

**E-AUCTION PROCESS DOCUMENT**  
**Invitation for Bids for E-Auction of Assets of**  
**Lotus Auto Engineering Limited**  
**(in Liquidation)**

**Date of Public Announcement**

“23rd October , 2020”

**Last date of submission of Documents for participation in E - auction and  
due diligence**

“5th December, 2020”

**Last date for submission of Earnest Money deposit**

“5th December, 2020”

**Date and Time of E-Auction**

8th December, 2020

10:00 A.M.

**Issued by:**

Ashok Kumar Gulla

Liquidator

IBBI Regn. No: IBBI/IPA-003/IP-N00024/2017-18/10174

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**Notes:**

1. This E-Auction Process Information Document is issued for the Interested Bidders.
2. The Terms and Conditions for participating in the E-Auction are provided in this Document.
3. The timelines, notifications, updates and other details for the E-Auction Process shall be available on the website of the Corporate Debtor, i.e. <http://lotus-auto.in/> and on the website of e-auction, i.e. <https://ncltauction.auctiontiger.net/EPROC/> or through email at [ip.lotus@rbsa.in](mailto:ip.lotus@rbsa.in).
4. For any further information, interested bidders may contact Liquidator and his Team ( Satyam Poddar: +91 9711862674, Anirudh Agarwal: +91-9871875711, Mohit Kapoor: +91 8285572250) or write to us at [ip.lotus@rbsa.in](mailto:ip.lotus@rbsa.in).

## **1. DISCLAIMER**

- 1.1. *This E-Auction Process Information Document is issued by Ashok Kumar Gulla, the Liquidator appointed by Hon'ble NCLT, New Delhi in the matter of Lotus Auto Engineering Limited (in Liquidation), for general information purposes only.*
- 1.2. *The purpose of this document is to lay out the process for submitting the E-Auction Bids for the Assets of Lotus Auto Engineering Limited (in Liquidation) (the "Company" or "Corporate Debtor") in accordance with the Insolvency and Bankruptcy Code, 2016.*
- 1.3. *This document is not a statutory document and it has not been approved or registered with any regulatory or statutory authority of Government of India or any State Government. Nothing herein or in materials relating to the E-Auction Process Information Document should be construed as legal, financial, accounting, regulatory or tax advice by the Liquidator.*
- 1.4. *It is to be noted that no information being provided in this E-Auction Process Information Document, claims to be comprehensive; independent due diligence of the intended users of this document or the bidders is highly recommended.*
- 1.5. *This E-Auction Process Information Document and information contained herein or disclosed should not be printed, reproduced, transmitted, sold, distributed, or published by the recipient, without prior written approval from the Liquidator.*
- 1.6. *Neither the Liquidator, nor his Insolvency Professional Entity i.e. RBSA Restructuring Advisors LLP (RRAL), his Partners, Legal Associates, Chartered Accountants, Company Secretaries etc. shall be liable for any damages, whether direct or indirect, including loss of revenue or profits that may arise from or in connection with the use of this E-Auction Process Information Document, including for the E-Auction Participant not being selected as a Successful Auction Participant or on account of any decision taken by the Liquidator.*
- 1.7. *Further, apart from the provisions set out in this E-Auction Process Information Document, the E-Auction process applicant shall be responsible for fully satisfying the requirements and provisions of the Insolvency and Bankruptcy Code 2016 and of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016 as well as all laws in force that are or may be applicable to the applicant or the sale process and for obtaining requisite regulatory approvals, if required any.*

- 1.8. *It is to be noted that by procuring a copy of this E-Auction Process Information Document, the recipient accepts the terms of this disclaimer, which forms an integral part of this E-Auction Process Information Document and part of all the other terms and conditions of this E-Auction Process Information Document.*
- 1.9. *The Property and Assets of the Company 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 of the Company does not entail transfer of any other title, except the title which the Company had on its assets as on date of transfer. The Liquidator does not take or assume any responsibility for any shortfall or defect or shortcoming in the moveable/immovable assets of the Company.*
- 1.10. *The E-Auction Participant shall bear all its costs and charges associated with or relating to the preparation and submission of its bid including but not limited to Physical and Electronic preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Liquidator or any other costs incurred in connection with or relating to its bid including but not limited to cost incurred for carrying out due diligence, physical verification of assets etc.*
- 1.11. *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 Information Document is to provide interested parties with information that may be useful to them in making their bids. It may be noted that the assumptions, assessments, statements and information contained in the E-Auction Process Document and other documents to be provided for due diligence may not be complete, accurate, adequate or correct. Each Bidder should, therefore, conduct its own due-diligence, investigations and analysis and should also check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this E-Auction Process Information Document and may get independent advice from appropriate sources.*
- 1.12. *Information provided in this E-Auction Process Document to the Bidder(s) has been collected and collated from several sources. The information given by no means claims to be an exhaustive account of statutory requirements and should not be regarded as complete. The Liquidator accepts no liability or responsibility for the authenticity, accuracy or otherwise for any statement or information contained in the E-Auction Process Document.*

## 2. KEY DEFINITIONS

- 2.1. **“Adjudicating Authority”** or **“NCLT”** shall mean the Hon’ble Principal Bench of the National Company Law Tribunal;
- 2.2. **“Applicable Laws”** shall mean, all the applicable laws, codes, regulations, rules, guidelines, circulars, re-enactments, revisions, applications and adaptations thereto, judgments, decrees, injunctions, writs and orders of any court, arbitrator or governmental agency or authority, rules, regulations, orders and interpretations of any governmental authority, court or statutory or other body applicable for such transactions including but not limited to the Insolvency and Bankruptcy Code, 2016 and relevant regulations, circulars, notifications, Companies Act, 1956 / 2013 (as applicable), Competition Act, 2002, Transfer of Property Act, 1882, Sale of Goods Act, 1930, Foreign Exchange Management Act, 1999, whether in effect as of the date of this E-Auction Process Information Document or thereafter and each as amended from time to time;
- 2.3. **“Bid”** means, any bid submitted by the Bidders as required in terms of this E-Auction Process Information Document and in accordance with the provisions of Insolvency and Bankruptcy Code, 2016 read together with the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and the Applicable Laws;
- 2.4. **“Control”** includes the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner
- 2.5. **“E-Auction Process Participant”** or **“Bidder”** mean, Person or Persons who shows interest in Corporate Debtor and carries out due diligence in terms of this E-Auction Process Information Document and/or submits a bid as per E-Auction Process Information Document; and shall include a Qualified Bidder or the Successful Bidder, as the case may be, and as the context requires;
- 2.6. **“E-Auction Process Document”** means this document including all the appendices hereto, for the purposes of setting out the process for submission of a bid and selection of Successful Bid in accordance with the provisions of the IBC and shall include all supplements, modifications, amendments, alterations or clarifications thereto issued in accordance with the terms hereof.

- 2.7. **“EMD”** means Earnest Money Deposit required by the E-Auction Process Participant to deposit with the Liquidator as the security before being eligible to bid for the assets of the company in E-Auction. EMD shall be deposited in accordance with the terms set out in this E-Auction Process Information Document in compliance with IBC and other applicable laws.
- 2.8. **“Going Concern”** means the ability of the company to continue operations/buiness in the future with the availability of the resources.
- 2.9. **“IBC” or “Code”** shall mean Insolvency and Bankruptcy Code, 2016 and the related rules and regulations issued there under, as amended from time to time.
- 2.10. **“Liquidation Process Regulations”** means, the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016 as amended from time to time;
- 2.11. **“Liquidator”** means an Insolvency Professional appointed as a liquidator in accordance with section 34 of the IBC;
- 2.12. **“Person”** shall mean an individual, a partnership firm, an association, a corporation, a limited company, a trust, a body corporate, bank or financial institution or any other body, whether incorporated or not;
- 2.13. **“Qualified Bidder(s)”** shall mean a Bidder who fulfills the eligibility criteria listed out in the E-Auction Process Information Document.
- 2.14. **“Successful Bidder” or “Successful E-Auction Process Participant”** means, the Qualified Bidder whose bid is approved and who is declared successful by the Liquidator at the end of the determined auction phase.

