

# **E- AUCTION PROCESS MEMORANDUM**

## **Terms & Conditions**

**for**

**Participation in E-Auction Process for the Sale of Assets of Kohinoor Diamonds Private Limited (In Liquidation) under the provisions of Insolvency and Bankruptcy Code, 2016 vide order of Hon'ble National Company Law Tribunal, Mumbai Bench dated 13<sup>th</sup> November 2018 (The certified order copy was received by the liquidator on 15<sup>th</sup> November 2018)**

Issued on behalf of Kohinoor Diamonds Private Limited (In Liquidation) by the Liquidator on 01<sup>st</sup> February 2021.

**Mr. Amit Gupta (Liquidator)**

**Liquidator's Address: - 702, Janki Center, Dattaji Salvi Road,**

**Off Veera Desai Road, Andheri West,**

**Mumbai – 400 053**

**Contact: +91 9082156208**

**Email: [liquidator.kohinoor@gmail.com](mailto:liquidator.kohinoor@gmail.com)**

**[caamith.gupta@gmail.com](mailto:caamith.gupta@gmail.com)**

**IBBI Registration No.: IBBI/IPA-001/IP-P00016/2016-17/10040**

**As Liquidator in the matter of Kohinoor Diamonds Private Limited vide order dated 13<sup>th</sup> November 2018.**

**TO ALL PROSPECTIVE BIDDERS**

Terms and conditions, timelines, application form, affidavit, confidentiality undertaking and other documents required for participating in the electronic auction process are provided in the Process Memorandum.

The details for the e-auction process are also available on the website:

<https://ncltauction.auctiontiger.net>

<http://winsome-group.in/>

*The required documents as set out in the process memorandum have to be submitted at Liquidator's Office by post or in person at the address mentioned below or through electronic means:*

Address: 702, Janki Centre, Dattaji Salvi Road, Off Veera Desai Road, Andheri West, Mumbai-400053.

E- mail address: [caamith.gupta@gmail.com](mailto:caamith.gupta@gmail.com)

[liquidator.kohinoor@gmail.com](mailto:liquidator.kohinoor@gmail.com)

## TABLE OF CONTENTS

1. IMPORTANT INFORMATION AND DISCLAIMERS .....	4
2. DEFINITIONS .....	8
3. INTRODUCTION.....	12
4. OVERVIEW OF THE COMPANY .....	13
5. ELIGIBILITY/ PRE-BID QUALIFICATIONS.....	13
6. DOCUMENTS TO BE SUBMITTED BY BIDDERS.....	17
7. SITE VISIT AND DISCUSSION MEETING.....	18
8. DUE DILIGENCE .....	19
9. ASSETS TO BE AUCTIONED .....	19
10. MODE OF SALE AND RESERVE PRICE.....	20
11. EARNEST MONEY DEPOSIT.....	21
12. DECLARATION OF SUCCESSFUL BIDDER .....	23
13. FRAUDULENT AND CORRUPT PRACTICES.....	25
14. COST, EXPENSES AND TAX IMPLICATIONS .....	26
15. GOVERNING LAW AND JURISDICTION.....	28
16. TIMELINES .....	28
17. ANNEXURES.....	29

## **1. IMPORTANT INFORMATION AND DISCLAIMERS**

1.1. This Process Memorandum has been issued with the intent to carry out e-auction ( **E-Auction** ) of assets of Kohinoor Diamonds Private Limited (in Liquidation) under 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** ).

1.2. All information provided in this Process Memorandum should be read together with the provisions of the IBC and the Liquidation Process Regulations. In the event of a conflict between this Process Memorandum, the IBC or the Liquidation Process Regulations, the provisions of the IBC will prevail and if the related information is not there in the IBC, the Liquidation Process Regulations shall prevail.

1.3. The information contained in this Process Memorandum 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) on the terms and conditions set out in this Process Memorandum.

1.4. This Process Memorandum is neither an agreement nor an offer by the Liquidator to the prospective Bidders or any other person. The purpose of this Process Memorandum is to provide interested bidders with information that may be useful to them in making their bids pursuant to this Process Memorandum. The assumptions, assessments, statements and information contained in the Process Memorandum 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 Process Memorandum and obtain independent advice from appropriate sources.

1.5. Information provided in this Process Memorandum to the Bidder(s) in relation to the Company and/ or its assets has been provided by the Company and/ or is derived from other public sources and has been compiled by the Liquidator. Such information is not purported to be all-inclusive or to necessarily contain all the information that an interested Bidder may require in making its assessment and may be subject to revision or amendment. The information given is not intended to be an exhaustive account of statutory requirements. The Liquidator neither confirms

nor warrants the accuracy, completeness or correctness for any statement and/ or information contained in the Process Memorandum and/ or provided at any time in relation to the Process Memorandum.

1.6. The Liquidator, his professional advisors or the Company makes no representation or warranty in relation to correctness, fairness, accuracy or completeness of information provided in this Process Memorandum and shall have no liability to any person, including any Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this Process Memorandum or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the Process Memorandum and any assessment, assumption, statement or information contained herein or deemed to form part of this Process Memorandum or arising in any way from participation in this auction process.

1.7. The Liquidator also accepts no liability of any nature howsoever arising from reliance of any Bidder upon the statements and/ or information contained in this Process Memorandum and/ or provided at any time in relation to the Process Memorandum.

1.8. The Liquidator may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this Process Memorandum.

1.9. The issue of this Process Memorandum does not imply that the Liquidator is bound to select a Bidder for sale of 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.

1.10. Each Bidder/ Qualified Bidder (as applicable) shall bear all its costs and charges associated with or relating to the preparation and submission of its bid and/ or participation in the e-auction, including but not limited to 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.

1.11. M/s E-Procurement Technologies Limited (**E-Auction Service Provider**) has been appointed as the E-Auction Service Provider. The sale of the Assets of Corporate Debtor shall be

undertaken by the E-Auction Service Provider for and on behalf of the Company/ Liquidator through an e-auction platform provided on the website portal of the E-Auction Service Provider (**Platform**). Other details with respect to the e-auction are as follows:

<b>Type of Bid</b>	<b>E-Auction</b>
Company	Kohinoor Diamonds Private Limited
Website of E -Auction service provider	<a href="https://ncltauction.auctiontiger.net">https://ncltauction.auctiontiger.net</a>
Service Provider	E-Procurement Technologies Limited, B-704, Wall Street –II, Opp. Orient Club, Near Gujarat College, Ellisbridge, Ahmedabad –380006 Contact person – Mr. Praveenkumar Thevar Contact No. - +919722778828 Email id: <a href="mailto:nclt@auctiontiger.net">nclt@auctiontiger.net</a>
Annexures	<b>Annexure 1</b> - Terms and Conditions of E-Auction <b>Annexure 2</b> - Application Form (to be duly filed in, signed and stamped by the Auction Participant and submitted) <b>Annexure 3</b> - Affidavit certifying eligibility under section 29A of IBC by the Auction Participant (to be duly filed in and signed by the Auction Participant and submitted along with the Application Form) <b>Annexure 4</b> - Confidentiality Undertaking <b>Annexure 5</b> - Copy of the resolution passed by the board of directors of the Auction Participant (in case the Auction Participant is a company) <b>Annexure 6</b> – Earnest Money Deposit Form <b>Annexure 7</b> - Description of Assets
Special Instructions	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 Platform. It is advisable to submit the Bids well before the prescribed timeline and avoid last minute submissions.

