eligibility Documents for the purposes of this E-Auction Process Document provided that if any discrepancy is identified between the physically submitted Eligibility Documents and the Eligibility Documents submitted in electronic form, then such Bid may be rejected or considered as non-responsive, at the discretion of the Liquidator.

## **7. SITE VISIT AND DISCUSSION MEETING**

- 7.1 If requested by the Qualified Bidders, the Liquidator may arrange a Discussion Meetings and a Site Visits at any time prior to the closure of the E-Auction Process. The Qualified Bidder is expected to make its own arrangements including accommodation for the Site Visits and Discussion Meetings. All costs and expenses incurred in relation to Site Visits and Discussion Meetings shall be borne by the Qualified Bidder.
- 7.2 In Site Visit, the Qualified Bidder(s) may carry out its own comprehensive due diligence in respect of the Assets/ Business/ Company and shall be deemed to have full knowledge of the condition of the Company, its Assets and Liabilities, relevant documents, information

etc., whether or not the Qualified Bidder actually inspects or participates in the Site Visits or verifies the documents provided by the Liquidator. During the Site Visit, a Qualified Bidders shall not:

- a) Take any photographs of the Site or take any documents back with them; or
- b) Initiate any discussion regarding the Liquidation Process, with the personnel at Site, during the course of the Site Visits.

7.3 Any delay in completion of the Site Visits or Discussion Meetings by the Qualified Bidder, shall not entitle the Qualified Bidder to any extension in the timelines, including the timeline for completion of such Site Visits or Discussion Meetings or submission of the Bid, by or before the last date for submission of the Bid.

7.4 The Liquidator may coordinate a Site Visit or Discussion Meeting for Qualified Bidders at any time prior to the closure of the E-Auction Process, following such a request by the Qualified Bidders. The Liquidator will communicate, in advance, to such Qualified Bidder, all the relevant details, terms and conditions, if any, with respect to such Site Visits or Discussion Meetings. The Liquidator reserves the right to not arrange a Site Visit or Discussion Meeting for any reason whatsoever, irrespective of the request of the Qualified Bidder.

## **8. DUE DILIGENCE AND DATA ROOM**

8.1 The Liquidator shall endeavor to provide necessary assistance, facilitating the due diligence by Qualified Bidders. The information and documents shall be provided by the Liquidator in good faith. The Data Room has been organized only for the ease of reference of the Qualified Bidder(s), and the Qualified Bidder(s) shall be responsible to conduct their own due diligence, research, assessment and analysis with respect to the information contained in the Data Room. The Qualified Bidder shall be deemed to have conducted its due diligence of the Company and its Assets to its entire satisfaction. It is hereby clarified that the Qualified Bidder shall not be entitled to withdraw its Bid, as submitted, on the pretext that the contents uploaded in the Data Room were not to the required satisfaction of the Qualified Bidder.

8.2 The Liquidator proposes sale of Assets in accordance with the provisions of IBC and Liquidation Process Regulations on "As is where is basis", "As is what is basis", "Whatever there is basis" and "No recourse" basis and the proposed sale as specified above does not entail transfer of any title, except the title which the Company has on the Assets as on date of the transfer. All local taxes/ maintenance fee/ electricity/ water charges/ lease rentals/ unearned income/ operating expenses/ stockpiling charges etc. in case of rented or owned Assets, outstanding as on date or yet to fall due in respect of the relevant Assets should be ascertained by the Bidder and would be borne by the Successful Bidder. It must also be noted that the Liquidator does not give any assurance or warranty of the physical condition of the Assets and their suitability for any sort of operation that the Bidder envisages.

- 8.3 While the data/ information provided in this E-Auction Process Document and the Data Room, has been prepared and provided in good faith, the Liquidator and their representatives shall not accept any responsibility or liability, whatsoever, in respect of any statements or omissions herein, or the accuracy, correctness, completeness or reliability of the information provided, and shall incur no liability under any law, statute, rules or regulations as to the accuracy, reliability and completeness of the information provided, even if any loss or damage is caused to any of the Bidder by any act or omission on their part.
- 8.4 It is further clarified that the data/information provided in the Data Room has been prepared based on books of accounts, financial statements, Company's website and discussions and representations by the erstwhile directors and key managerial personnel of the Company. Reasonable care has been taken in compiling various data and information, however the Liquidator along their advisors, consultants, representatives, make no representation or warranties, express or implied, as to the quality, accuracy, authenticity, correctness, fairness and completeness of the data provided in the Data Room, and assume no liability whatsoever in respect of any inaccuracy, incompleteness, or omissions in the data provided in the Data Room.
- 8.5 Any clarification uploaded in the Data Room shall be binding on all the Bidders and shall be deemed to form part of this E-Auction Process Document. No request for modifications of the clarifications shall be entertained, however, the Liquidator, may, in a fit case and as per his discretion, issue modification to the clarifications, if required. Such modifications(s) shall be binding on all the Bidders and shall be deemed to modify the clarification and be read as a part of this E-Auction Process Document.
- 8.6 A Bidder requiring any clarification on this E-Auction Process Document, E-Auction Process, submission of the Bid or on the Company shall email such request for clarification to the Email ID: [ip.coxandkings@excedor.com](mailto:ip.coxandkings@excedor.com).
- 8.7 The Liquidator reserves the right not to respond to any query or provide any clarification, at their sole discretion, and no extension of time and date referred to in this E-Auction Process Document shall be granted on the basis of not having received response to clarifications sought from the Liquidator. Nothing in this Clause shall be considered or read as compelling or requiring the Liquidator to respond to any query or to provide any clarification to the queries raised by a Bidder. The Liquidator will not be held responsible for any delay in response or non-response to clarifications raised by the Bidder.

**9. ASSETS TO BE SOLD THROUGH E-AUCTION**

9.1 The sale of Assets proposed in pursuance to the Sale Notice and this E-Auction Process Documents are more particularly as given below:

Lot No.	Proposed Sale of Assets in E-Auction*
1	Sale of Company as a going concern as per the terms and conditions outlined this E-Auction Process Document



2	Sale of Trade Receivables of the Company outstanding as on 14 <sup>th</sup> May, 2023 as described in this E-Auction Process Document
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*\*The sale of Assets is grouped in 2 (two) Lots and the Eligible Bidders may Bid for each individual lot or for multiple lots.*

- 9.2 The proposed sale of Assets does not entail transfer of any other title except the title which the Company has on its Assets as on the E-Auction Date or as specified otherwise including all contracts, licenses, concessions, agreements, benefits, privileges, rights, or interests in the Assets whether stockpiled or collocated with the third parties. It is further stated that the Liquidator does not assume any responsibility as regards the quality, quantity, accuracy, authenticity, correctness, fairness and completeness of the information pertaining to the Assets of the Company as set out herein and the Bidders, in their own interest, are advised to carry out an independent assessment of the physical condition/ condition to and status of recoverability and the ability to be put to intended use of such Assets.
- 9.3 The Successful Bidder agrees and acknowledges that it shall be solely responsible for carrying out necessary actions and obtaining necessary approvals in order to effectuate fully the purposes, terms and conditions of the sale of Assets to it, including but not limited to, obtaining or renewing any license, consent, certificate, permit or other authorization, including procuring all necessary approvals from governmental and statutory authorities or agencies investigating the affairs of the Company, if any, as may be required. The Liquidator shall not be responsible in any manner for assisting/ coordinating/ obtaining any transfers/ renewals/ permissions/ approvals whether of any documents/ license and permissions/ approvals/ insurance policies either in the name of the Corporate Debtor or the Successful Bidder and the sole responsibility for the same shall vest with the Successful Bidder.

**Lot No. 1: Sale of Company as a going concern**

- 9.4 The Regulation 32A of the Liquidation Process Regulations with respect to sale as going concern is reproduced herein:

*"32A. Sale as a going concern:*

- (1) Where the committee of creditors has recommended sale under clause (e) or (f) of regulation 32 or where the liquidator is of the opinion that sale under clause (e) or (f) of regulation 32 shall maximize the value of the corporate debtor, he shall endeavor to first sell under the said clauses.*
- (2) For the purpose of sale under sub-regulation (1), the group of assets and liabilities of the corporate debtor, as identified by the committee of creditors under sub-regulation (2) of regulation 39C of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 shall be sold as a going concern.*
- (3) Where the committee of creditors has not identified the assets and liabilities under sub-regulation (2) of regulation 39C of the Insolvency and Bankruptcy Board of India (Insolvency*

*Resolution Process for Corporate Persons) Regulations, 2016, the liquidator shall identify and group the assets and liabilities to be sold as a going concern, in consultation with the consultation committee.*

*(4) If the liquidator is unable to sell the corporate debtor or its business under clause (e) or (f) of regulation 32 within ninety days from the liquidation commencement date, he shall proceed to sell the assets of the corporate debtor under clauses (a) to (d) of regulation 32."*