## **BRIEF BACKGROUND**

- 2.15. Lotus Auto Engineering Limited (Corporate debtor or the Company) incorporated on 15<sup>th</sup> November, 2010 under the provisions of the Companies Act, 1956 and having its registered and corporate office located at 3 & 4 L.S.C Pamposh Enclave Greater Kailash, Part-1 New Delhi New Delhi. The factory is working at the land which is located at SP 501(b), RIICO Industrial Area Bhiwadi, Rajasthan. The land is on lease for the period of 99 years from lessor RIICO. It was originally with Jumbo Chemical and allied Industries Private Limited and transferred to Lotus Auto Engineering Ltd vide transfer deed in January, 2011.
- 2.16. The company deals in the business of automobiles and was manufacturing from low to medium weight machined castings and supplying for companies like Maruti Suzuki India Limited, Cummins Inc, BorgWarner, Meritor, Brakes India, Multimatic etc.
- 2.17. Due to recent nation-wide lockdown because of COVID-19, the turnover of the company got severely affected.
- 2.18. The Company's Liquidation Process has been initiated under the provisions of the Insolvency and Bankruptcy Code, 2016 by an order of the NCLT, Principal Bench dated 01<sup>st</sup> June, 2020. Further, with effect from 12<sup>th</sup> June, 2020, Ashok Kumar Gulla has been appointed as the Liquidator, which has been considered as the Liquidation Commencement Date.
- 2.19. It is the endeavor of the Liquidator to sell the assets and properties comprising the liquidation estate of the Company in the manner specified under Regulation 32 of the Liquidation Process Regulations, any other rules, regulations, orders, circulars, directions or notifications or the like, issued pursuant to or under the IBC or the Liquidation Process Regulations, as the case may be, and as per directions, if any, of the NCLT in respect of the liquidation process of the Company and in the manner specified in this E-Auction Process Information Document.
- 2.20. The E-Auction would be conducted in the manner specified in Schedule I under Regulation 33 of the Liquidation Process Regulations, any other rules, regulations, orders, circulars, directions or notifications or the like, issued pursuant to or under the IBC or the Liquidation Process Regulations, as the case may be, and as per directions, if any, of the NCLT in respect of the liquidation process of the Company and in the manner specified in this E-Auction Process

## Information Document.

- 2.21. The E-Auction Participants (“Bidders” or “E-Auction Applicants”) are expected to be well acquainted with the provisions of the IBC and the Liquidation Process Regulations and any other rules, regulations, orders, circulars, directions or notifications or the like, issued pursuant to or under the IBC or the Liquidation Process Regulations, as the case may be.
- 2.22. The information provided in this E-Auction Process Document should be read together with the provisions of the Code and the Liquidation Process Regulations. In the event of a conflict between this E-Auction Process Information Document and the Code or the Liquidation Process Regulations, the provisions of the Code and / or the Rules and Regulations made therein, as the case may be, shall always prevail.
- 2.23. The information contained in this E-Auction Process Document or subsequently provided to Bidder(s), whether verbally or in documentary or any other form by or on behalf of the Liquidator, is provided to Bidder(s) as a part of this E-Auction Process Document.
- 2.24. 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 and the same will be updated in company’s website i.e. <http://lotus-auto.in/>. The Bidders are advised to regularly visit the website of Corporate Debtor for any updates relating to e-auction process or liquidation.
- 2.25. The issuance of this E-Auction Process Document does not imply that the Liquidator is bound to select a Bidder or to appoint the Preferred Bidder as Successful Bidder for the assets of the company and the Liquidator reserves the right to reject all or any of the Bidders or bids without assigning any reason whatsoever.
- 2.26. All terms and conditions with respect to the sale of the assets and properties of the company shall be governed by the directions of the Liquidator, NCLT and in accordance with the provisions of applicable laws. As mandated by the NCLT, the Liquidator shall exercise all rights with respect to sale of the Assets and Properties and it would be open to the Liquidator to appoint such experts, professionals or other persons, as the Liquidator might think necessary, in consultation with NCLT, so as to enable the sale of the assets.

2.27. The Annexures to this E-Auction Process Document shall form an integral part hereof and this E-Auction Process Information Document shall always be read in conjunction with the Annexures appended hereto.

### **3. ASSETS FOR SALE THROUGH E- AUCTION**

3.1. The liquidator proposes the sale of corporate debtor as a going concern.

The corporate debtor has following assets:

- Land & Building
- Plant & Machinery
- Inventories
- Long Term Loan and Advances
- Short Term Loan and Advances
- Trade Receivables
- Other current assets
- Cash and Cash Equivalents

#### **3.1.1. Land and Building of Lotus Auto Engineering Limited**

- The Corporate Debtor has one manufacturing facility which is located at Plot No. SP-501(B), Industrial Area, Bhiwadi, Rajasthan. As per the copy of lease deed, plant of the company spread over a plot admeasuring 20,003 sqm. Plot comprises 4 nos. of sheds, along with an office block, transformers area, control panel room, other miscellaneous structures with a total built up area of 11590 sqm. It is almost rectangular in shape. The built up area details are as below:

<b>Name of Building Structures</b>	<b>Built up Area (in Sqm)</b>	<b>Type of Structure</b>
Admin Block	735	RCC Structure with RCC Roofing



Shed L1	3,071	Steel Structure with Shed Roofing
Shed L2	2,936	Steel Structure with Shed Roofing
Shed L3	3,408	Steel Structure with Shed Roofing
Shed L4	1,342	Steel Structure with Shed Roofing
HT Room	89	RCC Structure with RCC Roofing
Guard Room	9	RCC Structure with RCC Roofing
<b>Total</b>	<b>11,590</b>	

- These assets are being put up for E-Auction on “**As on where on basis**”, “**As is where is basis**”, “**As is what is basis**”, “**Whatever there is basis**” and on “**No recourse**” basis. The lease deeds / title documents and other relevant details will be provided at the time of carrying out due diligence after providing confidentiality undertaking and compliance under Section 29A of IBC.

### **3.1.2. Plant & Machinery located at the factory of Lotus Auto Engineering Limited**

- The Plant & Machineries includes other movables assets like Furniture & Fixtures, Computers, Office Equipment etc. The Corporate Debtor is engaged in manufacturing of low to medium weight machined casting and supplied various auto components like Turbine Housing, Slip Yoke, Front Engine Support (FES), Brake Drums, Pulleys, Chamber Brackets, Lateral Link, Bearing Cap, Top Link, Torque Plate, Case Differential, Planetary Hub Carrier to multiple reputed Original Equipment Manufacturers (OEMs) including BorgWarner, Cummins, Meritor, Maruti Suzuki, Brake India, Multimatic. Shed L1 and Shed L3 are the production floors in the factory.
- The Corporate Debtor has installed number of machines in both sheds which majorly includes CNC Turning Center, Vertical Machining Center (VMC), Vertical Turning Lathe (VTL), Leak Testing Machine, Bolt Pressing Machine, Bush Pressing, Marking Machine, Robotic Painting Machine, Broaching Machine, Ultrasonic/Jet Washing Machine, Balancing Machine, Powder Coating Machine. Shed L4 contains machines like DG Set, Auto Measuring Machine, Welding Set, Powder Coating Machine, Marking Machine, Drilling Machine, Leak Testing Machine etc. Many machines related to utilities including Air Dryer, Compressor, DG Sets, LT Panel, Ducts, Fans, Tank, Air Conditioners and also Stores Equipment including Fork Lifter, Hand Pallets,

Weighing Scale, Racks, Trolleys, Floor Crane etc are available in the factory. Admin assets like Furniture & Fixtures, Office Equipment, Computers etc also included in the Plant & Machineries.