1.12. All terms and conditions with respect to the sale of the Assets of the Corporate Debtor shall be governed by the directions of the Liquidator, Hon'ble NCLT and in accordance with the

provisions of applicable laws.

1.13. The Annexures to this Process Memorandum shall form an integral part hereof and this Process Memorandum shall always be read in conjunction with the Annexures hereto.

1.14. All incidental expenses incurred towards the Sale of assets of Corporate Debtor including the expenses incurred towards movement / shifting of the assets of the Company post the e-auction process should be borne by the successful auction participant. The Liquidator shall not be held responsible / liable to pay any expenses towards such movement of the assets of the Company.

1.15. In no circumstances shall the Auction Participant 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.

1.16. The 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. The Liquidator does not take or assume any responsibility for any shortfall or defect or shortcoming in the moveable/immovable assets of the Company. Any liabilities, current or long term, contingent or not whether due or otherwise pertaining to the assets of the Company post successful auction shall be to the account of the Successful Bidder.

1.17. This Process Memorandum is neither transferable nor assignable.

## 2. DEFINITIONS

2.1. “**Adjudicating Authority**” or “**NCLT**” shall mean the Hon’ble National Company Law Tribunal, Mumbai Bench.

2.2. “**Affiliate**” in relation to a Person, (a) being a corporate entity, or limited liability partnership shall mean any entity or Person, which Controls, or is Controlled by, or is under the common Control as such Person; (b) being an individual shall mean any relative (as defined under the Companies Act, 2013) of such individual or any other Person which is Controlled by such individual; (c) being a partnership firm, shall mean the partners of such partnership firm or the relatives (as defined under the Companies Act, 2013) of such partners (if any individual) or any other Person which is Controlled by such firm or the partners;

2.3. “**Affidavit**” shall mean the affidavit certifying eligibility under section 29A of IBC provided by the Bidder substantially in form and manner as set out in Annexure 3 of this Process Memorandum;

2.4. “**Agency**” shall mean E-Auction Service Provider Viz. E-Procurement Technologies Limited – Auction Tiger;

2.5. “**Applicable Laws**” means, all applicable laws, regulations, rules, guidelines, circulars, re-enactments, revisions, applications and adaptations thereto, judgments, decrees, injunctions, writs and orders of any court, arbitrator or governmental agency or authority, rules, regulations, orders and interpretations of any governmental authority, court or statutory or other body applicable for such transactions including but not limited to the IBC, Liquidation Regulations, Companies Act, 2013 (as applicable), Competition Act, 2002 , Transfer of Property Act, 1882, Urban Land (Ceiling & Regulation) Repeal Act, 1999, Sale of Goods Act, 1930, Foreign Exchange Management Act, 1999 whether in effect as of the date of this Process Memorandum or thereafter and each as amended from time to time;

2.6. “**Application Form**” means the form set out in Annexure 2 of this Process Memorandum to be provided by the Bidder along with the information and documents set out therein;

2.7. “**Assets**” means the assets of the company as specified in Clause 9 and Annexure 7 of this E-Auction Process Memorandum;



2.8. “**Auction Participant**” or “**Bidder**” means a Person or Persons who have shown interest in participating in e-auction process for the Purchase of assets of Corporate Debtor pursuant to this Process Memorandum and have submitted Application Form as provided in Annexure 2, Affidavit in a format provided in Annexure 3 hereof, Confidentiality Undertaking as provided in Annexure 4 hereof, a copy of Board Resolution in a format provided in Annexure 5 hereof and other necessary documents to complete the eligibility check formalities to the satisfaction of the Liquidator;

2.9. “**Bid**” means any bid submitted by the Qualified Bidder as required in terms of this Process Memorandum and in accordance with the provisions of IBC read together with the Liquidation Process Regulations and the Applicable Laws;

2.10. “**Bid Incremental Value**” shall mean a minimum amount over and above the last highest bid amount by which any participating Qualified Bidder will be required to increase the next bid on the auction portal;

2.11. “**Company**” / “**Corporate Debtor**” shall mean Kohinoor Diamonds Private Limited, a company incorporated in India under the Companies Act of 1956, having its registered office at Ashoka Tower, Kesharba Market-2 Gotalawadi, Katargram, Surat, Gujrat-395004;

2.12. “**Confidential Information**” shall mean any and all information and other materials disclosed, furnished, communicated or supplied by the Company to any Qualified 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 similar nature : any commercial and/ or financial information, improvement, know how, intellectual property, discoveries, ideas, concepts, papers, techniques, model, data, documentation, manuals, flow charts, research, process, procedures, functions, and other information related to price lists and pricing policies and other information which company identifies to be confidential at the time of disclosure to the relevant qualified bidder, and shall include any information that is provided by the Liquidator or his representative pursuant to the liquidation process or through the Confidentiality Undertaking;

2.13. “**Confidentiality Undertaking**” shall mean an undertaking as specified in Annexure-4 of this Process Memorandum;

2.14. “**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;

2.15. “**Control**” (together with its correlative meanings, “**Controlled by**”, “**Controlling**” or “**under common Control with**”) 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;

2.16. “**IBC**”/ “**Code**” shall mean Insolvency and Bankruptcy Code, 2016 as amended from time to time;

2.17. “**Information sharing**” shall mean the information provided by the Liquidator to the Qualified Bidders in respect of the company on the request of Qualified Bidder.