9.5 As per Regulation 32A(3) of Liquidation Regulations, the Liquidator finalized the grouping of assets and liabilities of the Company for sale of Company as a going concern in consultation with the representatives of the Stakeholders' Consultation Committee (SCC) at the meeting held on 2<sup>nd</sup> November 2022. The sale of Company as a going concern means all the identified assets, tangibles or intangibles and resources needed to continue to operate independently a business activity along with the claims and liabilities. Accordingly, on the receipt of concurrence from the representatives of the SCC, the Liquidator is conducting this E-Auction Process for sale of Company as a going concern. The details of the Assets of the Company being offered for sale of Company as a going concern are as given below:

<b><u>Tangible Assets</u></b>	<b><u>Intangible Assets</u></b>
Laptops & Accessories	Trademarks & Domain Names
Desktops & Peripherals	Electronic & Physical Records
Servers & Storage Devices	IT Software & Applications
IT Network Equipment	
Telecom Equipment	
<b><u>Notes:</u></b>	
<b>1. Paintings &amp; Artefacts of the Company are being excluded from this E-Auction</b>	
<b>2. Details of the above Assets of the Company can be accessed in the Data Room</b>	

9.6 All the proprietary information of the Company in the form of physical and electronic records of the Company that have been come into the possession or knowledge of the Liquidator based on the representations and discussions with the Directors, KMPs and employees of the Company shall be transferred in this sale of Company as a going concern including the records which have been safe custody with third parties. These physical and electronic records are available in the physical files and electronic devices, and the preservation of all the said records, after taking their control and custody with consent of the appropriate authorities or agencies, shall be the responsibility of the Successful Bidder in some form or the other to enable retrieving and sharing as may be necessary for statutory or other purposes. The Successful Bidder agrees and acknowledges that it shall be solely responsible for obtaining any consents and approvals including procuring all necessary permissions from governmental and statutory authorities or agencies investigating the affairs of the Company, if any, as may be required, for safekeeping or preservation or destruction of any or all of the said records.

9.7 Any claims and liabilities, current or long term, contingent or not, whether due or otherwise, pertaining to the Company as on the E-Auction Date or the Cut-off Date, as

may be decided by the Liquidator and approved by the NCLT, and all current full-time employees/retainers related liabilities including Provident Fund, ESI and other retirement/terminal benefits shall be to the account of the Successful Bidder in the sale of Company as a going concern including any liabilities accruing after the E-Auction Date or the Cut-off Date as may be finalized. All the claims and liabilities pertaining to the sale of Company as a going concern, subject to the approval of the Adjudicating Authority, shall be settled, paid, and extinguished as per Section 53 of IBC. The Bidders are advised to ascertain all statutory liabilities/ taxes/ demands/ claims/ charges etc., outstanding as on the E-Auction Date, yet to fall due in respect of the Assets or the Company and approach NCLT for protection against claims and liabilities pertaining to the period prior to the sale of the Company as a going concern.

- 9.8** Even after the sale of the Company as a going concern, the Liquidator shall continue to exercise the authority and powers for completing the obligations of the Liquidator under the Code and the Liquidation Regulations. It may be noted that the control, operations and continuation of the Liquidation Bank Account of the Corporate Debtor under the name of Cox & Kings Limited - In Liquidation held in SBI as well all other bank accounts held by the Company in any of the banks on or before the E-Auction Date or the Cut-off Date shall continue to remain under the control and authority of the Liquidator and any credit balances in any of the said bank accounts of the Company or any other cash and cash equivalents with the banks shall form part of the Liquidation Estate for distribution to the stakeholders.
- 9.9** That the Liquidator has filed an Interlocutory Application No. 1749 dated 30.07.2021 u/s sections 43, 45, 49, 66 under IBC 2016 (preferential transaction, avoidance of undervalued transaction, transactions defrauding creditors, fraudulent transactions) with the NCLT against the ex-Directors and KMPs of the Corporate Debtor as well as other parties during the Corporate Insolvency Resolution Process ("**CIRP**"). Any proceeds received on account of the applications filed under these sections 43, 45, 49, 66, shall not form part of the liquidation sale of Corporate Debtor as going concern under this E-Auction, however, shall be part of the Liquidation Estate for distribution as per section 53 of the Liquidation Regulations. The said Application shall continue to be pursued by the Liquidator and any costs, legal or others, in respect of pursuing the said Application shall be borne by the Liquidator/ Beneficiaries from the Liquidation Bank Account.
- 9.10** Any proceeds and/or assets received on account of Income Tax refunds by the Company in respect of the financial year FY2019-2020 and for each of the completed financial years thereafter till the Cut-Off Date for the sale of the Company or on account of the export benefits under the Services Export Incentive Scheme (SEIS) by the Company in respect of each of the completed financial year preceding the Cut-off Date for the sale of the Company or on account of the outstanding Trade Receivables or other receivables of the Company as reflected in books of accounts shall not form part of the Assets offered for sale of Company as a going concern.

- 9.11 All the sub-judice/ pending legal cases or arbitration proceedings in any of the courts or tribunals as on the E-Auction Date in respect of the customers' receivables, overdue payments, claims for damages or any other monies, which the Company is entitled to recover shall be excluded from the sale of Company as a going concern and form part of the Liquidation Estate. Additionally, any of Interlocutory Applications filed by the Resolution Professional/ Liquidator of the Corporate Debtor after the commencement of the insolvency proceedings on 22<sup>nd</sup> October 2019 and pending adjudication with NCLT/ NCLAT/ Supreme Court shall not be included in the sale of Company as a going concern under this E-Auction. However, all the recoveries from above stated Interlocutory Applications shall be forming part of the Liquidation Estate for distribution to the stakeholders, except for those Interlocutory Applications that have been specifically excluded from the Liquidation Estate under this E-Auction Process Document for assigning or transferring to the Successful Bidder(s). All the aforesaid legal or arbitration proceedings for recovery of debts or monies of the Company shall continue to be pursued by the Liquidator and any costs, legal or others, in respect of pursuing the said legal proceedings shall be borne by the Liquidator/ Beneficiaries from the Liquidation Bank Account.
- 9.12 In the event, any tangible or intangible assets are reversed to the ownership of the Company after the E-Auction Date, the Successful Bidder shall make necessary arrangement and provide all support as required by the Liquidator for enabling the Liquidator to realize those assets separately as part of the Liquidation Estate. Further, any of the monies are recovered from the financial assets (Trade Receivables, Loans & Advances, Investments in subsidiaries and associates etc.) which were previously written-off in the book of accounts on or before the E-Auction Date or Cut-Off Date for sale of Company as a going concern, then such monies shall form part of the Liquidation Estate of the Liquidator for distribution to the stakeholders.
- 9.13 Any existing personal / corporate guarantees issued by the promoters/ any other group companies of the Corporate Debtor shall not form part of the liquidation sale under the E-Auction. The creditors in whose favour guarantees have been issued by the promoters or group companies of the Company may pursue recovery of these guarantees. In case the guarantees are invoked by the creditors, the guarantors even after making payments in respect of the said guarantees shall not have any claims against the Company.
- 9.14 Any assets (owned by third parties) mortgaged to the lenders of the Company but not owned by the Company shall not form part of the liquidation sale under the E-Auction. In the event there are any further excluded assets from the sale of Company as a going concern, the Liquidator shall upload the list of the same on the Data Room. All the maintenance/ stockpiling/ operation/ incidental costs relating to the excluded assets shall be borne by the Liquidator.
- 9.15 The transfer of the Company as a going concern to the Successful Bidder shall be by way of extinguishment of existing shareholding and by way of issuance of fresh equity and/or infusion of fresh debt in the Company by the Successful Bidder.

## **Lot No. 2: Sale of Trade Receivables of Company**

- 9.16 Based on the concurrence from the representatives of the SCC, the Liquidator is conducting this E-Auction Process for sale of Trade Receivables outstanding as on 14<sup>th</sup> May, 2023 amounting to Rs. 14,22,12,129 (Rupees Fourteen Crores Twenty-Two Lakhs Twelve Thousand One Hundred and Twenty-Nine only). These Trade Receivables are part of the Financial Assets of the Company and are recoverable by the Company from various airlines as performance linked Bonus or from various corporates for business travel services. The detailed party-wise break-up of the Trade Receivables is provided in the Data Room along with various relevant information and documents.
- 9.17 The Liquidator has filed Interlocutory Applications against various debtors of the Company in NCLT for recovering the Trade Receivables which have been offered for sale in this E-Auction and the Successful Bidder would have to continue/ pursue these legal proceedings after the sale of the Trade Receivables. The following Interlocutory Applications shall be pursued by the Successful Bidder:

<b>SN</b>	<b>Details of Respondents</b>	<b>Application date</b>	<b>Application No.</b>
1	Air India	08.07.2022	IA No. 1850 of 2022
2	Etihad Airways	08.07.2022	IA No. 1855 of 2022
3	PayU Payments	07.06.2022	IA No. 1578 of 2022
4	Ernst & Young	05.03.2022	IA No. 1816 of 2022
5	Pegasystems	12.03.2022	IA No. 708 of 2022
6	Korean Airways	07.10.2022	Yet to be Allocated

**Details of the NCLT Applications can be accessed in the Data Room**

Any costs legal or other in respect of the Interlocutory Applications in the above table shall be borne by the Successful Bidder after the sale of the Trade Receivables in this E-Auction and the Successful Bidder shall be entitled to whole of the recoveries on account of these Interlocutory Applications.