- These assets are being put up for E-Auction on **“As on where on basis”, “As is where is basis”, “As is what is basis”, “Whatever there is basis” and on “No recourse” basis**. The list of plant and machineries will be provided at the time of carrying out due diligence after providing confidentiality undertaking and compliance under Section 29A of IBC.

### **3.1.3. Inventories**

- Inventories of the Corporate Debtor consists of Raw Materials including Child Parts, Work in Progress Goods, Finished Goods and Consumables & Stores. Raw Materials majorly comprise casting of Turbine Housing, Front Engine Support (FES), Break Drums. The products under work in progress comprises mostly for customer named Meritor USA. Finished Products mostly comprises auto parts such as Turbine Housing, FES, Break Drum etc which were packed in the wooden boxes after finishing process completed. Stores and spares which comprises broaches, dills, tool holders, back side milling, boring bar, finishing boring bar, grooving tools, oil and lubricants etc are kept at store in the premises.
- These assets are being put up for E-Auction on **“As on where on basis”, “As is where is basis”, “As is what is basis”, “Whatever there is basis” and on “No recourse” basis**. The other details will be provided at the time of carrying out due diligence after providing confidentiality undertaking and compliance under Section 29A of IBC.

### **3.1.4. Long and Short Term Advances and Trade Receivables**

The Corporate Debtor’s Long Term Loan & Advances consist of Security Deposits and Capital Advance as on Liquidation Commencement Date i.e. 12.06.2020. Security Deposit is from Electricity Department and Sales Tax Department. Short Term Loan & Advances consist of Staff Advances, Other Advances and Balance with Revenue Authorities. Trade Receivables consist of account recoverable majorly from Amtek Auto Limited.

These assets are being put up for E-Auction on **“As on where on basis”, “As is where is basis”, “As is what is basis”, “Whatever there is basis” and on “No recourse” basis**. The E-Auction Participant is to carry out their own due diligence regarding realization from these Advance and Trade Receivables. The other details will be provided at the time of carrying out due diligence after providing confidentiality undertaking and compliance under Section 29A of IBC.

### **Other Current Assets**

- Other Current Assets of the Corporate Debtor as on Liquidation Commencement Date amount include Interest Accrued on Deposit and Tax Deducted at Source (TDS) Receivable.

These assets are being put up for E-Auction on “**As on where on basis**”, “**As is where is basis**”, “**As is what is basis**”, “**Whatever there is basis**” and on “**No recourse**” basis. The other details will be provided at the time of carrying out due diligence after providing confidentiality undertaking and compliance under Section 29A of IBC.

- Cash & Cash Equivalents include Term Deposit and Balance with Scheduled Banks as on Liquidation Commencement Date. These balances will undergo change as on subsequent date.
- These assets are being put up for E-Auction on “**As on where on basis**”, “**As is where is basis**”, “**As is what is basis**”, “**Whatever there is basis**” and on “**No recourse**” basis. The other details will be provided at the time of carrying out due diligence after providing confidentiality undertaking and compliance under Section 29A of IBC.

#### **4. DOCUMENTS REQUIRED TO BE SUBMITTED TO ASCERTAIN ELIGIBILITY OF THE BIDDER**

E-Auction Process Applicant or the Bidder is to submit the following forms, documents and authorizations as part of the E- auction process for carrying out the due diligence of the assets of Corporate Debtor mentioned in this document:

1. Application form as per **Annexure I** along with supporting documents;
2. Affidavit and Undertaking by E-Auction process applicant to be eligible under Section 29A of Insolvency and Bankruptcy Code, 2016 (through authorized signatory, incase the bidder is a legal entity.) The format is attached as **Annexure II**; and
3. Confidentiality Undertaking as per **Annexure III**.

Please note that only those bidders will be provided access to various documentats, additional information required for due diligence, who submit Section 29A undertaking along with confidentiality undertaking stating not to disclose any provided information to third party. Further, if needed, the site visits for the bidders may also be coordinated by the Liquidator.

Further, it should be noted that at any stage of the E-Auction process, the liquidator may ask for any documents from the prospective bidders to evaluate their eligibility. The liquidator, at his discretion may disqualify the prospective bidder for non-submission of the requested documents.

## **5. RESERVE PRICE AND EARNEST MONEY DEPOSIT (EMD)**

5.1. The Liquidator has fixed Reserve Price and EMD for sale through E auction as under:

<b>Assets</b>	<b>Reserve Price (Rs.)</b>	<b>Earnest Money Deposit (Rs.)</b>
Sale of corporate debtor as a going concern	<b>Rs 40.00 Crores</b>	<b>Rs 2.00 crores</b>

5.2. It is to be noted that the bidders cannot place a bid for the block of assets at a value below the reserve price. Further, the bidders can increase their Bid by a minimum incremental amount of Rs. 25 lakh for Block 1 or in multiples of this amount.

5.3. **EARNEST MONEY DEPOSIT (EMD):** E-Auction Process Applicants after submission of bid application form along with other documents as mentioned in Para 4 above and after carrying due diligence, but prior to submission of their auction bids, shall provide an amount which is equal to the 5% of the reserve price as earnest money (“EMD”) by way of a bank guarantee issued by any scheduled commercial bank in India (“Bank”) in favour of the Guarantee Beneficiary, i.e., Lotus Auto Engineering Limited – in liquidation, in the Format A (Earnest Money – Bank Guarantee) provided in this E-Auction Process Document. Alternatively, the EMD can also be deposited in the following account:

Account Number: **3850361401**

Guarantee Beneficiary Name: **Lotus Auto Engineering Limited**

Bank Name: **Central Bank of India**

Branch: **Parliament Street, New Delhi**

IFSC Code: **CBIN0280316**

- 5.4. The details of any remittances in this regard shall be entered in the Bid Application Form annexed as **Annexure IV** along with declaration in the format annexed as **Annexure V** to be submitted by the Bidder. The entire EMD amount shall be remitted by the Bidder (s) from one bank account only which shall be owned by the Bidder.
- 5.5. All the payments to be made by the Bidder under the E-auction shall be intimated to the Liquidator at [ip.lotus@rbsa.in](mailto:ip.lotus@rbsa.in). It should be noted that No interest will be paid to the auction process applicant in relation to such Earnest Money amount. Bidders shall preserve the remittance Challan and shall produce the same in front of the Liquidator as and when demanded.
- 5.6. **Login ID and Password:** The eligible bidders shall be provided with the login ID and Password for e-auction portal so as to enable the Bidder to bid for the asset, only after deposit of EMD and declaration in **Annexure V** along with **Annexure IV**.
- 5.7. In case the E- auction process applicant is not the successful bidder in the process, the Earnest Money Deposit submitted by the applicant will be returned without any interest within 15 days from the completion of e-auction bidding process. The said clause will be applicable irrespective of the fact that E- auction process applicant participates or not in the bidding process.
- 5.8. **Forfeiture of EMD:** The Earnest Money furnished can be forfeited at any time, upon the occurrence of any of the following events:
- If there is a breach of any of the conditions under this E-Auction Process Information Document by the Bidder or in case Bidder is found to have made any misrepresentation; or
  - 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
  - If the Bidder is identified as the Successful bidder and it fails to extend the validity of the Earnest Money through the bank guarantee or does not accept the Letter of Intent issued by the Liquidator.
  - If the Successful Bidder fails to make the complete payment as per the terms of the Letter of Intent issued by the Liquidator.
- 5.9. The Guarantee Beneficiary through Liquidator shall have the right to invoke the bank guarantee for a period upto 30 (thirty) days from the last date of the submission of the Earnest Money, by issuance of a written demand to the Bank in the circumstances as set out in the Bank Guarantee.
- 5.10. **Set-Off of Earnest Money of the Successful Bidder:** Unless expressly indicated by the Bidder, the Earnest Money shall be set-off against or used as

part of the consideration that the successful bidder proposes to offer in relation to the Company.