2.18. “**Letter of Intent**”/ “**LOI**” means the letter issued by the Liquidator to the Successful Bidder detailing out the terms and conditions to complete the Sale of assets of the Corporate Debtor, including the balance sale payment by Successful Bidder as per provisions of IBC and the Liquidation Process Regulations;

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

2.20. “**Liquidator**” means Mr. Amit Gupta, an Insolvency Professional registered with Insolvency and Bankruptcy Board of India (IBBI) having Registration Number IBBI / IPA-001 / IP-P00016 / 2016-17 / 10040 appointed by NCLT, vide order dated 13 November 2018 (certified order copy received by the liquidator on 15<sup>th</sup> November 2018) to manage, protect, sell and

liquidate the property, assets, business and other affairs of the Company in accordance with the IBC and Liquidation Process Regulations;

2.21. “**Person**” shall mean an individual, sole proprietorship firm, a partnership firm, a limited liability partnership, an association whether incorporated or not, a joint venture, a limited company, a trust, a body corporate, bank or financial institution or any other body whether or not required to be incorporated or registered under Applicable Law;

2.22. “**Process Memorandum**” or “**E- Auction Process Memorandum**” means this document including all the annexures hereto, for the purposes of setting out the process for submission of Bids and selection of Successful Bidder in accordance with the provisions of the IBC and Liquidation Process Regulations and shall include all supplements, modifications, amendments, alterations or clarifications thereto issued in accordance with the terms thereof;

2.23. “**Qualified Bidder(s)**” shall mean the Bidder who has submitted the necessary documents and applicable annexures in terms of the requirements of this Process Memorandum to fulfil the eligibility requirements to the satisfaction of the Liquidator and qualifies the criteria as specified in the Clause 6 hereof to the satisfaction of the Liquidator and has been accepted by the Liquidator as a Qualified Bidder;

2.24. “**Reserve Price**” shall mean a price amounting to INR 2,33,31,000/- (Rupees Two Crore Thirty-Three Lakhs Thirty-One Thousand Only) as arrived pursuant to the provisions of the Liquidation Process Regulations.

2.25. “**Site**” shall mean the location of the immovable and moveable properties including land parcels, premises, buildings owned, leased or occupied by the Company, for the purposes of conducting business;

2.26. “**Site Visit**” shall mean a visit to the Site as per clause 7 and within the timelines as provided in Clause 16 of this Process Memorandum; and

2.27. “**Successful Bidder**” or “**Successful Auction Participant**” means, the Qualified Bidder whose Bid is approved and who is declared successful by the Liquidator after the e-auction.

*Capitalized terms used herein but not defined otherwise shall have meaning prescribed to them under the provisions of the IBC and the Liquidation Process Regulations thereunder.*

### **3. INTRODUCTION**

3.1. The Liquidation process of the Company had been initiated under the provisions of the IBC and by virtue of an order of the Hon'ble NCLT with effect from 13 November 2018 (certified order copy received by the liquidator on 15<sup>th</sup> November 2018). In the said order, Mr. Amit Gupta has been appointed as the Liquidator.

3.2. The Liquidator endeavors to sell these assets 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 Adjudicating Authority in respect of the Liquidation process of the Company and in the manner specified in this Process Memorandum.

3.3. The E-Auction would be conducted in the manner specified in Schedule I as provided under Regulation 33 of the Liquidation Process Regulations and any other rules, regulations, orders, circulars, directions or notifications or the like, issued pursuant to or under the IBC or the Liquidation Process Regulations, as the case may be, and as per directions, if any, of the Hon'ble NCLT or Hon'ble NCLAT in respect of the Liquidation process of the Company and in the manner specified in this Process Memorandum.

3.4. The Bidders are encouraged to acquaint themselves 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.

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

##### Brief Background:

Kohinoor Diamonds Private Limited (“KDPL”) is a Private Limited Company registered and incorporated with Registrar of Companies, Ahmedabad on 20th August, 1983. The registered address of company is Ashoka Tower, Kesharba Market-2, Gotalawadi, Katargam Surat, Gujarat-395004. Company was engaged in the business of manufacturing necklaces.

Company has defaulted in payment of outstanding to financial and operational creditors. Based on that one of the operational creditors, M/s Nikita Enterprise through its proprietor Shri Kaushik R Doshi, filed a petition under section 9 of the Insolvency and Bankruptcy Code 2016 to Hon’ble National Company Law Tribunal Ahmedabad Bench (referred as "NCLT" or "AA"). Company's case was admitted on 13th February 2018. Pursuant to the CIRP Order, the management of the affairs of the Company was vested with Mr. Sunit Jagdishchandra Shah, Insolvency Professional (IBBI Registration No. IBBI/IPA-001/IP-P00471/2017-18/10814) who was appointed as the Interim Resolution Professional (“IRP”) of the Company.

Further, vide NCLT order No. IA 158 of 2018 in C.P. (I.B) No. 206/22/NCLT/AHM/2017 dated 30th May, 2018 pronounced by Hon’ble NCLT, Mr. Anshuman Chaturvedi having Registration No.: IBBI/IPA-001/IP-P00158/2017-18/10327, was appointed as Resolution Professional (“RP”) replacing the IRP Sunit Jagdishchandra Shah.

Further, the last date for completion of Corporate Insolvency Resolution Process (CIRP) was 12th August, 2018. In the 5th Meeting held on 7th August, 2018 the members of the CoC unanimously voted for the decision to liquidate the Company as per Section 33(2) of the IBC and also proposed Mr. Amit Gupta having Registration No. IBBI/IPA-001/IP-P00016/2016-17/10040 as the Liquidator. The said decision of the COC was intimated by the RP to Hon’ble NCLT, Ahmedabad Bench. After hearing the matter, the Hon’ble NCLT, Ahmedabad Bench passed the Liquidation order under section 33(1) and section 33(2) of the IBC and appointed Mr. Amit Gupta as the Liquidator of the Company vide its order dated 13th November, 2018 which is considered as the Liquidation commencement date.

#### **5. ELIGIBILITY/ PRE-BID QUALIFICATIONS**

As per the proviso to section 35(1)(f) of the IBC, (as amended from time to time) 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. Accordingly, an Auction Participant who is not eligible to be a resolution applicant in terms of section 29A of IBC shall not be eligible to submit a Bid for purchase of the assets of corporate debtor.

As on date, as per Section 29A of the IBC,

*“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 undischarged insolvent;*

*(b) is a wilful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 (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 debtor and is a related party of the corporate debtor solely on account of conversion or*

*substitution of debt into equity shares or instruments convertible into equity shares, or completion of such transactions as may be prescribed, prior to the insolvency commencement date.*

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

*(d) has been convicted for any offence punishable with imprisonment –*

*(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, or completion of such transactions as may be prescribed, prior to the insolvency commencement date;*



*Explanation II—For the purposes of this section, "financial entity" shall mean the following entities which meet such criteria or conditions as the Central Government may, in consultation with the financial sector regulator, notify in this behalf, namely: —*

*(a) a scheduled bank;*

*(b) any entity regulated by a foreign central bank or a securities market regulator or other financial sector regulator of a jurisdiction outside India which jurisdiction is compliant with the Financial Action Task Force Standards and is a signatory to the International Organisation 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 Securitisation 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 TO BE SUBMITTED BY BIDDERS**

In addition to the above, the Auction Participant who fails to fulfil the requirements set out in this Process Memorandum, including but not limited to failure of providing the documents/information to be submitted by the Auction Participant in terms of Clause 6 hereof, shall not be eligible to submit a Bid for purchase of assets of the Corporate Debtor.