## **10 MODE OF SALE AND RESERVE PRICE**

- 10.1 As per Regulation 32 of the Liquidation Process Regulations, the Liquidator may sell:
- an asset of the Company on standalone basis;
  - the assets of a Company through a slump sale;
  - a set of assets of the Company collectively;
  - the assets of the Company in parcel;
  - the Company as a going concern; or
  - the business(s) of the Company as a going concern.

Provided that where an asset is subject to security interest, it shall not be sold under any of the clauses (a) to (f) unless the security interest therein has been relinquished to the Liquidation Estate.

10.2 The Liquidator proposes to conduct the sale of Assets as described in Clause 9 of the E-Auction Process Document under Regulation 32 of the Liquidation Process Regulations. The relevant data in respect of the Assets to be sold in this E-Auction to the extent available and to the best knowledge of the Liquidator shall be made available in the Data Room. The Reserve Price for the sale of Assets shall be as under:

<b>Description of Assets</b>	<b>Reserve Price in INR (Assets for Sale)</b>
Sale of the Company as a Going Concern as per Regulation 32(e) of the Liquidation Regulations	Rs. 22.96 crores (Only for the Assets)
Sale of Trade Receivables as per Regulation 32(d) of the Liquidation Regulations	Rs. 9.73 crores

10.3 The mechanism for completion of such sale of Company as a going concern is however not specifically provided for in the Liquidation Process Regulations or anywhere in the Code. It is clarified that on being declared as Successful Bidder, the said Successful Bidder shall be required to complete the sale of the Company on going concern basis in accordance with the provisions of the Code and Liquidation Process Regulations. After identification of a Successful Bidder, the Liquidator shall have the right to approach the Hon'ble NCLT for obtaining suitable directions on the implementation of such sale and any such directions shall be binding on the parties to the E-Auction Process as contemplated in this E-Auction Process Document.

10.4 The Successful Bidder agrees that it shall be bound to pay the Sale Consideration for consummation of sale of Assets within the time frame stipulated in the E-Auction Process Document read with Liquidation Process Regulations. It is clarified that any necessary approvals, consents, reliefs that may be required to be obtained by the Successful Bidder with respect to the sale of Assets as contemplated in this E-Auction Process Document have to be obtained by the Successful Bidder without any deviation from the time frame for payment of Sale Consideration as stipulated under the Liquidation Process Regulations.

10.5 It is clarified that the sale of Company as a going concern basis under this E-Auction Process, is subject to receipt of the approval from the Adjudicating Authority. The procedure for the E-Auction Process and the declaration of the Successful Bidder shall be as per the terms of the E-Auction Process Document. On the close of the E-Auction, the Liquidator shall declare the Successful Bidder and on execution of the LOI and receipt of the First Instalment of the Sale Consideration from the Successful Bidder, the Liquidator shall make an application to the Adjudicating Authority for approval of the sale. The process of consummation of the sale of the Company as a going concern to the Successful Bidder as per the terms of this E-Auction Process Document shall commence from the date of the Final Approval Order from the Adjudicating Authority.

10.6 The Liquidator shall not be responsible and liable, in any manner, in the event the



Adjudicating Authority in its Final Order rejects the transaction of sale of Company as a going concern contemplated hereunder. The liability and obligations of the Successful Bidder shall continue till the receipt of the Final Order from the Adjudicating Authority and thereafter as per the terms of the Final Order and/or the Liquidation Process Regulations and/or this E-Auction Process Document and/or the LOI.

- 10.7 Any failure to obtain such necessary approvals, consents, reliefs that may be required by the Successful Bidder in respect to the Sale of Assets shall not affect the E-Auction Process for sale of Assets or sale of Company as a going concern, as contemplated under this E-Auction Process Document. On payment of the full amount of Sale Consideration, the sale of Assets or sale of Company as a going concern shall stand completed and the Liquidator shall execute a Certificate of Sale or Sale Deed to consummate the sale transaction as contemplated under this E-Auction Process Document and the Applicable Law.
- 10.8 The Liquidator reserves the right to alter, modify, cancel or relax any of the terms and conditions mentioned in this E-Auction Process Document in the interest of the liquidation process of the Company including cancellation of the E-Auction Process at any point of time. Any such alteration, modification, cancellation, or relaxation of E-Auction Process shall be binding on the Bidders.
- 10.9 The Qualified Bidders, participating in the E-Auction Process, will have to Bid for an amount not less than the Reserve Price for acquiring the Assets of the Company. The attention of Qualified Bidders is invited to the fact that the Qualified Bidders cannot place a Bid for a value below the Reserve Price. Such Bid will stand automatically disqualified.
- 10.10 The other technical terms and conditions relating to E-Auction Process to be complied by the Qualified Bidders are set out in **Annexure 1**.

## **11 EARNEST MONEY DEPOSIT**

- 11.1 All the Qualified Bidders shall provide, non-interest amount as Earnest Money Deposit (“EMD”) for participating in the E-Auction Process for sale of Assets as follows:

<b>Description of Assets</b>	<b>EMD in INR</b>
Sale of the Company as a Going Concern as per Regulation 32(e) of the Liquidation Regulations	Rs. 45.92 Lacs
Sale of Trade Receivables as per Regulation 32(d) of the Liquidation Regulations	Rs. 9.73 Lacs

The Qualified Bidders shall provide EMD along with Earnest Money Deposit Form attached as **Annexure V**, prior to E-Auction Process, in accordance with the timelines provided in Clause 17 of the E-Auction Process Document. All the payments to be made by the Bidder under the E-Auction shall be intimated to the Liquidator at [ip.coxandkings@excedor.com](mailto:ip.coxandkings@excedor.com).

### **Mode of Payment for EMD**

- 11.2 The EMD may also be provided either in the form of the cash which can be deposited by the Bidder by way of direct bank transfer to the Liquidation Bank Account as notified by the Liquidator; and/ or by way of a Bank Guarantee issued by any leading nationalized bank or private sector bank of India in favor of the Company. The Bank Guarantee shall be issued substantially in the manner as given in **Format 2** and renewed from time to time as may be required by the Liquidator. The Bank Guarantee should be valid for a period of 6 (six) months along with a claim period of at least 30 days. In the event of any extensions in the timelines of this E-Auction Process, the Bank Guarantee shall be extended accordingly.
- 11.3 The Payment of EMD by Bank Transfer shall be made through RTGS/ NEFT and the entire amount shall be remitted by the Bidder(s) from one bank account only and to be owned by the Bidder. Bidders shall preserve the remittance challan to the Liquidation Bank Account of the Company and shall produce the same in front of the Liquidator as and when demanded. The Liquidation Bank Account of the Company is given below:

Name	<b>COX &amp; KINGS LIMITED - IN LIQUIDATION</b>
Account No.	<b>32584510430</b>
Bank Name	<b>State Bank of India</b>
Branch	<b>Commercial Branch, Horniman Circle, Fort, Mumbai 400001</b>
IFSC Code	<b>SBIN0006070</b>

- 11.4 It should be noted that no interest will be paid to the Bidder in relation to such EMD. The EMD of the Successful Bidder shall be retained towards First Instalment of the Sale Consideration and the EMD of unsuccessful bidders shall be refunded within 7 days of the signing and acceptance of the LOI by the Successful Bidder. In case the EMD has been provided by way of a bank guarantee by the Successful Bidder, then the EMD shall be released only and when the full and final payment of Sale Consideration is made by the Successful Bidder. In case the E-Auction fails, then the EMD paid by the Bidders shall be returned within 15 (fifteen) days of the date of closure of E-Auction Process.
- 11.5 It may be noted that the Bidder may request the Liquidator to permit the Bidder to submit the EMD through its Associate or Associate Company. Such payment of the EMD by an Associate or Associate Company of the Bidder shall be accompanied by a letter in the format set out in **Format 3** (Earnest Money by an Associate/ Associate Company). Such an Associate or Associate Company must also be a Qualified 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.

### **Forfeiture of EMD of the Bidder**

11.6 It is to be noted that the EMD paid by bank transfer or demand draft may be forfeited, or in the case of a Bank Guarantee/ Guarantee by an Associate Company may be invoked, at any time, upon the occurrence of any of the following events:

- a) 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 misrepresentation or fraud; or
- b) if Bidder is found to be ineligible to submit the Bid as per the conditions set out in Section 29A of the IBC (as amended from time to time) or 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
- c) if the Successful Bidder after being intimated by the Liquidator as Successful Bidder, fails to make the payment of first installment of Sale Consideration within the time stipulated in the Liquidation Regulations and/or as per the terms of Letter of Intent issued by the Liquidator.
- d) In case of any of the above event, all the amounts deposited till that date shall be forfeited and the option to acquire the Assets of the Company or the Company as going concern will be offered to the next highest Bidder.
- e) if the Qualified Bidder/ Successful Bidder 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;
- f) Existence of any collusion between the Bidders and the Corporate Debtor's related parties, or any creditors of the Corporate Debtor and the Bidder;
- g) Withdrawal of, or change in the Bid after the completion of the said E-Auction process;

It is clarified that any invocation/forfeiture of the Earnest Money Deposit, by the Liquidator, shall not limit any other rights or remedies that the Liquidator may have under Applicable Law or otherwise, against any Bidder.