## **6. TERMS FOR PARTICIPATION IN E -AUCTION**

- 6.1. **ELIGIBILITY:** In compliance with the proviso of Section 35 (1)(f) of Insolvency and Bankruptcy Code 2016, “*Provided that the liquidator shall not sell the immovable and movable property or actionable claims of the corporate debtor in liquidation to any person **who is not eligible to be a resolution applicant.***” Therefore, an E-Auction Process Applicant shall not be eligible to submit a bid for purchase of assets of the Company if it fails to meet the eligibility criteria as set out in Section 29A of the IBC (as amended from time to time).
- 6.2. The Applicant or the Bidder is to submit the following forms, documents and authorizations as part of the Auction Plan to be eligible to be for participation in E auction for sale of these assets as mentioned in Para 4 of this Document .
- ✓ Application form along with supporting documents as per **Annexure I**
  - ✓ Affidavit stating eligibility under Section 29A of Insolvency and Bankruptcy Code, 2016 as per **Annexure II**
  - ✓ Confidentiality Undertaking as per **Annexure III.**
- 6.3. The access to documentation, additional information required for due diligence will be provided after due submission of above mentioned documents.
- 6.4. The liquidator may ask for any documents from the prospective bidders to evaluate their eligibility at any stage of bidding. The liquidator, at his discretion may disqualify the prospective bidder for non-submission of the requested documents.
- 6.5. **Due Diligence by Bidders:**
- a) The interest bidder, after submission of necessary documents as mentioned in Para 4 and 6.2 of this document shall be provided access to Virtual Data Room (VDR) and access to the title documents/lease agreements and other documents relating to the assets put up for sale. The documents shall also be available on request to be made to the Liquidator at [ip.lotus@rbsa.in](mailto:ip.lotus@rbsa.in). Further, potential bidders may reach to the team members of Liquidator for further scrutiny of documents/ discussion from the Liquidator

Team.

- b) The Bidders may request the Liquidator via email and/or contact number to arrange for physical verification and site visit of the Plant. Upon receipt of such a request, the Liquidator may first arrange a discussion meeting at any time prior to the closure of the E-auction process and may coordinate a site visit for Bidders at any time prior to the closure of the E-Auction process. The Liquidator will communicate, in advance, to such Bidder, all the relevant details, terms and conditions, if any, with respect to such Site Visit. The Liquidator reserves the right to not arrange a site visit for any reason whatsoever, irrespective of the request of the Bidder.
- c) The Liquidator shall endeavor to provide necessary assistance, facilitating the conduction of due diligence by interested Bidders. The information and documents shall be provided by the Liquidator in good faith.
- d) The properties and assets of the Company 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 of the Company does not entail transfer of any title, except the title which the Company had on its assets as on date of transfer. All local taxes / maintenance fee / electricity / water charges etc., outstanding as on date or yet to fall due in respect of the relevant asset should be ascertained by the E-Auction process applicant and would be borne by the successful bidder.

#### **6.6. Declaration of Successful Bidder**

- a) The Liquidator at the end of the E-Auction phase, shall declare the successful bidder(s) for any the each block(s). The successful bidder(s) shall be determined on the basis of highest bid received for the asset block (s) by the Liquidator via the E-Auction portal process. In case of any dispute / discrepancy, the Liquidator shall assess the E-Auction applications and declare the successful bidder(s) offering maximum value for the auctioned assets. This right of selecting and declaring the successful bidder (s) shall solely rest with the Liquidator at all times.
- b) The Liquidator shall endeavor to sell all blocks and maximize overall recovery from the sale of Assets of the Company. While evaluating bids, the Liquidator may provide preference to bids for more than one block. The Liquidator may provide preference to bid

(or combination of bids) that provides highest overall recovery even if, for one particular block, some other bid provides for a higher offer than a consolidated bid for that one block.

#### **6.7. Issuance of Letter of Intent and Transaction Documents**

The Successful Bidder, within a period of 7 days from closure of e-auction process, shall be required to execute a letter of intent (LOI) provided by the Liquidator (**Annexure VI**), the terms of which shall be binding on the Bidder. A sale certificate and / or conveyance document and/ or transfer documents for the relevant asset/assets shall be issued / executed between the Successful Bidder and the Company within a period of 1-10 days from receipt of the balance sale consideration and execution of the LOI. The assets of Corporate Debtor along with relevant documents shall be transferred to the successful bidder as on the date of execution of sales certificate.

#### **6.8. Payment of Balance Sale Consideration:**

In terms of Clause 12 of Schedule I (Mode of Sale) of Liquidation Process Regulations, highest bidder shall be invited to provide balance sale consideration within 90 days of the date of such demand for payment. Provided that payments made after thirty days shall attract interest at the rate of 12%: The sale shall be cancelled if the payment is not received within 90 days.

#### **6.9. Fraudulent and Corrupt Practices:**

a) The E-Auction Process Applicant / Bidder shall observe the highest standard of ethics during the E-Auction Process and subsequently during the closure of the E-Auction Process and declaration of successful bidder. Notwithstanding anything to the contrary contained in this E-Auction Process Document, or in the Letter of Intent, the Liquidator shall reject an auction bid, revoke the Letter of Intent, as the case may be, without being liable in any manner whatsoever to the E-Auction Process Applicant, if the Liquidator, at his discretion, determines that the E-Auction process applicant has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the E-Auction Process or has, undertaken any action in respect of such process which results in the breach of any Applicable Law including the Prevention of Corruption Act, 1988. In such an event, the Guarantee Beneficiary may invoke the



Earnest Money, without prejudice to any other right or remedy that may be available to the Liquidator under this E-Auction Process Information Document or Applicable Law.

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

- “coercive practice” shall mean impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the auction Process;
- “corrupt practice” shall mean (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the auction Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Liquidator or the Company, who is or has been associated or dealt in any manner, directly or indirectly with the auction Process or arising there from, before or after the execution thereof, at any time prior to the expiry of 1(one) year from the date such official resigns or retires from or otherwise ceases to be in the service of the Liquidator or the Company, shall be deemed to constitute influencing the actions of a person connected with the auction Process); or (ii) engaging in any manner whatsoever, during the auction Process or thereafter, any person in respect of any matter relating to the Company, who at any time has been or is a legal, financial or technical adviser of the Liquidator or the Company, in relation to any matter concerning the auction process;
- “fraudulent practice” shall mean a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the auction Process;
- “restrictive practice” shall mean forming a cartel or arriving at any understanding or arrangement among the auction process Applicants with the objective of restricting or manipulating a full and fair competition in the auction Process; and
- “undesirable practice” shall mean (i) establishing contact with any person connected with or employed or engaged by the liquidator with the objective of canvassing, lobbying or in any

manner influencing or attempting to influence the auction Process; or (ii) having a Conflict of Interest.