6.1. The Bidders would need to submit the following documents to the satisfaction of the Liquidator:

(i) Application Form as provided in Annexure 2 hereof;

- (ii) Affidavit in a format provided in Annexure 3 hereof;
- (iii) Confidentiality Undertaking as provided in Annexure 4 hereof;
- (iv) Copy of Board Resolution in a format provided in Annexure 5 hereof;
- (v) Other necessary documents to complete the eligibility check formalities (collectively referred to as “**Eligibility Documents**”)

as per the timelines prescribed in clause 16 of this Process Memorandum.

6.2. A Bidder may use additional sheets to submit the information for its detailed response. Additionally, at any stage of the auction process, the Liquidator may ask for any 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.

6.3. On the receipt of the Eligibility Documents relating to the Bidders, the Liquidator shall assess the Eligibility Documents of the Bidders to his satisfaction & finalise the Qualified Bidders and declare the names of Qualified Bidders as per the timelines mentioned in clause 16 below.

6.4. Qualified Bidders will make a request to the liquidator for necessary information required for due diligence on. Further, site visits will also be arranged (if required) only for Qualified Bidders in accordance with clause 7 hereof.

Upon completion of the due diligence, site visit and discussion meeting (if any) by the Qualified Bidders within the timeframe set out in clause 16, the Qualified Bidders shall deposit the Earnest Money Deposit (EMD) in accordance with clause 11 of this Process memorandum within the timeframe mentioned in clause 16 below. The Liquidator shall, at his discretion disqualify the Qualified Bidder for non-submission of the EMD.

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

7.1. If requested by the Qualified Bidders, the Liquidator may arrange a discussion meeting and a site visit at any time prior to the closure of the auction process.

7.2. The details, terms and conditions with respect to the discussion meeting and site visit shall be communicated to the Qualified Bidder in advance.

7.3. The Liquidator reserves the right to not arrange a discussion meeting or site visit for any

reason whatsoever, irrespective of the request of the Qualified Bidder. Qualified Bidder (considering site visit) will be provided a prior notification of date and time 3 (three) days in advance by the Liquidator.

## 8. DUE DILIGENCE

8.1. The Liquidator shall endeavour to provide all necessary documents through email, i.e. [liquidator.kohinoor@gmail.com](mailto:liquidator.kohinoor@gmail.com) for the conduct of due diligence by the Qualified Bidders upon the request made by Qualified Bidders for providing such documents. Further, site photographs shall also be available on the website of Kohinoor Diamonds Private Limited i.e., <http://winsome-group.in/>. The information and documents shall be provided by the Liquidator in good faith. The Qualified Bidders may note that the Liquidator would not have verified any of the information, data or documents shared by the Company and shall not accept any responsibility or liability, whatsoever, in respect of any statements or omissions contained in the shared data.

8.2. 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”. All statutory/non-statutory liabilities / taxes / demands / claims / maintenance fee / electricity / water charges etc., outstanding as on date or yet to fall due in respect of the assets of the Corporate Debtor should be ascertained by the Qualified Bidders and shall be borne by the Successful Bidder. The information and documents shall be provided by the Liquidator in good faith. The bidders may note that the Liquidator would not have verified any of the information, data or documents shared and shall not accept any responsibility or liability, whatsoever, in respect of any statements or omissions contained in the shared data.

## 9. ASSETS TO BE AUCTIONED

The assets as specified in clause 9 are known as assets to be auctioned. Kindly note that the bidders cannot place a bid at a value below the reserve price.

(Amount in INR)

Sr.No	Asset	Location	Area	Reserve price	EMD Amount	Incremental Bid Amount
.						
• Immovable Property-Surat						

1.	Basement - Unit no 1 & 4;  Gound floor – Unit 1 & 4  First floor - Unit no 1 & 5  Third floor - Unit no 1;  Fourth floor – Unit 1;  Fifth floor - Unit no 1;  Sixth floor - Unit no 1;  Seventh floor – Unit 1;  Eighth floor – Unit 1;  <b>Total 12 Units</b>	Ashoka Tower, Kesarba Market, Gotalawadi, Katargam, Surat, Gujarat-395004	12,996 Sq.Ft	2,33,31,000	23,33,100	2,00,000
----	---	--	-----------------	-------------	-----------	----------

Please refer **Annexure 7 “Description of Assets”** for detailed description of above-mentioned assets.

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

10.1. It is clarified that on being declared as Successful Bidder, the said Successful Bidder shall be required to complete the sale of assets of corporate debtor in accordance with the provisions of IBC and Liquidation Process Regulations.

10.2. The Successful Bidder agrees that, it shall be bound to pay the balance sale consideration for consummation of sale of assets of the Company within the time frame stipulated in the 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 of Corporate

Debtor as contemplated in this Process Memorandum have to be obtained by the Successful Bidder without any deviation from the time frame for payment of balance sale consideration as stipulated under the Liquidation Process Regulations.

10.3. Any failure to obtain such necessary approvals, consents, reliefs that may be required by the Successful Bidder in respect of the Sale of assets of the Corporate Debtor shall not affect the e-auction process of Sale of assets of the Corporate Debtor as contemplated under this Process Memorandum. On payment of the full amount, the Sale of assets of the Corporate Debtor shall stand completed and the Liquidator shall execute a certificate of sale or sale deed to consummate the sale transaction as contemplated under this Process Memorandum and the Applicable Law.

10.4. The Liquidator reserves the right to alter, modify, cancel or relax any of the terms and conditions mentioned in this Process Memorandum 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.

10.5. 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.

10.6. The other 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**

All the qualified bidders shall follow the below process for submission of EMD:

11.1. The non – interest bearing EMD to be paid by the Qualified Bidder along with Earnest Money Deposit Form attached vide Annexure 6 prior to auction in accordance with the timelines provided in clause 16.

**11.2. Mode of Payment of EMD and balance sale consideration and other instructions**

## **relating to EMD**

Payment of EMD shall be made through RTGS / NEFT / Bank Transfer to the account number provided as:

Account Number	2175002100005483
Type of Account	Current Account
Beneficiary Name	Kohinoor Diamonds Private Limited (In Liquidation)
Bank Name	Punjab National Bank
Branch	Cuff Parade, Colaba
IFSC Code	PUNB0217500

The entire EMD amount shall be remitted by the Qualified Bidder (s) from one bank account.

11.3. Qualified Bidders shall preserve the remittance challan and shall produce the same in front of the Liquidator as and when demanded.

11.4. The EMD should be credited to the above-mentioned bank account and the same shall be intimated to the Liquidator through email on [liquidator.kohinoor@gmail.com](mailto:liquidator.kohinoor@gmail.com)

11.5. No interest will be paid to the Qualified Bidders in relation to any such amounts mentioned above. The EMD of the Successful Bidder shall be retained towards part sale consideration and the EMD of unsuccessful bidders shall be refunded within the timeframe mentioned in Clause 16 of this Process Memorandum. The Liquidator will issue a Letter of Intent to the Successful Bidder and the Successful Bidder shall have to deposit the balance consideration (after adjustment of the EMD) of the sale price 30 days of such demand failing which, it shall attract interest at the rate of 12% as prescribed in the Liquidation Regulations. Further, if the payment is not made by the successful bidder within 90 days, the sale shall stand cancelled.