## **12 DECLARATION OF SUCCESSFUL BIDDER**

12.1 The Liquidator shall determine and at his sole discretion (which discretion shall not be used arbitrarily), declare at the end of the E-Auction, the Successful Bidder(s) in accordance with conditions specified in Clause 10 of this E-Auction Process Document. The declaration of the Successful Bidder(s) for the Sale of Assets or Sale of Company as a going concern shall be done by the Liquidator within three (3) days after the closure of E-Auction Process or such extended timelines at the sole discretion of the Liquidator. The

Liquidator shall assess the E-Auction Bids, the Eligibility Documents and other relevant information to declare the Successful Bidder(s) offering maximum value for the E-Auction of the Assets of the Company.

- 12.2 The Successful Bidder(s) shall be determined on the basis of highest Bid received in respect of sale of Assets or sale of Company as a going concern in accordance with the provisions of IBC and Liquidation Process Regulations read with terms & conditions as specified in the E-Auction Process Document. The Liquidator is not bound to accept the highest offer and has the absolute right to accept or reject any or all Bid(s) or adjourn/ postpone/ cancel the E-Auction or withdraw the sale of Assets from the E-Auction at any stage without assigning any reason there for. This right of selecting and declaring the Successful Bidder(s) shall always solely rest with the Liquidator without any requirement to provide any reasoning or justification to any Bidder.

#### **Acceptance by Successful Bidder**

- 12.3 For Successful Bidder(s), an email confirmation will be given for being Successful Bidder(s) within 3 (three) days of the E-Auction Date as per the timelines specified in Clause 17 of this E-Auction Process Document or such extended time as may be deemed necessary by the Liquidator. The Successful Bidder shall be required to execute a Letter of Intent (LOI) provided by the Liquidator within a period of 15 (fifteen) days of intimation of being a Successful Bidder or such extended timelines as considered appropriate at the sole discretion of the Liquidator and record unconditional acceptance of the LOI by providing the Liquidator with one copy of LOI with an endorsement stating that LOI is accepted unconditionally under the signature of the Successful Bidder(s) or the authorized representative of the Successful Bidder(s).
- 12.4 This LOI per se does not confirm sale of Assets or sale of the Company as a going concern in favor of the Successful Bidder(s). The LOI outlines the preliminary commitment and does not constitute conclusion of sale in favor of the Successful Bidder. Confirmation of sale is subject to the fulfilment of conditions stated hereunder and the approval of the Adjudicating Authority, if so required. The LOI may be cancelled only by the Liquidator in his discretion as per the terms of this E-Auction Process Document.
- 12.5 Further, at the time of execution of Letter of Intent, the Successful Bidder shall make the payment of 25% of the Sale Consideration ("**First Instalment**"), which shall not carry any interest, as initial payment towards the Sale Consideration for purchase of Assets or Company as going concern being sold in this E-Auction Process, to the designated Liquidation Bank Account of the Company or any other bank account of the Company specified by the Liquidator. The Successful Bidder shall preserve the remittance challan and shall produce the same in front of the Liquidator as and when demanded by the Liquidator. Failure to accept the LOI and make the payment of First Instalment within the prescribed timelines may result in the disqualification of the Successful Bidder along with cancellation of the LOI and forfeiture of the Earnest Money Deposit.

12.6 Where the Successful Bidder has provided EMD by means of a remittance to the Company's Liquidation Bank Account, such funds will be retained by the Liquidator and shall be set-off against the First Instalment or used as part of the Sale Consideration that the Successful Bidder has agreed and is required to pay for the purchase of Assets or Company being sold under this E-Auction. In the event that the Successful Bidder/any entity on behalf of the Successful Bidder has provided Earnest Money by way of Bank Guarantee, the EMD shall be released only and when the full payment of the entire Sale Consideration (Successful Bid plus the applicable taxes as determined by the Liquidator) is made by the Successful Bidder to the Liquidator.

### **Completion of Sale Transaction**

12.7 Upon receipt of the Letter of Intent and the First Instalment of payment towards the Sale Consideration from the Successful Bidder, the Liquidator shall be filing an Application before the Hon'ble NCLT for the purpose of seeking directions for implementing the sale of the Company as a going concern to the Successful Bidder under the liquidation process. The Successful Bidder shall be responsible for undertaking necessary actions and compliances for obtaining requisite regulatory or statutory or third-party approvals, no-objections, permission, or consents, if any, that are or may be required under Applicable Law for purchasing the Assets of the Company or the Company as a going concern.

12.8 The Successful Bidder shall have to deposit 75% of the Sale Consideration ("**Final Instalment**") as balance payment towards the Sale Consideration for the purchase of Assets or the Company as a going concern being sold under this E-Auction, within 30 (thirty) days of such demand or as agreed in the LOI or such extended time as decided at the sole discretion of the Liquidator, whichever is earlier, subject to the maximum extent permissible under the Applicable Law(s) and the Liquidation Process Regulations, to the designated Liquidation Bank Account of the Company or any other bank account of the Company specified by the Liquidator. Such payment shall be non-interest bearing and the Successful Bidder shall preserve the remittance challan and shall produce the same in front of the Liquidator as and when demanded by the Liquidator. In case of failure to make payment of Final Instalment as stated above, the Successful Bidder will be disqualified and the EMD and the First Instalment paid by the Successful Bidder shall be forfeited. The E-Auction may be repeated or sold to the next highest Qualified Bidder and the defaulting Successful Bidder shall have no claim/right in respect of the sale of the Company in the E-Auction Process.

12.9 On payment of the full and final amount of Sale Consideration in respect of the purchase of Assets of the Company or purchase of Company as a going concern, the sale shall stand completed and the Liquidator shall execute Certificate of Sale or Sale Deed for transfer of the Assets of the Company or of the Company as a going concern to consummate the transaction as contemplated under this E-Auction Process Document and the Liquidation Process Regulations and the Assets shall be delivered to the Successful Bidder in the manner specified in the terms of sale in the Certificate of Sale or Sale Deed. The Certificate of Sale shall be issued, or Sale Deed will be executed in the name of the Successful Bidder

only and will not be issued or executed 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.

12.10 The Successful Bidder shall pay the Final Instalment not later than 30 days from the date of Final Order of the NCLT in respect of the application filed by Liquidator for permitting the sale of Company as a going concern or such extended time as decided at the sole discretion of the Liquidator in accordance with the Liquidation Regulations. In the event that the Hon'ble NCLT approves the said transaction, the same shall be construed as the Final Approval Order. In the event the NCLT does not approve the sale of the Company as a going concern to the Successful Bidder, the Liquidator shall have a right (but not an obligation) to file an appeal with NCLAT. In the event that the Hon'ble NCLAT approves the said transaction, the same shall be construed as the Final Approval Order. In the event the NCLAT does not approve the sale of the Company as a going concern to the Successful Bidder, the Liquidator shall have a right (but not an obligation) to file an appeal with the Supreme Court. In the event that the Supreme Court approves the said transaction, the same shall be construed as the Final Approval Order.

### **13 DEFAULT BY SUCCESSFUL BIDDER**

13.1 In the event that the Successful Bidder withdraws his Bid, the Liquidator shall have the right to invoke/ encash the Bank Guarantee provided with respect to the EMD or appropriate the EMD, and also appropriate any other payment towards the Sale Consideration furnished by the Successful Bidder.

13.2 If the Successful Bidder does not furnish the Final Instalment towards the Sale Consideration pursuant to the LOI issued by the Liquidator or within the timelines stipulated under the Liquidation Process Regulations, whichever is earlier, the Liquidator shall have the right to invoke/ encash the Bank Guarantee provided with respect to the EMD or appropriate the EMD, and also appropriate the First Instalment of payment towards the Sale Consideration and any other payment furnished by the Successful Bidder.

13.3 It is to be noted that the First Instalment of payment furnished can be forfeited at any time, upon the occurrence of any of the following events:

- a) if there is a breach of any of the conditions under this E-Auction Process Document by the Successful Bidder or in case Successful Bidder is found to have made any misrepresentation or fraud; or
- b) if Successful Bidder is found to be ineligible to submit the Bid as per the conditions set out in Section 29A of the IBC (as amended from time to time) or 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
- c) if the Successful Bidder after being intimated by the Liquidator as Successful Bidder, fails to make the payments towards the Final Instalment towards the Sale

- Consideration as per the Letter of Intent or this E-Auction Process Document;
- d) in case of any of the above event, all the amounts deposited till that date including EMD shall be forfeited and the option to acquire the Assets or the Company will be offered to the next highest Bidder.