6.10. The Bidder shall not involve himself for any of his representatives in price manipulation of any kind directly or indirectly by communicating with other Bidders. The Bidder shall not divulge either his bid or any other details provided to him by the Liquidator or during the due diligence process in respect of the asset to any other party.

**6.11. Costs, Expenses and Tax Implications:**

- a) The E-auction Process Applicant shall be responsible for all the costs incurred by it on account of its participation in the auction process, including any costs associated with participation in the discussion Meeting (if any), Site Visit, etc. The Liquidator shall not be responsible in any way for such costs, regardless of the conduct or outcome of the auction Process.
- b) It is hereby clarified that the E-Auction Process Applicant shall make its own arrangements including accommodation for the discussion Meeting (if required) or Site Visit and all costs and expenses incurred in that relation shall be borne by the E-Auction Process Applicant. The E-Auction Process Applicant shall not be entitled to receive any re-imburement of any expenses which may have been incurred while carrying out the due diligence, search of title to the assets and matters incidental thereto or for any purpose in connection with the E-Auction Process.
- c) The successful bidder shall bear all the necessary expenses like applicable stamp duties / additional stamp duty / transfer charges, fees, etc. for transfer of property/ assets ( in his / her/its name. Purchaser has to bear the cess or other applicable tax i.e. GST, TDS, etc.
- d) It is expressly stated that the Liquidator does not take or assume any responsibility for any dues, statutory or otherwise, of the Company, including such dues, if any, which may affect transfer of the liquidation assets in the name of the Successful Bidder and such dues, if any, will have to be borne / paid by the Successful Bidder.

- e) The E-Auction process applicant shall be responsible for fully satisfying the requirements of the IBC and the related Regulations as well as all Applicable Laws that are relevant for the sale process. The Successful Bidder shall be responsible for obtaining requisite regulatory or statutory or third-party approvals, no-objections, permission or consents, if any, that are or may be required under Applicable Law for purchasing the relevant assets.

#### **6.12. Other Terms and Conditions of the E-auction**

- a) E-Auction is being held on “AS IS WHERE IS”, “AS IS WHAT IS”, “WHATEVER THERE IS” AND “WITHOUT RECOURSE BASIS” and will be conducted “On Line”. The auction will be conducted through the approved service provider M/s E-Procurement Technologies Limited, at the web portal <https://auctiontiger.net>. E-Auction Process document containing E-Auction bid form, Declaration by bidders, General terms and conditions of online auction sales are available on Websites <https://.auctiontiger.net> Interested bidders can register, bid and receive confirmation of their bid online. The requisition of additional information, if any, be sent to [ip.lotus@rbsa.in](mailto:ip.lotus@rbsa.in) disclosing the identity of the Applicant.
- b) The Prospective Bidders should make their own Independent inquiries regarding the encumbrances, title of assets put on auction and claims/rights/dues/ affecting the assets, and should conduct their own due-diligence prior to submitting their bid. The E-Auction advertisement does not constitute and will not be deemed to constitute any commitment or any representation of the Liquidator. The property is being sold with all the existing and future encumbrances/claims/dues/demands whether known or unknown to the Liquidator. Liquidator shall not be responsible in any way for any third party claims/ rights/ dues discovered post auction of the asset.
- c) The Prospective Bidders should submit the evidence for EMD deposit like UTR number along with the Request Letter for participation in E-auction, self- attested copies of (i) Proof of identity (KYC) viz. Voter ID card/ Driving License/ Passport etc., (ii) Current Address-Proof for communication, (iii) PAN card of Bidder, (iv) Valid Email ID, (v) contact number (Mobile/Landline) of the bidder etc., at the Email ID of Liquidator i.e. [ip.lotus@rbsa.in](mailto:ip.lotus@rbsa.in).

- d) Name of Eligible Bidders will be identified and conveyed by Liquidator to participate in online E-auction on the portal <https://www.auctiontiger.net>; "Auction Tiger". The Liquidator will provide User ID & Password to the Eligible Bidders after due verification of KYC of the Eligible Bidders and submission of EMD by such eligible bidders.
- e) The E-Auction / bidding of the assets of Lotus Auto Engineering Limited (under liquidation) would be conducted exactly on the schedule Date & Time and the same shall be intimated to the Bidders via separate email. The bidder may improve their offer in multiple of "Bid Increment Amount" against each property. The Bid Increment Amount of **Rs. 25 lakh or in its multiples**.
- f) The Liquidator is not bound to accept the highest offer and has the absolute right to accept or reject any or all offer(s) or adjourn / postpone/ cancel the E-Auction or withdraw any property or portion thereof from the auction proceedings at any stage without assigning any reason there for.
- g) The sale certificate will be issued and / or transaction / sale documents executed in the name of Successful Bidder(s) / Successful E-Auction Process Applicant(s) only and will not be issued in any other name(s). The sale shall be subject to conditions prescribed under the Insolvency & Bankruptcy Code, 2016, provisions and regulations thereunder.
- h) The interested bidders may give offers either for one or more than one asset blocks. In case a bidder bids for more than one asset, he will be required to submit separate EMD amounts for each asset blocks.
- i) The decision of the Liquidator on declaration of Successful Bidder shall be final and binding on all the Bidders.

6.13. **Technical Terms & Conditions of E-auction sale**

- a) Intending bidders shall have a valid e-mail ID, valid PAN Card and KYC document to register with the E- Auction Service Provider. Intending bidders have to register with the E-auction service provider.
- b) Only upon verification of the Online Form and confirmation of

remittance of EMD will the Eligible Bidders be declared and thereafter, permitted to access the Platform for bidding for a particular Property.

- c) The Bidder shall be solely responsible for all consequences arising out of the bid submitted by him (including any wrongful bidding) and no complaint/ representation will be entertained in this regard by the Agency/ the Seller. Hence, Bidders are cautioned to be careful to check the bid amount and alter/rectify their bid if required before confirming the bid submitted.
- d) Bidders should not disclose or share their User ID as well as password and other material information relating to the bidding to anyone to safeguard its secrecy. Bidders are advised to change the password immediately on receipt thereof.
- e) The Affidavit and Declaration as per the formats set out in ***Annexure II and III*** must be executed in accordance with applicable law and it must be issued in accordance with the constitutional documents of the Bidder, if applicable, after obtaining all corporate approvals as may be required. The extract of constitutional documents and certified copies of the corporate approvals must be enclosed with the declaration. In case of Bidder being an individual, the declaration must be personally signed by the Bidder. In case the Bidder is not an individual, the declaration must be signed by a person who is in full time employment of the Bidder and duly authorized to sign the same.
- f) All the aforementioned documents are required to be uploaded on the portal and the original physical copies thereof shall be provided by the Successful Bidder to the Seller in accordance with the Process Sale Document.
- g) All bids placed are legally valid bids and are to be considered as bids from the Bidder himself. Once the bid is placed, the Bidder cannot reduce or withdraw the bid for whatever reason. If done so, the EMD amount shall be forfeited.
- h) The highest bid on the auction shall supersede all the previous bids of the respective Bidders. The Bidder with the highest offer/ bid does not get any right to demand for acceptance of his bid.
- i) After the conclusion of the E-auction for each Property, the Successful Bidder shall be informed through a message generated automatically by the portal, of the outcome of the E-auction. A

separate Intimation shall also be sent to the Successful Bidder. Date of sending the e-mail will be considered as the date of receipt of the Intimation i.e. Date of Intimation.

- j) Bidders may encounter certain unforeseen problems such as time lag, heavy traffic, and system/ power failure at the Bidder's end. To avoid losing out on bidding because of above-mentioned reasons, it is advised not to wait for the last moment.