### **11.6. Forfeiture of Earnest Money Deposit from the Qualified Bidder**

The EMD furnished can be forfeited at any time, upon the occurrence of any of the following events:

- a. any of the conditions under this Process Memorandum are breached by the Qualified Bidder or in case the Qualified Bidder is found to have made any misrepresentation; or
- b. if the Qualified Bidder is found to be ineligible to submit the Bid under Section 29A of the IBC (as amended from time to time) or is found to have made a false or misleading declaration of eligibility under Section 29A of the IBC (as amended from time to time); or
- c. if the Qualified 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; or
- d. Default in payment of the balance sale consideration by the Successful Bidder within the timeframe set out in Clause 16 of this Process Memorandum.

## **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) for any asset. Determination of the Successful Bidder(s) shall be done on the basis of highest bid (not below the reserve price) received for the assets via the E-Auction, unless the Liquidator determines, acting reasonably, that the highest bidder shall not be identified as the Successful Bidder.

12.2 The declaration of the Successful Bidder(s) for the Sale of assets of Corporate Debtor shall be done by the Liquidator within the timeframe set out in Clause 16 of this Process Memorandum after the closure of e-auction process.

12.3 Where the Earnest Money has been provided by means of a remittance to the Company's bank account, such funds will be retained by the Liquidator as part payment of the consideration that the Successful Bidder has agreed to pay for the relevant asset.

12.4 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 asset or portion thereof from the E-Auction proceedings at any stage without assigning any reason there for.

12.5 The Liquidator shall issue to the Successful Bidder, a “Letter of Intent” / “LOI”, after the closure of the e-Auction, inviting the Successful Bidder to pay the balance sale consideration (plus any applicable GST/taxes, registration fees etc if any, on 100% of the bid amount) within the timeframe set out in Clause 16 of this Process Memorandum. The LOI outlines preliminary commitment and does not constitute conclusion of sale in favour of the Successful Bidder.

12.6 The Successful Bidder(s) shall deposit the balance sale consideration within 90 (ninety) days from the date of such demand. Provided that payments made after 30 (thirty) days shall attract interest at the rate of 12%.

Provided further that the sale shall be cancelled if full payment is not received within 90 (ninety) days.

12.7 In case of any dispute / discrepancy, the liquidator shall assess the 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 always solely rest with the Liquidator, and his decision will be final and binding on all participants.

#### **12.8 Completion of Sale**

On payment of the full amount of sale consideration and applicable taxes (if any), the sale shall stand completed, and the Liquidator shall execute Certificate of sale or Sale deed and the assets shall be delivered / transferred to the Successful Bidder. The Certificate of sale or Sale deed will be issued and / or transaction / sale documents will be executed in the name of the Successful Bidder only and will not be issued in any other name(s). It is expressly stipulated that there are no implied obligations on the part of the Liquidator to do all acts, things and deeds whatsoever for the completion of the sale.

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 Corporate Debtor.

Default in payment of the balance sale consideration and applicable taxes, if any, on 100% of the bid sum by the Successful Bidder will result in disqualification of the Successful Bidder including forfeiture of Earnest Money. The asset may be put to re-auction or sold to the next highest Qualified Bidder and the defaulting Successful Bidder shall have no claim/right in respect of such asset.

### **13. FRAUDULENT AND CORRUPT PRACTICES**

13.1. The auction participant shall observe the highest standard of ethics during the auction Process and subsequently during the closure of the auction process and declaration of successful bidder. Notwithstanding anything to the contrary, contained in this Process Memorandum, 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 auction participant, if the Liquidator, at his discretion, determines that the auction participant has, 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. In such an event, the Liquidator may disqualify any of the Auction participant at any stage or forfeit the EMD furnished by the qualified bidder at any stage.

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

- a. **“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 any of the process laid down in this Process Memorandum;
- b. **“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 any of the process laid down in this Process Memorandum (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 any of the process laid down in this Process Memorandum 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 any of the process laid down in this Process Memorandum); or (ii) engaging in any manner whatsoever, during any of the process laid down in this Process Memorandum or thereafter, with 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 Process Memorandum;

- c. **“fraudulent practice”** shall mean a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence any of the process laid down in this Process Memorandum;
- d. **“restrictive practice”** shall mean forming a cartel or arriving at any understanding or arrangement among the auction participants with the objective of restricting or manipulating a full and fair competition in the auction Process; and
- e. **“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 any of the process laid down in this Process Memorandum or (ii) having a Conflict of Interest.

**The Bidder shall not involve himself or any of his representatives in price manipulation of any kind directly or indirectly by communicating with other Bidders.**

**The Qualified 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 assets to any other party. Prior to conduct of due diligence/ site visits, the Liquidator may require the Bidder to execute confidentiality agreement with the Company/ Liquidator.**

#### **14. COST, EXPENSES AND TAX IMPLICATIONS**

14.1. The auction participant or the Qualified Bidder, shall be responsible for all the costs incurred by it on account of its participation in the process laid down in this Process Memorandum, 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.

14.2. For purpose of abundant clarity, it is hereby clarified that the qualified bidder is expected to 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 auction participant or the Qualified Bidder.

14.3. The auction participant or the qualified bidder shall not be entitled to receive reimbursement of any expenses which may have been incurred carrying out of due diligence, search of title to the assets and matters incidental thereto or for any purpose in connection with the auction process plan.

14.4. All taxes applicable (including stamp duty implications and registration charges) on sale of assets would be borne by the successful bidder including the following:

- a. The sale attracts stamp duty, registration charges etc. as per relevant laws, rules and regulations.
- b. The successful bidder/ Purchaser shall bear all the necessary expenses like applicable stamp duties/additional stamp duty/transfer charges, fees, etc. for transfer of property in his/her name
- c. The payment of all statutory / non – statutory dues, taxes, rates, assessments, charges, fees, maintenance fee, outstanding municipal and other property taxes, electricity dues etc. owed by **Kohinoor Diamonds Private Limited** to anybody in respect of the Property(ies) shall be sole responsibility of successful bidder/ Purchaser; and
- d. Successful Bidder/ Purchaser shall bear the cess or other applicable tax i.e. GST, TDS etc.

14.5. 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.

14.6. 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.

14.7. The auction participant shall be responsible for fully satisfying the requirements of the IBC and its related Regulations as well as all Applicable Laws that is 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 assets of the Corporate Debtor.