## 14 FRAUDULENT AND CORRUPT PRACTICES

14.1 The Bidder shall observe the highest standard of ethics during the E-Auction Process and subsequently during the closure of the E-Auction Process and during the declaration of the Successful Bidder. Notwithstanding anything to the contrary contained in this E-Auction Process Document, the Liquidator shall reject the Bid, without being liable in any manner whatsoever to the Bidder, if the Liquidator, at his discretion, determines that the Bidder has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the E-Auction Process or has, undertaken any action in respect of such process which results in the breach of any Applicable Law including the Prevention of Corruption Act, 1988. In such an event, the liquidator may retain the EMD, without prejudice to any other right or remedy that may be available to the Liquidator under this E-Auction Process Document or Applicable Law(s).

14.2 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 E-Auction Process;

**“corrupt practice”** shall mean:

- a) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the E-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 E-Auction Process or arising there from, before or after the execution thereof, at any time prior to the expiry of 1 (one) year from the date such official resigns or retires from or otherwise ceases to be in the service of the Liquidator or the Company, shall be deemed to constitute influencing the actions of a person connected with the E-Auction Process);

or

- b) engaging in any manner whatsoever, during the E-Auction Process or thereafter, any person in respect of any matter relating to the Company, who at any time has been or is a legal, financial or technical adviser of the Liquidator or the Company, in relation

to any matter concerning the E-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 E-Auction Process;

**“restrictive practice”** shall mean forming a cartel or arriving at any understanding or arrangement among the Bidders with the objective of restricting or manipulating a full and fair competition in the E-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 E-Auction Process; or (ii) having a conflict of interest.

14.3 The Bidder shall not involve himself or for any of his Representatives in price manipulation of any kind directly or indirectly under the Applicable Law(s) by communicating with other Bidders.

14.4 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 Company to any other party. Prior to conduct of due diligence / Site Visits and access of Data Room, the Liquidator shall require the Bidder to execute a Confidentiality Undertaking with the Company / Liquidator.

## **15 COSTS, EXPENSES AND TAX IMPLICATIONS**

15.3 The Bidder shall be responsible for all the costs incurred by it on account of its participation in the E-Auction Process, including any costs associated with participation in the Site Visit, Discussion Meeting (if any), etc. The Liquidator shall not be responsible in any way for such costs, regardless of the conduct or outcome of the E-Auction Process.

15.4 It is hereby clarified that the Bidder 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 Bidder.

15.5 The Bidder 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 of the Company and matters incidental thereto or for any purpose in connection with the E-Auction Process.

15.6 It is to be noted that all taxes applicable whether Direct and/ or Indirect taxes and/ or duties and/ or penalties and/ or interest (including stamp duty implications and registration charges) on sale of Assets or sale of Company as a going concern; as the case may be in accordance with the provisions of IBC and Liquidation Process Regulations, as the case may be, would be borne by the Successful Bidder. Some of the costs and charges for the sale transaction may include, inter-alia, the following:



- (i) The sale of Assets or sale of Company may attract stamp duty, registration charges etc. as per relevant Applicable Law(s);
- (ii) The Successful Bidder shall bear all the necessary expenses like applicable stamp duties, additional stamp duty/ transfer charges, fees etc. for transfer of the Assets or Company in its name; and
- (iii) The payment of all statutory/ non statutory dues, taxes, rates, assessments, charges, fees, duties, or other applicable tax i.e., GST, TDS etc.

15.7 It is expressly stated that the Liquidator does not take or assume any responsibility for any dues, statutory or otherwise, of the Company, including such dues, if any, which may affect transfer of the Company in the name of the Successful Bidder and such dues, if any, will have to be borne/paid by the Successful Bidder.

15.8 The payment of all statutory/ non-statutory dues, taxes, rates, assessments, charges, fees, maintenance fee, outstanding municipal and other property taxes, electricity dues etc. yet to fall due in respect of the Assets or the Company should be ascertained by the Qualified Bidders and shall be sole responsibility of the Successful Bidder/ Purchaser;

15.9 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. It is expressly stated that the Liquidator does not take or assume any responsibility for any dues, statutory or otherwise, of the Assets or 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.

15.10 The Bidder shall be responsible for fully satisfying the requirements of the IBC and the related Regulations as well as all Applicable Law(s) that are relevant for the sale of Assets or sale of Company. 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(s) in respect of the sale of Assets or sale of Company as going concern basis as contemplated in E-Auction Process Document.

## **16 GOVERNING LAW AND JURISDICTION**

16.1 This E-Auction Process Document, the E-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 Mumbai India. In addition, the bank guarantee provided by the Bidder in relation to the EMD as per Format 2 of this document shall be subject to the exclusive jurisdiction of the courts and tribunals at Mumbai, India.

## 17 TIMETABLE OF E-AUCTION PROCESS

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

Sr No.	Event	Deadline (Date)
1.	Public Notice of Sale by E-Auction <i>(Including availability of E-Auction Process Document and other relevant documents)</i>	16.05.2023
2.	Submission of Eligibility Documents by Bidders from the date the Public Notice of Sale by E-Auction <i>(Bid Application Form, Affidavit, Confidential Undertaking, and other relevant documents as specified in this E-Auction Process Document)</i>	01.06.2023
3.	Inspection and Due Diligence of the Corporate Debtor and/or the Assets of the Corporate Debtor by the Qualified Bidders <i>(Including Virtual Data Room Access, Site Visits, Discussion Meetings, and Information Sharing with the Qualified Bidders)</i>	08.06.2023
4.	Earnest Money Deposit (EMD) from Qualified Bidders either by way of bank remittance or bank guarantee <i>(Before 2.00 PM on 9<sup>th</sup> June 2023)</i>	09.06.2023
5	<b>“E-Auction Date”</b> for submission of Bids by the Qualified Bidders registered on the E-Auction Platform <i>(From 2.00 PM to 04.00 PM with unlimited extension of 5 min each on the E-Auction Date 12<sup>th</sup> June 2023)</i>	12.06.2023

17.2 While the timeline for submission of Bid Application Form is 1<sup>st</sup> June, 2023 as specified in the above table and can be extended at the sole discretion of the Liquidator. The access to Data Room, documentation, additional information and Site Visits will be granted only once the Bidder submits the requisite Eligibility Documents and is declared as the Qualified Bidder by the Liquidator.

17.3 Bidders should regularly visit the website(s)/link(s) mentioned in Public Advertisement to keep themselves updated regarding clarifications, amendments and/or extension of time, if any.

## 18 MISCELLANEOUS

- 18.1 The information in this E-Auction Process Document and any information provided earlier or subsequently, whether verbally or in documentary or any other form by or on behalf of the Liquidator, which does not purport to be comprehensive, is provided by the Company and has not been independently verified by the Liquidator or his professional advisors. While this information has been prepared in good faith, no representation or warranty, expressed or implied, is or will be made and no responsibility or liability is or will be accepted by the Liquidator, his professional advisors, the Company or by any of their respective officers, employees or agents in relation to the accuracy, fairness, authenticity or completeness of this E-Auction Process Document or any other written or oral information made available to any interested Bidder(s) or its advisers and any such liability is expressly disclaimed
- 18.2 The Assets of the Corporate Debtor is to be sold on “As is where is basis”, “As is what is basis”, “Whatever there is basis” and “No recourse basis”. The proposed sale of Assets does not entail transfer of any title except the title which the Company had on the assets as on date of transfer. However, if any asset that should have been transferred to the Successful Bidder, is found in the possession of the Company, the Liquidator shall take all reasonable efforts to promptly transfer such asset to the Successful Bidder, post completion of the sale. The interested Bidders is advised to ascertain all statutory liabilities/ taxes/ demands/ claims/ maintenance fee/ stockpiling charges/ colocation costs/ electricity and water charges etc., outstanding as on date or yet to fall due in respect of the relevant Assets or the Company, as may be the case.
- 18.3 If any Bidder conceals any material information or makes a wrong statement or misrepresents facts or makes a misleading statement in its Bid, in any manner whatsoever, or is found to be ineligible to submit bid under Section 29A of the Code, the Liquidator reserves the right to reject such Bid and/or cancel the Letter of Intent (if issued) and forfeit the Earnest Money Deposit. The Bidder shall be solely responsible for such disqualification based on its declarations in the Bid.
- 18.4 The Bidder(s) hereby agrees and releases the Liquidator and his representatives, advisors etc. irrevocably, unconditionally, fully and finally, from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/or performance of any obligations set out under this E-Auction Process Document, and/or in connection with the E-Auction Process, and waives any and all rights and/or claims the Bidder(s) may have in this respect, whether actual or contingent, whether present or in future.
- 18.5 The Liquidator in its sole discretion and without incurring any obligation or liability or cost, reserves the right, at any time, to;

- (a) suspend and/or cancel the E-Auction Process and/or amend and/or supplement the E-Auction Process or modify the dates or other terms and conditions set out in this E-Auction Process Document;
- (b) consult with any Bidder(s) in order to receive clarifications or further information;
- (c) retain any information and/or evidence submitted to the Liquidator/ his representatives, by, on behalf of, and/or in relation to any Bidder;
- (d) cancel or disqualify the Bid submitted by any Bidder at any stage of the E-Auction Process;
- (e) restart the E-Auction Process as per the discretion of the Liquidator and even post issuance of LOI;
- (f) independently verify, disqualify, reject and/or accept any and all submissions or other information and/or evidence submitted by or on behalf of any Bidder;
- (g) accept any Bid, conduct subsequent rounds of auction as per the terms deemed fit by the Liquidator.