#### **6.14. Governing Law and Jurisdiction**

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

#### **7. Timeline for Completion sale through e-auction**

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

<b>S.No.</b>	<b>Event</b>	<b>Date</b>
1.	Public Announcement of E-Auction	23-10-2020
2.	Opening of Auction Portal and this E-Auction Process Document made available on the websites as per Terms and Conditions	23-10-2020
3	Submission of Bid application along with various declarations and Due diligence by bidders that include scrutiny of documents and site visit, if any	On or before 05-12-2020
4	Submission of EMD	On or before 05-12-2020
5	Communication to Bidders who are eligible to participate in auction and providing Login and password	On or before 07-12-2020
6	Holding of e- auction	H i.e. 08-12-2020
7	Announcement of successful bidder	H +3
8	Signing the Letter of Intent (LoI)	H+7
9	Return of EMD for unsuccessful bidders	H+15

10	Payment of balance consideration by successful bidder	H+90
11	Execution of sale certificate or any other document	H+90 +(within 1-10 days)
12	Handing over charge of the assets put on sale along with various documents to successful bidder	H+90 +(within 1-10 days)

The Time table may undergo change subject to any further development which shall be intimated to the Bidders via email.

**Sd/-**

**Ashok Kumar Gulla**

**Liquidator**

**Lotus Auto Engineering Limited (in Liquidation)**

**IP Registration no. IBBI/IPA-003/IP-N00024/2017-2018/10174**

**RBSA Restructuring Advisors LLP,**

**2nd Floor, IAPL House, 23,**

**South Patel Nagar, New Delhi - 110008**

**Date: 23<sup>rd</sup> October, 2020**

**ANNEXURE I**  
**Application Form**

(Please fill up separate Bid application forms for each block of asset)

Date:

Mr. Ashok Gulla,  
Liquidator,  
Lotus Auto Engineering Limited – In Liquidation.

Dear Sir,

I am desirous in participating in the E-Auction announced by you in the newspaper publication dated ..... In ..... (name of media journal) or uploaded on company's website at <http://lotus-auto.in/> and at e-auction website.....

**Details of Bidder**

Name of the Bidder	
Constitution of Bidder	
Contact No.	
Email ID	
PAN No.	
Address	

I/ We/Me are interested in submitting bid for the following asstes:

**Details of Block of Asset (as per Para 5 of E auction Pocess Document):**

Description of Block	
Reserve Price of Block as per sales Notice	

I/We/M/s. also enclose copies of the required KYC documents. We request you to kindly verify the same and provide us the access to the Virtual Data Room/All the information relating to assets of Corporate Debtor for carrying out the due diligence.

Date:

Signature

Place:

STAMP

**List of documents enclosed:**

- Identity proof i.e. PAN card/ voter id card/ Aadhaar card and Company Incorporation certificate( in case of company).
- Undertaking under Section 29A of IBC
- Confidentiality Undertaking



**ANNEXURE II**  
**UNDERTAKING UNDER SECTION 29A OF INSOLVENCY AND**  
**BANKRUPTCY CODE, 2016**

To,  
Mr.Ashok Gulla,  
The Liquidator,  
Lotus Auto Engineering Limited - In Liquidation

Dear Sir,

1. 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 Information Sheet and have understood them fully. I / We, hereby unconditionally agree to confirm with and to be bound by the said terms and conditions and agree to take part in the E-auction process.
2. I hereby submit this declaration under Section 29A of the Insolvency and Bankruptcy Code, 2016 (“Code”) as inserted by the Insolvency and Bankruptcy Code (Amendment) Act, 2018, as amended from time to time.
3. I have understood the provisions of section 29A of the Code as inserted by the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018. I confirm that neither XYZ Limited nor any person acting jointly with XYZ Limited or any person who is a promoter or in the management or control of XYZ Limited or any person acting jointly with XYZ Limited:
  - a) is an un-discharged insolvent;
  - b) is a wilful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949;
  - c) 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 the corporate insolvency resolution process of the corporate debtor:

- d) has been convicted for any offence punishable with imprisonment: for two years or more under any Act specified under the Twelfth Schedule; for seven years or more under any law for the time being in force;
- e) is disqualified to act as a director under the Companies Act, 2013;
- 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;
- h) has executed an 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) of Section 29A, under any law in a jurisdiction outside India; or
- j) has a connected person (as defined in Explanation to Section 29A) who is ineligible under clauses (a) to (i) of Section 29A.

4. I therefore, confirm that XYZ Limited is eligible to be bidder in accordance to Section 29A of the Insolvency and Bankruptcy Code, 2016 (“Code”) as inserted by the Insolvency and Bankruptcy Code (Amendment) Act, 2018.
5. I undertake on behalf of XYZ Limited, that during the Liquidation Process, no person who would be considered as Connected Person and is not eligible to submit resolution plan under section 29A of Insolvency and Bankruptcy Code, 2016 and the regulation 38 of IBBI (Insolvency Resolution Process of Corporate Persons) regulations, 2016 shall be engaged in the management and control of corporate debtor.
6. I declare and undertake that in case the XYZ Limited becomes ineligible at any stage during the Liquidation Process, it would inform the Liquidator forthwith regarding its ineligibility.

7. I also undertake that in case the XYZ Limited becomes ineligible at any time after submission of the EMD, then the EMD would be forfeited and the same would be deposited in the account of Lotus Auto Engineering Limited – in liquidation.
8. I also further undertake that my winning bid Amount will remain binding unless rejected by the Liquidator.
9. I confirm that the said declaration and disclosure is true and correct.
10. I am duly authorised to submit this declaration by virtue of  
\_\_\_\_\_

(Signature with SEAL)

Name:

Address:

Email            Mobile:.....

**ANNEXURE III**  
**CONFIDENTIALITY UNDERTAKING**

This Confidentiality Undertaking has been signed by (**Name of Bidder**) having its office at \_\_\_\_\_ acting through Mr. (**Name of person authorised by applicant(s)**), the authorized signatory/authorized representative (“**Applicant**”), which expression shall, unless repugnant to the context, be deemed to include its successors, assigns or legal representative) in favour of Mr. Ashok Kumar Gulla, Liquidator of Lotus Auto Engineering Limited, in response to the advertisement dated <date of advertisement> in <name of newspaper> for e-auction of assets of Lotus Auto Engineering Limited.

The Bidder (s) hereby declare(s) and undertake(s) as follows:

1. The Bidder(s) shall not divulge any part of the information contained accessed through the data room which shall mean the virtual data room maintained by the Liquidator, created for the Bidder 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, for due diligence of the assets of the Corporate Debtor 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 Applicant binds such employees and third parties, by way of an undertaking/ agreements, to terms at least as restrictive as those stated in this Confidentiality Undertaking.