## **15. GOVERNING LAW AND JURISDICTION**

This Process Memorandum, the auction Process and the other documents pursuant to the Process Memorandum shall be governed by the laws of India and any dispute arising out of or in relation to the Process Memorandum or the auction Process shall be subject to the exclusive jurisdiction of the Adjudicating Authority, courts and tribunals at Mumbai, India.

## **16. TIMELINES**

The following timelines shall apply to the process memorandum. The timelines may be amended by the Liquidator through issuance of an addendum to the process memorandum

<b>Sr. No.</b>	<b>Event</b>	<b>Timeline</b>	<b>Date</b>
1	Public Announcement of E-Auction	(T)	01-02-2021
2	Availability of Process Memorandum and documents on the website of Auction Portal ( <a href="https://ncltauction.auctiontiger.net">https://ncltauction.auctiontiger.net</a> ) and website of KDPL ( <a href="http://winsome-group.in/">http://winsome-group.in/</a> )	(T)	01-02-2021

3	Submission of Eligibility Documents	(T+1) to (T+14)	02-02-2021 to 15-02-2021
4	Declaration of Qualified Bidders (One day to three days will be taken based on the no. of requests received)	(T+2) to (T+19)	03-02-2021 to 20-02-2021
5	Information sharing, Site Visits and Discussion Meeting (Access to be given only to <b>Qualified Bidders</b> )	(T+2) to (T+21)	03-02-2021 to 22-02-2021
6	Earnest Money Deposit submission	(T+5) to (T+22)	06-02-2021 to 23-02-2021
7	Submission of Bids on e-auction date	(T+25)	26-02-2021
8	Declaration of Successful Bidder and issuance of LOI	(T+25)	26-02-2021
9	Return of Earnest Money for unsuccessful bidders	(T+25) to (T+39)	12-03-2021
10	Payment of balance consideration by Successful Bidder	Within 30 days of such demand failing which, it shall attract interest at the rate of 12% as prescribed in the Liquidation Regulations.  Further, if the payment is not made by the successful bidder within 90 days, the sale shall stand cancelled	

Note - Above timelines are indicative, Liquidator reserves the right to modify the same and giving notice of the same (at the earliest) to interested and eligible bidders who have complied with requirements of this process memorandum.

Note - The timeline for payment of final sale consideration may be extended at the sole discretion of Liquidator, to the extent permissible under the applicable laws and regulations.

## 17. ANNEXURES

The Following are the annexures for sending the Bid form for the E-Auction process of the sale of the assets of KDPL:

## **ANNEXURE-1**

### **TERMS AND CONDITION OF E-AUCTION**

#### **1. INTRODUCTION**

The **E-Auction** of assets of Kohinoor Diamonds Private Limited (in Liquidation) 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 Amit Gupta, Liquidator of Kohinoor Diamonds Private Limited (in Liquidation).

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

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

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

*(i) Company's Name (i.e., Kohinoor Diamonds Private Limited), or by,*

*(ii) State and asset type.*

You may contact us at +91 9082156208 or through email at [liquidator.kohinoor@gmail.com](mailto:liquidator.kohinoor@gmail.com) / [caamith.gupta@gmail.com](mailto:caamith.gupta@gmail.com)

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

The Last date for submission of Eligibility Documents is 15<sup>th</sup> February 2021.

#### **3. RESERVE PRICE AND EMD**

Qualified Bidders may submit their Bids for purchasing the assets of corporate debtor. Details are as follows:

(Amount in INR)

Sr. No.	Asset	Location	Area	Reserve price	EMD Amount	Incremental Bid Amount
<b>• Immovable Property-Surat</b>						
1.	Basement - Unit no 1 & 4; Gound floor – Unit 1 & 4 First floor - Unit no 1 & 5 Third floor - Unit no 1; Fourth floor – Unit 1; Fifth floor - Unit no 1; Sixth floor - Unit no 1; Seventh floor – Unit 1; Eighth floor – Unit 1; <b>Total 12 Units</b>	Ashoka Tower, Kesarba Market, Gotalawadi, Katargam, Surat, Gujarat-395004	12,996 Sq.Ft	2,33,31,000	23,33,100	2,00,000

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

**4.1.** After submission of all documents / EMD by the Qualified Bidder to the satisfaction of the Liquidator, **M/S E-PROCUREMENT TECHNOLOGIES LIMITED (Auction Tiger), AHMEDABAD** will provide User id and password after due verification of PAN of the Qualified Bidders to participate in the e-auction process on 26<sup>th</sup> February 2021.



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

Contact person – Mr. Praveenkumar Thevar

Contact No. - +919722778828

Email id: **nclt@auctiontiger.net**

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

The Sale of assets of Corporate Debtor shall take place through online e-auction service provider, E-Procurement Technologies Ltd – Auction Tiger via website <https://ncltauction.auctiontiger.net> on 26<sup>th</sup> February 2021 between 11:00 A.M. to 01:00 P.M. with unlimited extension of “5 minutes” i.e. the end time of the e-auction will be extended by 5 minutes each time if bid is made within the last 5 minutes before closure of auction. The highest bid amount (not below the Reserve Price) at any given point shall be visible to other Qualified Bidders. The Qualified Bidder may improve their offer in multiple of “Bid Incremental Value”. The highest bidder on the closure of e-auction process shall be declared as Successful Bidder and a communication to that effect will be issued through electronic mode which shall be subject to approval by the Liquidator.

## **6. MANNER OF PAYMENT & TRANSFER OF ASSETS OF CORPORATE DEBTOR**

**6.1.** The Successful shall deposit the balance consideration (after adjustment of the EMD) of the sale price within 30 days of such demand. The payments made after thirty days shall attract interest at the rate of 12% p.a. and further the sale shall be cancelled if the payment is not received within 90 days as prescribed in the Liquidation Regulations. On payment of the full amount, 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.

**6.2.** The certificate of sale will be issued in the name of the Successful Bidder only and will not be issued in any other name(s).

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

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

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

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

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

## **7. TREATMENT OF OUTSTANDING DUES / LIABILITIES / CLAIMS**

The IBC and Liquidation Process Regulations, 2016, provides the following with respect to treatment of outstanding dues / liabilities / claims:

### **7.1 As per Regulation 16 “Proof of Claim” of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation 2016,**

*A person, who claims to be a stakeholder, shall prove his claim for debt or dues to him, including interest, if any, as on the liquidation commencement date.”*

### **7.2 As per Section 53 “Distribution of assets” of the Insolvency and Bankruptcy Code, 2016 (“Code”),**

*“(1) Notwithstanding anything to the contrary contained in any law enacted by the Parliament or any State Legislature for the time being in force, the proceeds from the sale of the liquidation assets shall be distributed in the following order of priority and within such period as may be specified, namely: -*

*(a) the insolvency resolution process costs and the liquidation costs paid in full;*

*(b) the following debts which shall rank equally between and among the following:*

*(i) workmen’s dues for the period of twenty-four months preceding the liquidation commencement date; and*