## 19 CLARIFICATIONS

- 19.1. While the data/information provided in this E-Auction Process Document and the Data Room, has been prepared and provided in good faith, the Liquidator and his representatives shall not accept any responsibility or liability, whatsoever, in respect of any statements or omissions herein, or the accuracy, correctness, completeness or reliability of the information provided, and shall incur no liability under any law, statute, rules or regulations as to the accuracy, reliability and completeness of the information provided, even if any loss or damage is caused to any of the Bidders by any act or omission on their part.
- 19.2. A Bidder requiring any clarification on this E-Auction Process Document, for submission of the Bid or on the Corporate Debtor shall email such request for clarification to Email ID: [ip.coxandkings@excedor.com](mailto:ip.coxandkings@excedor.com).
- 19.3. The Liquidator reserves the right not to respond to any query or provide any clarification, at their sole discretion, and no extension of time and date referred to in this E-Auction Process Document shall be granted for not having received response to clarifications sought from the Liquidator. Nothing contained herein shall be considered or read as compelling or requiring the Liquidator and/or his representatives to respond to any query or to provide any clarification to the queries raised by a Bidder. The Liquidator and his representatives will not be held responsible for any delay in response or non-response to clarifications raised by the Bidders.
- 19.4. The Liquidator and/or his representatives may issue interpretations and clarifications on this E-Auction Process Document or in relation to the Bidding process to the Bidder(s). All clarifications and interpretations issued by the Liquidator, or his representatives shall be deemed to be part of this E-Auction Process Document if provided in writing.

## ANNEXURE - I

### TECHNICAL TERMS OF E-AUCTION PROCESS

#### **1 INTRODUCTION TO E-AUCTION PROCESS**

- 1.1 The E-Auction of the Assets of the Corporate Debtor 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 Mr. Ashutosh Agarwala, Liquidator of Cox & Kings Limited (in Liquidation).
- 1.2 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” through approved E-Auction Service Provider M/s Linkstar Infosys Pvt Ltd.
- 1.3 E-Auction Sale Notice and E-Auction Process Document containing Annexures and Formats that are required to be submitted for participating in the E-Auction are available on website of the E-Auction Service Provider (<https://www.eauctions.co.in>) and on the website of the Company (<https://www.coxandkings.com/liquidation-process/>).
- 1.4 On going to the link of E-Auction Platform: <https://www.eauctions.co.in>, Bidders will have to search for the Company by using either one of the two options,
  - (i) Company Name (i.e., Cox & Kings Limited), or by,
  - (ii) State and Asset Type.
- 1.5 For any queries relating to E-Auction Platform you may contact Mr. Dixit Prajapati on Mobile: +91-9870099713 and Email: [admin@eauctions.co.in](mailto:admin@eauctions.co.in) of the E-Auction Service Provider.

#### **2. REGISTRATION OF QUALIFIED BIDDERS**

- 2.1 The Eligibility Criteria of the Bidder participating in sale of Assets of the Company or the Company as a going concern shall have the meaning term ascribed in Clause 5 of the E-Auction Process Document. The Last date for submission of Eligibility Documents and other supporting documents along with supporting documents is as per the Clause 17 of the E-Auction Process Document.
- 2.2 Upon submission of Eligibility Documents and the supporting documents prior to the E-Auction Date, the Liquidator shall verify the contents of the Eligible Documents and the supporting Documents to ensure that the same have been provided as specified under this E-Auction Process Document and verify that the Earnest Money Deposit has been furnished as per the terms of this E-Auction Process Document and verify if the Bidder has been successfully registered on the Portal of the E-Auction Service Provider basis the

evidence of registration.

- 2.3 Upon conducting verification as stated above, prior to the E-Auction Date, the Liquidator shall prepare a final list of Qualified Bidders to be registered on the Portal for participating in the E-Auction and whose Eligibility Documents, supporting documents and EMD are accepted by the Liquidator, and the list of Qualified Bidders shall be shared by the Liquidator with the E-Auction Services Provider. Basis this, the E-Auction Service Provider shall verify the list of Qualified Bidders registered on the Portal, and provide access to the Qualified Bidders, to the segment of the E-Auction Platform where the E-Auction Process will be conducted on the E-Auction Date. The E-Auction Service Provider Agency shall cancel the registration of the Bidders that are not Qualified Bidders for the E-Auction Process as per the list shared by the Liquidator for this E-Auction Process and would not provide access to such Bidders to this E-Auction Process.
- 2.4 It is also clarified that the Liquidator/ Corporate Debtor or the E-Auction Service Provider will incur no liability and will not be liable to provide any reasons in connection with the cancellation of registration of any Bidder on the Portal or denying access to the any Bidder to this E-Auction Process. The E-Auction Service Provider shall assist in the process of registration and all queries/ issues in relation to the registration may be directed by the Bidders to the E-Auction Service Provider and not the Liquidator. It is clarified that the E-Auction Service Provider, the Liquidator and his Representatives shall not incur any liability on account of any problems related to registration of the Bidders on the Portal. It is clarified that any expenses relating to the registration process will be borne by the Bidders and that the Liquidator or the Company will not be liable to pay or reimburse the same.
- 2.5 Instructions and steps related to the process of registration, details of contact persons of the E-Auction Service Provider and list of information/ documents required by the E-Auction Service Provider from the Bidders for the purpose of registration, will be hosted on the website of the E-Auction Service Provider prior to commencement of registration on the Portal, so that the Bidder(s) can share such documents/ information with the E-Auction Service Provider. It is clarified that this list of documents/ information hosted on the website may not be an exhaustive list, and that the E-Auction Service Provider may require any Bidder(s) to furnish further documents/ information or clarification as it may deem fit for the purpose of successful registration.
- 2.6 The registrations on the Portal shall be completed by the Bidders atleast 1 (One) day before the E-Auction Date. Once the Bidder has been successfully registered on the Portal, evidence of the same has to be provided to the Liquidator. In the event any Bidder fails to register itself on the Portal, notwithstanding the fact that such Bidder may have been declared as the Qualified Bidder and has provided the EMD, such Bidder shall not be entitled to participate in the E-Auction Process, and no liability shall be incurred by the Liquidator or Corporate Debtor or the E-Auction Service Provider in this regard.
- 2.7 The Qualified Bidder as declared by the Liquidator, shall be provided User ID and

Password by M/S Linkstar Infosys Pvt Ltd after due verification of PAN of the Qualified Bidders to participate in the E-Auction Process on 12<sup>th</sup> June,2023. The Qualified Bidders shall necessarily hold a valid Email ID as all the relevant information and allotment of User ID & Password by M/S Linkstar Infosys Pvt Ltd will be conveyed through E-mail to the Qualified Bidders. The Qualified Bidder(s) are advised to change the password immediately on receipt thereof.

### 3. PARTICIPATING IN E-AUCTION PROCESS

3.1 The Qualified Bidders may submit their Bids for purchasing the Assets of the Company and/or the Company as a going concern. The details are as follows:

SN	Assets	Reserve Price INR (Assets)	EMD Amount INR	Bid Incremental Amount INR
1	Sale of Cox & Kings Limited as a going concern (Under Regulation 32(e) of Liquidation Regulations, 2016)	Rs. 22.96 Crores	Rs. 45.92 lacs	Rs. 25.00 lacs
2	Sale of Trade Receivables (Under Regulation 32(d) of the Liquidation Regulations	Rs. 9.73 Crores	Rs. 9.73 lacs	Rs. 5.00 lacs

3.2 The sale of Assets of the Company or sale of Company as a going concern shall take place through online E-Auction Platform of the E-Auction Service provider, Linkstar Infosys Pvt Ltd via website <https://www.eauctions.co.in> on 12<sup>th</sup> June,2023 between 2.00 PM to 4:00 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 E-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 highest Bidder in the E-Auction shall be informed through electronic mode by the E-Auction Services Provider.

3.3 After the conclusion of the E-Auction, the Highest Bidder shall be intimated through a message generated automatically by the Portal of the outcome of the E-Auction. However, the Liquidator shall be deciding the Successful Bidder and separate intimation shall be sent to the Successful Bidder by the Liquidator in accordance E-Auction Process Document. Date of sending the E-mail by the Liquidation will be considered as the date of receipt of the intimation to the Successful Bidder i.e., Date of Intimation.

3.4 The Qualified Bidder(s) shall be solely responsible for all consequences arising out of the Bid submitted by him/her (including any wrongful bidding) and no complaint/representation will be entertained in this regard by the Corporate Debtor/ E-Auction Service Provider. Hence, Qualified Bidder(s) are cautioned to be careful to check the Bid

amount and alter/rectify their Bid if required before confirming the Bid submitted.