- f) the Bidder(s) shall ensure that all Confidential Information is kept safe and secured at all times and is protected from unauthorised access, use, dissemination, copying, any theft or leakage;
  - g) the Bidder(s) shall immediately destroy and permanently erase all Confidential Information upon the completion of sale of the Company as provided under IBC and the Liquidation Process Regulations and as per scheme of compromise or arrangement;
  - h) the Bidder(s) shall take all necessary steps to safeguard the privacy and confidentiality of the information received through the access of the Data Room and shall use its best endeavours to secure that no person acting on its behalf divulges or discloses or uses any part of the Confidential Information, including but not limited to the financial position of the Company, all information related to disputes by or against the Company and other matter pertaining to the Company; and
  - i) the Bidder(s) shall be responsible for any breach of obligations under this confidentiality undertaking (including any breach of confidentiality obligations by any employee or advisor or agent or director of the Bidder) and shall indemnify the Liquidator for any loss, damages, expenses and costs incurred by the Liquidator due to such breach of such obligations by the Bidder (s) or any person acting on its behalf.
3. Notwithstanding anything to the contrary contained herein, the following information shall however not be construed as Confidential Information:
- a) information which, at the time of disclosure to the Bidder(s) was already in the public domain without violation of any provisions of Applicable Law(s); or
  - b) information which, after disclosure to the Bidder(s) becomes publicly available and accessible without violation of Applicable Law(s) or a breach of this Confidentiality Undertaking; or
  - c) information which was, lawfully and without any breach of this Confidentiality Undertaking, in the possession of the Applicant (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 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 either party may be entitled to the remedies of injunction, specific performance and other equitable relief for a threatened or actual breach of this Confidentiality Undertaking.
7. Nothing in this Confidentiality Undertaking shall have the effect of limiting or restricting the liability of the Applicant(s) arising as a result of its fraud or wilful 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 Chandigarh shall have exclusive jurisdiction over matters arising out of or relating to this Confidentiality Undertaking.
10. Capitalised terms not defined under this Confidentiality Undertaking shall have the same meaning as provided in the IBC and relevant regulations.

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)]*.

(Signature with SEAL)

Name: .....

Address: .....

.....  
Email:.....

Mobile:.....

**ANNEXURE IV**  
**BID Application Form**

(Please fill up separate Bid application forms for each block of asset)

Date:

Mr. Ashok Gulla,

Liquidator,

Lotus Auto Engineering Limited – In Liquidation.

Dear Sir

I am desirous in participating in the E-Auction announced by you in the newspaper publication dated ..... In ..... (name of media journal) or uploaded on company's website at <http://lotus-auto.in/> and at e-auction website..... We have already submitted our application including confidentiality undertaking and undertaking for compliance under Sec 29A pf IBC for being eligible to participate in e-auction

**Details of Bidder**

Name of the Bidder	
Constitution of Bidder	
Contact No.	
Email ID	
PAN No.	
Address	

I/ We/Me are interested in submitting bid for the following asstes:

<b>Details of Block of Asset(as per Para 5 of E auction Pocess Document):</b>	
Description of Block	
Reserve Price of Block	
Details of EMD	
Mode of Payment (deposit in account/ bank Guarantee/ Draft)	
Amount deposited / Amount of BG	
Details of the transaction (enclose copy of BG or prof of depsit made)	

We request you to arrange with the auction portals for issue of an ID and password for us to enable us to take part in the E- Auction.

Date:

Signature

Place:

STAMP

**ANNEXURE V**  
**AFFIDAVIT AND DECLARATION BY BIDDERS**

To,  
Mr.Ashok Gulla,  
The Liquidator,  
Lotus Auto Engineering Limited - In Liquidation

Dear Sir,

1. 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 Information Sheet and have understood them fully. I / We, hereby unconditionally agree to confirm with and to be bound by the said terms and conditions and agree to take part in the E-auction process.
2. I / We declare that the Earnest Money Deposit (EMD) and the deposit towards purchase-price have been made by me / us as against my/our bid and that the particulars of remittance and all other information given by me/us in the online form is true and correct.
3. I / We further understand and agree that if any of the statement / information revealed by me / us is found to be incorrect and / or untrue, the bid submitted by me / us is liable to be cancelled and in such case, the EMD and / or any monies paid by me / us is liable to be forfeited by the Seller ("Liquidator") and the Seller will be at liberty to annul the offer made to me/us at any point of time.
4. I / We also agree that after my /our offer given in my /our bid for purchase of property (ies) is accepted by the Seller and if, I / We, fail to accept or act upon the terms and conditions of the sale or am / are not able to complete the transaction within the time limit specified for any reason whatsoever and /or fail to fulfil any / all the terms and conditions of the auction and offer letter, the EMD and other monies paid by me / us alongwith the online form and thereafter, are liable to be forfeited. The timeline for payment of final sale consideration may be extended by sole discretion of liquidator, to the extent permissible under the applicable laws and regulations. In case final sale consideration is not paid within timeline, the liquidator shall forfeit EMD and/or Performance BG.
5. I / We understand that the EMD of all Bidders shall be retained by



the Liquidator and returned only after the successful conclusion of the sale of property (ies). I / We, state that I / We, have fully understood the terms and conditions therein and agree to be bound by the same.

6. I / We confirm that our participation in the E-auction process, submission of bid or acquisition of the property (ies) pursuant to the provisions of the E-Auction Process Information Document will not conflict with, or result in a breach of, or constitute a default under (i) our constitutional documents; or (ii) any applicable laws; or (iii) any authorization or approval of any government agency or body; or (iv) any 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.
7. 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.
8. I/We also undertake to abide by the additional conditions if announced during the E-auction including any announcement(s) on correction of and / or additions or deletions to the time of auction portal and property (ies) being offered for sale. The assets are acquired as where on basis.
9. I/We confirm that the Seller and his employees, shall not be liable and responsible in any manner whatsoever for my/our failure to access and bid on the E-auction portal due to any unforeseen circumstances etc. before or during the auction event.
10. I therefore, confirm that XYZ Limited is eligible to be bidder in accordance to Section 29A of the Insolvency and Bankruptcy Code, 2016 (“Code”) as inserted by the Insolvency and Bankruptcy Code (Amendment) Act, 2018.
11. I undertake on behalf of XYZ Limited, that during the Liquidation Process, no person who would be considered as Connected Person and is not eligible to submit resolution plan under section 29A of Insolvency and Bankruptcy Code, 2016 and the regulation 38 of IBBI (Insolvency Resolution Process of Corporate Persons) regulations, 2016 shall be engaged in the management and control of corporate debtor.

12.I declare and undertake that in case the XYZ Limited becomes ineligible at any stage during the Liquidation Process, it would inform the Liquidator forthwith on becoming ineligible.

13.I also undertake that in case the XYZ Limited becomes ineligible at any time after submission of the EMD, then the EMD would be forfeited and the same would be deposited in the account of Lotus Auto Engineering Limited – in liquidation.

14.I also further undertake that my winning bid Amount will remain binding unless rejected by the Liquidator.

15.I confirm that the said declaration and disclosure is true and correct.

16.I am duly authorised to submit this declaration by virtue of  
\_\_\_\_\_

(Signature with SEAL)

Name:

Address:

Email:.....

Mobile:.....

**ANNEXURE VI**  
**LETTER OF INTENT**

Date:

To,  
[•]

Kind Attention: [•]

**Subject: Letter of Intimation (“LOI”) for Declaration of the Successful Bidder in the E- Auction Process for Sale of Assets of Lotus Auto Engineering Limited (“Company”)**

Dear Sir / Madam,

1. This is with reference to the e – auction process for sale of assets of Lotus Auto Engineering Limited (“**Company**”) conducted on [•]. Lotus Auto Engineering Limited has been admitted into Liquidation vide order passed by Principal Bench of Hon’ble National Company Law Tribunal, New Delhi dated 12.06.2020 where the undersigned was appointed as the Liquidator of the Company. Pursuant to the public advertisement dated [•] published in [•], I, the Liquidator of Lotus Auto Engineering Limited (“**Liquidator**”) invited prospective bidders (fulfilling the minimum qualification criteria as set out in the e – auction process document) to submit a bid for the assets of the Company in various blocks. Pursuant to the terms and conditions set out in the E- Auction Process Document, you have submitted *inter – alia* the ‘Bid Application Form’ and ‘Bid Declaration Form’ along with undertaking under Section 29A of IBC and confidentiality to take part in the E-Auction Process for Block [**Block No**] described as [**Details of assets under Block**].
2. As per Clause [•] and Clause [•] of the E-Auction Process Document, you have become the ‘**Successful Bidder**’ for the block of assets at No [•].
3. In view of the above and as per the provisions of the E-Auction Process Document, I, the undersigned, being the Liquidator of Lotus Auto Engineering Limited, am issuing this Letter of Intimation to you.
4. The total consideration, as per your bid, for the sale of the block no [•] of assets [**Describe block sold**] is Rs. [•] (“**Sale Consideration**”). You have provided an earnest money deposit of Rs. [•] (“**EMD**”) vide [**Date and mode of payment of EMD**] prior to the E – Auction Process, in accordance with the terms of the E – Auction Process Document. As per Paragraph 1(12) of Schedule I of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (“**Liquidation Regulations**”) and Clause [•] (*and other relevant clauses*) of the E - Auction Process Document, you are required to pay the Balance Sale Consideration of Rs. [•]/- (Rupees [•] only)

(“**Balance Sale Consideration**”), towards the said sale of the Company within 90 (ninety) days from the date of issuance of this letter. Provided that where the payment is made after 30 days from issuance of this letter, it shall be paid along with interest @ 12%.