*(ii) debts owed to a secured creditor in the event such secured creditor has*

*relinquished security in the manner set out in section 52;*

*(c) wages and any unpaid dues owed to employees other than workmen for the period of twelve months preceding the liquidation commencement date;*

*(d) financial debts owed to unsecured creditors;*

*(e) the following dues shall rank equally between and among the following: -*

*(i) any amount due to the Central Government and the State Government including the amount to be received on account of the Consolidated Fund of India and the Consolidated Fund of a State, if any, in respect of the whole or any part of the period of two years preceding the liquidation commencement date;*

*(ii) debts owed to a secured creditor for any amount unpaid following the enforcement of security interest;*

*(f) any remaining debts and dues;*

*(g) preference shareholders, if any; and*

*(h) equity shareholders or partners, as the case may be.*

*(2) Any contractual arrangements between recipients under sub section (1) with equal ranking, if disrupting the order of priority under that sub-section shall be disregarded by the liquidator.*

*(3) The fees payable to the liquidator shall be deducted proportionately from the proceeds payable to each class of recipients under sub-section (1), and the proceeds to the relevant recipient shall be distributed after such deduction.*

*Explanation. – For the purpose of this section-*

*(i) it is hereby clarified that at each stage of the distribution of proceeds in respect of a class of recipients that rank equally, each of the debts will either be paid in full, or will be paid in equal proportion within the same class of recipients, if the proceeds are insufficient to meet the debts in full; and*

*(ii) the term “workmen’s dues” shall have the same meaning as assigned to it in section 326 of the Companies Act, 2013 (18 of 2013).”*

Therefore, any claim due as on Liquidation Commencement date i.e., 13<sup>th</sup> November 2018, can be claimed by any person way of submitting the prescribed form to the Liquidator and the same shall be dealt in accordance with Section 53 of the Code.

### **7.3 The relevant extract of Section 32A of the Code is reproduced herein below:**

*“(2) No action shall be taken against the property of the corporate debtor in relation to an offence committed prior to the commencement of the corporate insolvency resolution process of the corporate debtor, where such property is covered under a resolution plan approved by the Adjudicating Authority under section 31, which results in the change in*

*control of the corporate debtor to a person, or sale of liquidation assets under the provisions of Chapter III of Part II of this Code to a person, who was not –*

*(i) a promoter or in the management or control of the corporate debtor or a related party of such a person; or*

*(ii) a person with regard to whom the relevant investigating authority has, on the basis of material in its possession, reason to believe that he had abetted or conspired for the commission of the offence, and has submitted or filed a report or a complaint to the relevant statutory authority or Court.*

*Explanation. - For the purposes of this sub-section, it is hereby clarified that, -*

*(i) an action against the property of the corporate debtor in relation to an offence shall include the attachment, seizure, retention or confiscation of such property under such law as may be applicable to the corporate debtor;*

*(ii) nothing in this sub-section shall be construed to bar an action against the property of any person, other than the corporate debtor or a person who has acquired such property through corporate insolvency resolution process or liquidation process under this Code and fulfils the requirements specified in this section, against whom such an action may be taken under such law as may be applicable.*

*(3) Subject to the provisions contained in sub-sections (1) and (2), and notwithstanding the immunity given in this section, the corporate debtor and any person, who may be required to provide assistance under such law as may be applicable to such corporate debtor or person, shall extend all assistance and co-operation to any authority investigating an offence committed prior to the commencement of the corporate insolvency resolution process.”*

**7.4** The aforesaid provisions shall always be read in conjunction with other provisions of the IBC and Liquidation Process Regulations, 2016.

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

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

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

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

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

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

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

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

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

Date:

**To,**

**Mr. Amit Gupta (Liquidator),**

**Kohinoor Diamonds Private Limited (In Liquidation)**

702, Janki Center, Dattaji Salvi Road,

Off Veera Desai Road, Andheri West

Mumbai- 400053

**REF. ADVERTISEMENT ISSUED IN FREE PRESS JOURNAL (ENGLISH) & NAVSHAKTI (MARATHI) MUMBAI EDITION, FINANCIAL EXPRESS (ENGLISH & GUJARATI) AHEMDABAD EDITION, TIMES OF INDIA (ENGLISH) & JANADESH (GUJARATI) IN SURAT EDITION ON 01<sup>st</sup> February 2021 & HOSTED ON THE WEBSITE [HTTPS://NCLTAUCTION.AUCTIONTIGER.NET](https://ncltauction.auctiontiger.net) FOR SALE OF ASSETS OWNED BY KOHINOOR DIAMONDS PRIVATE LIMITED (IN LIQUIDATION)**

I/We/ M/s am desirous in participating in the e-auction of Assets of Kohinoor Diamonds Private Limited (under Liquidation) announced by you in the newspaper publication dated ..... in ..... (name of media journal).

<b>BID for:</b>	
-----------------	--

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

1	(a)	Full Name of the Bidder with Telephone Nos.  Mobile Nos.  E-mail ID.		
	(b)	Address of the Bidder along with the address proof		
	(I)	Office		
	(II)	Residence		
	(III)	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		
(c)		(Provide authority letter in case of a partnership firm/LLP/or any other legal entity and board resolution in a form set out in Annexure 5 in case of a company)		
2.	Constitution documents  (Sole Proprietary/Partnership/Company)  (in case of company/firm, also give names of Directors / partners with contact numbers)			

1. I/We/M/s. further declare that I/We/M/s. intend to purchase the above referred assets of corporate debtor from the Liquidator for our/ its own use / business and that the information revealed by me/us in this Application Form is true and correct to the best of my/our knowledge and belief.
2. I/We/M/s. certify that I/We/M/s. am/are eligible to be a Bidder, under Section 29A read with Sec.35(f) of IBC 2016 and affidavit for the same is enclosed herewith.
3. I/We/M/s. also enclose copies of the required KYC documents. We request you to kindly verify the same and arrange with the auction portals for issue of an ID and password for us to enable us to take part in the e-auction process.
4. I/We/M/s. agree if any of the statement / information revealed by me/us is found incorrect, my/our bid document is liable to be cancelled and, in such case, the EMD paid by me/us is liable to be forfeited by the Liquidator and the Liquidator is at liberty to annul the offer made to me/us at any point of time.
5. I/We /M/s. also agree that after my/our offer given in my/our bid for purchase of the assets of Corporate Debtor is accepted by the Liquidator, if I/We/M/s. fail to accept the terms and conditions of this Process Memorandum or Letter of Intent or fail to complete the transaction within the time limit as specified in the Letter of Intent for any reason whatsoever and / or fail to fulfil any/all the terms and conditions of the bid document and Letter of Intent, the EMD paid by me/us along with the bid document is liable to be forfeited by the Liquidator and that the Liquidator has also a right to proceed against me / us for specific performance of the contract.
6. I/We/M/s. will not claim any interest from the date of submission of offer in case the process of sale is delayed for any reason.
7. The general terms and conditions of sale are received, read and acceptable to me / us.