- 3.5 All Bids placed are legally valid Bids and are to be considered as Bids from the Qualified Bidder(s) himself. Once the Bid is placed, the Qualified Bidder(s) cannot reduce or withdraw the Bid for whatever reason. If done so, the EMD amount shall be forfeited at the sole discretion of the Liquidator. The highest Bid on the E-Auction shall supersede all the previous Bids of the respective Qualified Bidder(s). The Qualified Bidder(s) with the highest Bid does not get any right to demand for acceptance of its Bid.
- 3.6 The attention of Qualified Bidders is invited to the fact that the Bidders cannot place a Bid for a value below the Reserve Price and such Bid will stand automatically disqualified. The Bid once submitted cannot be withdrawn and in case of non-participation in E-Auction after submission of Bid, such Bid will be presumed to be given at Reserve Price at the discretion of the Liquidator. The E-Auction Service Provider shall then register such Bid itself in such event as directed by the Liquidator.
- 3.7 The Successful Bidder shall deposit the Sale Consideration (after adjustment of the EMD) in the form and manner as prescribed in this E-Auction Process Document and the Liquidation Process Regulations. On payment of the full amount of the Sale Consideration, the sale shall stand completed and the Liquidator shall execute the Certificate of Sale and the subject matter of the sale shall be delivered to the Successful Bidder in the manner specified in the terms of such Certificate of Sale.

#### **4 OTHER TERMS AND CONDITIONS**

- 4.1 Neither the Liquidator nor M/s Linkstar Infosys Pvt Ltd 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 Process.
- 4.2 The Liquidator reserves the right to alter, modify or relax any of the terms and conditions mentioned in this E-Auction Process Document in the interest of the liquidation process of the Company. Any such alteration, modification or relaxation shall be binding on the interested Bidders.
- 4.3 Placement of conditional Bid will be treated as invalid. Correspondence about any change / modification in the offer after submission of Bid will not be entertained. Bids not received in the prescribed manner 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.
- 4.4 The sale shall be subject to provisions of IBC, 2016 and Liquidation Process Regulations made thereunder.



4.5 Capitalized terms not defined herein shall have the same meaning as provided in the E-Auction Process Document.

**ANNEXURE - II**

**BID APPLICATION FORM**

Date:

To,

**Mr. Ashutosh Agarwala (Liquidator),  
Cox & Kings Ltd Limited (In Liquidation).**  
Peninsula Business Park, Tower B, 19<sup>th</sup> Floor,  
Lower Parel, Mumbai 400013, Maharashtra, India

**Ref: Advertisement published in \_\_\_\_\_ (Name of Newspaper and its Edition) on  
\_\_\_\_\_ & on the website \_\_\_\_\_ for sale of Cox & Kings Ltd (In  
Liquidation) as a Going Concern**

I/We/ M/s am desirous in participating in the E-Auction conducted by the Liquidator on behalf of the Cox & Kings Limited (“Company” or “Corporate Debtor”) as given below:

SN	Description	Reserve Price (INR)	Earnest Money Deposit (INR)
1.	Sale of Cox & Kings Limited - In Liquidation as a Going Concern as per E-Auction Process Document		
2.	Sale of Trade Receivables outstanding as per E-Auction Process Document		
	TOTAL		

I/We /M/s.\_\_\_\_ the Bidder/s, do hereby state that, I/we/M/s. \_\_\_\_ have read the E-Auction Process Document dated \_\_\_\_\_ and the terms and conditions of Bid and the above Public Advertisement(s) and understood them fully. I/We/M/s. \_\_\_\_hereby unconditionally agree to conform with and to be bound by the said conditions. My/Our details required from the Bidders are given 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	
	(c)	Identity Proof (Self-attested)	
		(i)	Pan Card*
		(ii)	Aadhaar Card*
		(iii)	Passport \$
		(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)		

### DECLARATION

1. I/We/M/s. \_\_\_\_\_ further declare that I/We/M/s. \_\_\_\_\_ intend to purchase the Assets of the Company and/or the Company as a going concern from the Liquidator on “**AS IS WHERE IS BASIS**”, “**AS IS WHAT IS BASIS**”, “**WHATEVER THERE IS BASIS**” And “**NO RECOURSE BASIS**” for our/ its own use / business and that the information revealed by me/us in this Bid 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 of IBC and Affidavit for the same is enclosed herewith.
3. I/We/M/s \_\_\_\_ certify and confirm that I/We/M/s. \_\_\_\_ am/are eligible to be a

Bidder, in accordance with the Eligibility criteria laid down in the E-Auction Process Document dated \_\_\_\_\_.

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 E-Auction Platform for issue of User ID and Password for us to enable us to take part in the E-Auction.
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 or any monies paid by me/us are 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, the Bidder (s) aforesaid do hereby state that, I / We have read the entire terms and conditions for the sale of assets as specified in the E-Auction Process Document dated \_\_\_\_\_ 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.
7. I / We declare that the Earnest Money Deposit (EMD) and the deposit towards Sale Consideration shall be / has been made by me / us as against my/our Bid and that the particulars of remittance and all other information shall be / have been provided by me/us in the Earnest Money Deposit Form. I / We understand that the EMD of all Bidders shall be retained by the Liquidator and returned as stated in E-Auction Process Document. 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 /M/s. \_\_\_\_ also agree that after my/our offer given in my/our Bid for purchase of the Assets of the Corporate Debtor and/or Corporate Debtor as a going concern is accepted by the Liquidator, if I/We/M/s. \_\_\_\_\_ fail to accept the terms and conditions of this E-Auction Process Document 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 E-Auction Process Document and Letter of Intent, the EMD and other monies paid by me/us along with the Bid and thereafter 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.
9. The timeline for payment of full and final Sale Consideration may be extended by sole discretion of Liquidator, to the extent permissible under the applicable laws and regulations. In case full and final Sale Consideration is not paid within timeline, the liquidator shall forfeit EMD, and other monies paid till that point of time.
10. I / We confirm that our participation in the E-Auction Process, submission of Bid or acquisition of the Assets of the Corporate Debtor and/or the Corporate Debtor as a

going concern 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.

11. 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.
12. 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 E-Auction of assets/business/company being offered for sale.
13. I/We confirm that the Company and its employees, shall not be liable and responsible in any manner whatsoever for my/our failure to access and Bid on the E-Auction Platform due to any unforeseen circumstances etc. before or during the E-Auction event.
14. I/We/M/s. \_\_\_\_ will not claim any interest from the date of submission of EMD or other monies in case the E-Auction Process of sale is delayed for any reason.

**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 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 financial statements of the prospective Bidder, Parent Company and corporate guarantor, if applicable for the preceding 3 (three) years.
- j. 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 (DIN,PAN)	Nos.	Full Address	Other Directorships

The prospective Bidder shall submit photocopy of 'Know Your Customer' (KYC) details for each of the Directors. 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.

- k. 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).
- l. 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;
- m. 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 - III**

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

(To be notarized on non-judicial stamp paper)

[To be submitted by each Bidder and in case the Bidder is a consortium, then to be submitted by each member of such consortium]

**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 Bidder for giving such affidavit, son of \_\_\_\_\_, aged about \_\_\_\_\_ years, currently residing at \_\_\_\_\_ and having Aadhaar/ Passport number \_\_\_\_\_, on behalf of \_\_\_\_\_ ("**Bidder**"), do solemnly affirm and state to Mr. Ashutosh Agarwala (IBBI Registration No. IBBI/IPA-001/IP-P01123/2018-2019/11901) ("**Liquidator**"), the liquidator of Cox & Kings Limited ("**Corporate Debtor**"), as follows:

1. That I am duly authorized and competent to make and affirm the instant affidavit for and on behalf of the Bidder in terms of the resolution of its board of directors/ power of attorney to provide other necessary details of such authorization. This said document is true, valid and genuine to the best of my knowledge, information and belief.
2. That the Bidder is not ineligible under Section 29A of the Insolvency and Bankruptcy Code, 2016 ("**IBC**") to submit bid application for purchase of Cox & Kings Limited or its Assets or its Business.
3. That none of the Bidder or any person acting jointly or in concert with the Bidder:
  - (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 Bidder; or
    - ii. any person who shall be the promoter or in management or control of the business of the Corporate Debtor during the implementation of the sale of the Corporate Debtor under this E-Auction; 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 Bidder 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 Bidder is eligible under the IBC to submit an application in respect of purchase of Cox & Kings Limited as going concern.



5. That the Bidder 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 Bidder understands that the Liquidator may evaluate the Bid Application Form and the accompanying/ supporting documents to be submitted by the Bidder 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 Bidder 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 Cox & Kings Limited by the Liquidator under the IBC, the Bidder becomes ineligible to be a Bidder 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 \_\_\_\_\_ 2023

**DEPONENT**

**Before me,**

**Notary/Oath Commissioner**

**VERIFICATION:**

I, \_\_\_\_\_ [name of the chairman/ managing director/ director/ authorized person of Bidder, authorized by the Board of the Bidder 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 \_\_\_\_\_ 2023

**DEPONENT**

## ANNEXURE - IV

### 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. Ashutosh Agarwala, an Insolvency Professional having Registration no. IBBI/IPA-001/IP-P01123/2018-2019/11901.