5. Upon receipt of the Balance Sale Consideration, the sale shall stand consummated and the certificate of sale to transfer the assets of the Company relating to Block [•] shall be executed in your favour.
6. In the event of any breach/default by you with respect to furnishing the Balance Sale Consideration within the time period as specified in the Liquidation Regulations, the EMD provided by you, shall be liable to be invoked in accordance with Clause [•] of the E - Auction Process Document in addition to any other recourse available to me.
7. This Letter of Intimation cannot be assigned by you or transferred by you, in any manner whatsoever, to any other person, except to the special purpose vehicle incorporated by you as per your Bid.
8. This Letter of Intimation shall be read with the terms of the E – Auction Process Document and is subject to the terms and condition set out in therein. This Letter of Intimation shall be binding on you as the Successful Bidder.
9. Capitalized terms used herein shall have the meaning as ascribed to them in the E - Auction Process Document.

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**Ashok Kumar Gulla**

Liquidator of Lotus Auto Engineering Limited

IP Registration No. IBBI/IPA-003/IP-NO0024/2017-18/10174

RBSA Restructuring Advisors LLP

2<sup>nd</sup> Floor, IAPL House, 23, South Patel Nagar, New Delhi - 110008

E-mail: [ashok.gulla@rbsa.in](mailto:ashok.gulla@rbsa.in); [ip.lotus@rbsa.in](mailto:ip.lotus@rbsa.in) (for correspondence)

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**Accepted Unconditionally**

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Name:

Designation:

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**Note:** 2 Copies in original of which one to be returned with the signature of your representative.

PLEASE FIND ATTACHED THE FORMAT FOR THE GUARANTEE – FOR

THE BIDDER /BY AN ASSOCIATE COMPANY OF THE BIDDER ON  
BEHALF OF THE BIDDER, FOR REVIEW.

FORMAT A

**EARNEST MONEY – BANK GUARANTEE**

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

To

Mr. Ashok Gulla

Liquidator – Lotus Auto Engineering Limited,  
Having his Office at RBSA Restructuring Advisors LLP,  
2<sup>nd</sup> Floor, IAPL House, 23, South Patel Nagar, New Delhi  
**(“Liquidator”)**

and

\_\_\_\_\_ Bank,

\_\_\_\_\_ Branch, New Delhi

(“\_\_\_\_\_ **Bank**”, together with the “**Liquidator**”, the “**Beneficiary**”)

WHEREAS

- A. [*Insert name of the Bidder*] incorporated in [*India*] / [*insert name of country where guarantor is incorporated*] under the [*Companies Act,[1956/2013]*] / [*insert name of legislation under which the entity is incorporated*] with corporate identity number [*●*], whose registered office is at [*insert address*] (“**Bidder**”) is required to provide an unconditional and irrevocable bank guarantee for an amount equal to INR (Indian Rupees only) in accordance with the terms of the E-Auction Process Information Document dated [*●*] (“**E-Auction Process Information Document**”) issued by the Liquidator seeking submission of bids for assets of Lotus Auto Engineering Limited.
- B. This bank guarantee is required to be issued in favour of the Beneficiary, as per the terms of the E-Auction Process Information 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 [*New Delhi*] an amount not exceeding INR XXXXX (Indian Rupees XXXXX only) to secure the obligations of the Bidder under the E-Auction Process Information Document on demand from the Beneficiary on terms and conditions herein contained.
1. Now therefore, the Bank hereby issues in favour of the Beneficiary this irrevocable and unconditional payment bank guarantee (“**Guarantee**”) on behalf of the [*Insert name of the Bidder*] for an amount.
  2. The Bank for the purpose hereof unconditionally and irrevocably undertakes to pay to the Beneficiary without any demur, reservation, caveat, protest or recourse, immediately on receipt of first written demand made by the Beneficiary, a sum not exceeding the aggregate amount of INR XXXXX (Indian Rupees XXXXX).
  3. This Guarantee shall be valid and binding on the Bank up to and

including [*Insert date of validity of the Earnest Money*] and shall in no event be terminable by notice or any change in the constitution of the Bank or the Beneficiary, by any other reasons whatsoever and our liability hereunder shall not be impaired or discharged by any extension of time or variations or alternations made, given, or agreed with or without our knowledge or consent, by or between parties to the respective agreement.

4. The Bank hereby expressly agrees that the demand made on it under this Guarantee shall be conclusive evidence of that such payment is due and the Bank shall not require any other proof, in addition to the written demand from Beneficiary, made in any format, raised at the above mentioned address of the Bank, in order to make the said payment to the Beneficiary.
5. The Bank shall make payment hereunder notwithstanding any objection by [*Insert name of the Bidder*] and / or any other person or any dispute(s) raised by the [*insert name of the Bidder*] in any suit or proceeding pending before any court or tribunal relating thereto and the Bank's liability under this present being absolute and unequivocal. The Bank shall not require the Beneficiary to justify the invocation of this Guarantee, nor shall the Bank have any recourse against the procurer(s) in respect of any payment made hereunder.
6. This Guarantee shall be interpreted in accordance with the laws of India and the courts and tribunals at New Delhi 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 Information Document;
  - ii. Extend and/or postpone the time of performance of the obligations of the Bidder under the E-Auction Process Information Document; or
  - iii. Forbear or enforce any rights exercisable by the Beneficiary

against the Bidder under the terms of the E-Auction Process Information Document

and the Bank shall not be relieved from its liability by reason of any such act or omission on the part of the Beneficiary or any indulgence by the Beneficiary to the Bidder or other thing whatsoever which under the law relating to sureties would, but for this provision, have the effect of relieving the Bank of its obligations under the Guarantee.

- 10. The Bank hereby agrees and acknowledges that the Beneficiary shall have a right to invoke this Guarantee either in part or in full, as it may deem fit.
- 11. Our liability under this Guarantee is restricted to INR XXXX (Indian Rupees XXXX only) and it shall remain in force until [Insert Earnest Money Validity Date], with an additional claim period of 30 (thirty) days thereafter.
- 12. Failure to re-issue or extend this Guarantee in accordance with Clause 11 above shall also entitle the Beneficiary to invoke this Guarantee.

In witness where of the Bank, through its authorized officer, has set its hand and stamp on this.....day of ..... at.....

Witness:

1. .... Signature  
 Name and Address. Name:

2. .... Designation with Bank Stamp  
 Name and Address  
*Attorney as per power of attorney No .....*

*For:*

..... *[Insert Name of the Bank]*

*Banker's Stamp and Full Address:*

*Dated this .....day of 20.....*

*Notes:*

*The Stamp paper should be in the name of the Bank.*