WHEREAS Cox & Kings Limited, a company registered under Companies, Act, 1956 (hereafter referred as the "**Company**") is undergoing liquidation vide NCLT Mumbai Bench ("NCLT") order dated 16<sup>th</sup> December, 2021, vide the said NCLT Order Mr. Ashutosh Agarwala, a registered insolvency professional with Insolvency and Bankruptcy Board of India (IBBI) having Registration Number: IBBI/IPA-001/IP-P01123/2018-2019/11901 has been appointed as liquidator to manage, protect, sell and liquidate the property, assets, business and other affairs of Cox & Kings Limited ("**Liquidator**").

WHEREAS the Liquidator has invited prospective Bidders for the purpose of submission of Bid through E-Auction process in respect of Sale of Assets of the Company and/or the Company as a going concern in accordance with the provisions of E-Auction Process Document dated \_\_\_\_\_ 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 E-Auction Process Document 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 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 the Sale of the Corporate Debtor as a going concern 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, this undertaking to be executed by each of the members

ANNEXURE - V

EARNEST MONEY DEPOSIT FORM

Date:

To,

**Mr. Ashutosh Agarwala (Liquidator),**  
**Cox & Kings Ltd Limited (In Liquidation).**  
Peninsula Business Park, Tower B, 19<sup>th</sup> Floor,  
Lower Parel, Mumbai 400013, Maharashtra, India

**Ref: Ref: Advertisement published in \_\_\_\_\_ (Name of Newspaper and its Edition) on \_\_\_\_\_ & on the website \_\_\_\_\_ for sale of Cox & Kings Ltd (In Liquidation) as a Going Concern.**

I/We/ M/s am desirous in participating in the E-Auction by the Liquidator on behalf of the Cox & Kings Limited (“Company” or “Corporate Debtor”) as given below:

SN	Description	Reserve Price (Assets) (INR)	Earnest Money Deposit (INR)
1.	Sale of Cox & Kings Limited - In Liquidation as a Going Concern as per E-Auction Process Document		
2.	Sale of Trade Receivables outstanding as per E-Auction Process Document		
	TOTAL		

I/We /M/s.\_\_\_\_ the Bidder/s, do hereby state that, I/we/M/s. \_\_\_\_ have read the E-Auction Process Document dated \_\_\_\_\_ and the terms and conditions of Bid and the above advertisement(s) and understood them fully. I/We/M/s. \_\_\_\_ hereby unconditionally agree to conform with and to be bound by the said conditions.

I / We have submitted the Bid Application Form and the particulars of remittance of the EMD/ Bank Guarantee for EMD are being provided 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 Bank Transfer</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	
3.	<b>Details of EMD Bank Guarantee</b>		Original Bank Guarantee to be enclosed
	(i)	Name of Issuing Bank	
	(ii)	Amount of Guarantee	
	(iii)	Date of Issuance	
	(iv)	Issued in favour of	
	(v)	Guarantee Valid till	
	(vi)	Claim Period till	

I/We request you to kindly verify the same and arrange with the E-Auction Platform for issue of User ID and Password to enable us to take part in the E-Auction.

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.

I/ We understand that the Earnest Money of all Bidders shall be retained by the Liquidator and returned only after the conclusion of the E-Auction Process as per the timelines

mentioned in E-Auction Process Document. 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 E-Auction 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]



**FORMAT - 1**

**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]**

---

**WHEREAS** pursuant to the E-Auction Process Document for the sale of Assets or sale of Cox & Kings Limited (In Liquidation) as a going concern dated \_\_\_\_\_, issued by Mr. Ashutosh Agarwala (IBBI Registration No. IBBI/IPA-001/IP-P01123/2018-2019/11901) ("**Liquidator**"), the Liquidator of Cox & Kings Limited, the Company being a prospective Bidder is desirous of submitting a Bid Application Form for the purchase of Assets of Cox & Kings Limited and/or Cox & Kings Limited as a going concern in accordance with the requirements of the E-Auction Process Document dated \_\_\_\_\_ published on the websites \_\_\_\_\_ and participating in the E-Auction Process.

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

**"RESOLVED THAT** the draft of the Bid Application Form placed before us is hereby approved for submission to the Liquidator of Cox & Kings Limited, in accordance with the terms of the E-Auction Process Document."

**"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 Form in accordance with the terms of the E-Auction Process Document, including the following:

- (a) submit the Bid Application Form and other requisite documents, in accordance with the terms of the E-Auction Process Document;
- (b) execute all other agreements, deeds, forms, writings, affidavits and power of attorney as may be required in relation to the E-Auction Process Document, any amendments or modifications thereto as may be suggested by the Liquidator of Cox & Kings 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 E-Auction Process Document;
- (c) submit necessary clarifications or information in relation to the Bid Application Form, as may be required in accordance with the E-Auction Process Document by the Liquidator;
- (d) submit the Bids in the E-Auction and pay such amounts and consideration, in the manner

as may be agreed with the Liquidator, in accordance with the procedure set out under the E-Auction Process Document;

- (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

## FORMAT - 2

### BANK GUARANTEE FOR EARNEST MONEY DEPOSIT (EMD)

*(To be on non-judicial stamp paper of appropriate stamp duty value relevant to place of execution)*

To,

**Mr. Ashutosh Agarwala (Liquidator),**  
**Cox & Kings Ltd Limited (In Liquidation).**  
Peninsula Business Park, Tower B, 19<sup>th</sup> Floor,  
Lower Parel, Mumbai 400013, Maharashtra, India

and

[Insert Details of the Bank and Address]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 [insert the corporate identity number of the entity], whose registered office is at [insert address] ("**Bidder**") is required to provide an unconditional and irrevocable bank guarantee for an amount equal to INR \_\_\_\_\_ (Indian Rupees \_\_\_\_\_ 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 the carrying out the sale of Cox & Kings Limited under Liquidation as Going Concern.

B. This bank guarantee is required to be issued in favour of Cox & Kings Limited ("**Beneficiary**"), pursuant to 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 an amount not exceeding INR \_\_\_\_\_ (Indian Rupees \_\_\_\_\_ Only) [insert the amount of Earnest Money Deposit] to secure the obligations of the Bidder under the E-Auction Process Document on demand from the Beneficiary on terms and conditions herein contained.

#### NOW THEREFORE:

1. The Bank hereby issues in favour of the Beneficiary this irrevocable and unconditional payment bank guarantee ("**Guarantee**") at the request of [Insert name of the Bidder] for an amount of INR----- (Rupees \_\_\_\_\_).

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 \_\_\_\_\_ (Indian Rupees \_\_\_\_\_ Only) [Insert the amount of

*Earnest Money Deposit*].

3. This Guarantee shall be valid and binding on the Bank up to 6 months with an additional claim period of 30 (thirty) days thereafter 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 proof in addition to the written demand from Beneficiary, made in any format, raised at the abovementioned 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 Ahmedabad 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 \_\_\_\_\_ (Indian Rupees Only) [Insert the amount of Earnest Money Deposit] and it shall remain in force until \_\_\_\_\_ [Insert Earnest Deposit Validity Date], with an additional claim period of 30 (thirty) days thereafter.

12. The Beneficiary may demand for extension of validity of this guarantee for a further period of 6 months and failure to re-issue or extend this Guarantee in accordance with Clauses stated above shall tantamount to invocation of this Guarantee, and the Bank will make payment to the Beneficiary with any delay or demur.

In witness whereof the Bank, through its authorised officer, has set its hand and stamp on this \_\_ day of \_\_\_\_\_ at \_\_\_\_\_.

Signature of the Bank Official:  
Name of the Bank Official:  
Designation with Bank Stamp

**Witness**

1. \_\_\_\_\_ Name and Address
2. \_\_\_\_\_ 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 \_\_\_\_\_ 2023

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

**FORMAT - 3**

**EARNEST MONEY DEPOSIT**  
**PAYMENT BY AN ASSOCIATE COMPANY/ASSOCIATE**

*(On the letterhead of an Associate Company / Associate)*

To,  
**Mr. Ashutosh Agarwala (Liquidator),**  
**Cox & Kings Ltd Limited (In Liquidation).**  
Peninsula Business Park, Tower B, 19<sup>th</sup> Floor,  
Lower Parel, Mumbai 400013,  
Maharashtra, India

[Copy to:]

[Insert name of the Bidder with address]

Dear Sir,

**Sub: Payment of the amounts of EMD on behalf of the Bidder in relation to the E-Auction of Cox & Kings Limited ("Company") as a sale of Company on a going concern basis as per IBC and Liquidation Process Regulations.**

In light of the Bid for Cox & Kings Limited 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/ Associate Company and address of the head office] hereby declares and confirms it is [an/the] [Insert relationship of the Associate/Associate Company with the Bidder] of the Bidder ("**Associate/Associate Company**"), and the payment of the EMD vide [Insert mode of payment] ("**Payment**") is on behalf of the Bidder. The Associate Company acknowledges that such amounts paid as EMD shall be subject to the terms of the 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/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 (Going Concern).

Yours sincerely,

[Signature and name of the Authorised Officer of the Associate/ Associate Company]

Rubber stamp/seal of the Associate/Associate Company

## ACKNOWLEDGMENT

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

Yours sincerely,

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

Rubber stamp/seal of the Bidder