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



Place:

Date:

**Signature of the Bidder**

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

**[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. Audited financial statements and income tax returns of the preceding three (3) financial years and other financial documents to demonstrate the financial capabilities
- e. Affidavit under section 29A.
- f. Confidentiality Undertaking
- g. Copy of the resolution passed by the board of directors of the Auction Participant (in case the Auction Participant is a company)

**ANNEXURE 3**

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

*(To be notarized on non-judicial stamp paper)*

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

I, \_\_\_\_\_ [*name of the chairman/ managing director/ director/ authorized person of prospective bid applicant, authorized by the Board of the Prospective Applicant for giving such affidavit, son of \_\_\_\_\_, aged about \_\_\_\_\_ years, currently residing at \_\_\_\_\_ and having Aadhaar/ Passport number \_\_\_\_\_, on behalf of \_\_\_\_\_ (“Prospective Applicant”)*], do solemnly affirm and state to the Mr. Amit Gupta (IBBI Registration No. IBBI / IPA-001 / IP-P00016 / 2016-17 / 10040) (“**Liquidator**”), the liquidator of Kohinoor Diamonds Private Limited (“**Corporate Debtor**”), as follows:

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

such person is a promoter, classified as non-performing asset in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 or the guidelines of a financial sector regulator issued under any other law for the time being in force, and at least a period of one year has lapsed from the date of such classification till the date of commencement of liquidation of the Corporate Debtor.

- (d) has been convicted for any offence punishable with imprisonment –
  - (i) for 2 (two) years or more under any Act specified under the Twelfth Schedule of the IBC;
  - or
  - (ii) for 7 (seven) years or more under any law for the time being in force:
- (e) is disqualified to act as a director under Companies Act, 2013;
- (f) is prohibited by the Securities Exchange Board of India from trading in securities or accessing the securities market;
- (g) has been a promoter or in the management or control of a company in which a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been made by the Adjudicating Authority under the IBC;
- (h) has executed a guarantee in favour of a creditor in respect of a corporate debtor against which an application for insolvency resolution made by such creditor has been admitted under this IBC and such guarantee has been invoked by the creditor and remains unpaid in full or part;
- (i) is subject to any disability, corresponding to clauses (a) to (h), under any law in a jurisdiction outside India; or

(j) has a connected person not eligible under clauses (a) to (i), where ‘connected person’ means:

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

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

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

on the \_\_\_\_\_ day of \_\_\_\_\_ 2021

**DEPONENT**

**Before me,**

**Notary/Oath Commissioner**

**VERIFICATION:**

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

Verified at \_\_\_\_\_, on this the \_\_\_\_\_ day of \_\_\_\_\_ 2021

**DEPONENT**

## ANNEXURE 4

### CONFIDENTIALITY UNDERTAKING

*(To be notarized on non-judicial stamp paper)*

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

This Confidentiality Undertaking has been signed by \_\_\_\_\_ (Name of potential Bidders) having its office at \_\_\_\_\_ acting through Mr. \_\_\_\_\_ (Name of person authorised by potential Bidder(s)), the authorized signatory/authorized representative (“**Bidder**”), which expression shall, unless repugnant to the context, be deemed to include its successors, assigns or legal representative) in favour of Mr. Amit Gupta, an Insolvency Professional having registration no. IBBI / IPA-001 / IP-P00016 / 2016-17 / 10040.

WHEREAS Kohinoor Diamonds Private Limited, a company registered under Companies, Act, 1956 (hereafter referred as the “**Company**”) is undergoing liquidation vide NCLT Mumbai Bench (“NCLT”) order dated 13 November 2018 (certified order copy received by the liquidator on 15 November 2018), vide the said NCLT Order Mr. Amit Gupta, a registered insolvency professional with Insolvency and Bankruptcy Board of India (IBBI) having registration number IBBI / IPA-001 / IP-P00016 / 2016-17 / 10040 has been appointed as liquidator to manage, protect, sell and liquidate the property, assets, business and other affairs of Kohinoor Diamonds Private Limited (In Liquidation) (“**Liquidator**”).

WHEREAS the Liquidator has invited prospective Bidders for the purpose of submission of bid through e-auction process in respect of Sale of assets of Corporate Debtor in accordance with the provisions of Process Memorandum and provisions of Insolvency and Bankruptcy Code, 2016 (“**IBC**”) read with the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (“**Liquidation Process Regulations**”).

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

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

1. The Bidder(s) shall not divulge any part of the information received pursuant to the Process Memorandum or accessed through the data room which shall mean the virtual data room maintained by the Liquidator, created for the Qualified Bidders to access information in relation to the Company (“Data Room”) or any other data shared by the Liquidator, through oral or written communication or through any mode to anyone and the same shall constitute “Confidential Information”. Any information or documents generated or derived by the recipients of Confidential Information that contains, reflects or is derived from any Confidential Information shall also be deemed as Confidential Information.
  
2. The Bidder (s) further unconditionally and irrevocably undertake and declare that
  - a. the Confidential Information shall be kept secret and confidential by the Bidder (s) and shall be used solely in accordance with the terms of the IBC;
  - b. the Bidder(s) shall not use the Confidential Information to cause any undue gain or undue loss to itself, the Company, Liquidator or any other person;
  - c. the Bidder(s) shall comply with all provisions of Applicable Law(s) for the time being in force relating to confidentiality and insider trading;
  - d. the Bidder (s) shall protect any intellectual property of the Company which it may have access to;
  - e. the Confidential Information may only be disclosed to and shared with any employees or its advisors by the Bidder(s), in accordance with Applicable Law(s), including in relation to confidentiality and insider trading, and terms of this Confidentiality Undertaking on a strict need-to-know basis and only to the extent necessary for and in relation to the liquidation process of the Company, provided that the Bidder binds such employees and third parties, by way of an undertaking/ agreements, to terms at least as restrictive as those stated in this Confidentiality Undertaking;
  - f. the Bidder(s) shall ensure that all Confidential Information is kept safe and secured at all times and is protected from unauthorized access, use, dissemination, copying, any theft or leakage;
  - g. the Bidder(s) shall immediately destroy and permanently erase all Confidential Information upon the completion of Sale of assets of Corporate Debtor as provided under Process Memorandum and the Liquidation Process Regulations;





5. The terms of this Confidentiality Undertaking may be modified or waived only by a separate instrument in writing signed by the Bidder(s) and the Liquidator that expressly modifies or waives any such term.
6. Damages may not be an adequate remedy for a breach of this Confidentiality Undertaking and the Liquidator may be entitled to the remedies of injunction, specific performance and other equitable relief for a threatened or actual breach of this Confidentiality Undertaking.
7. Nothing in this Confidentiality Undertaking shall have the effect of limiting or restricting the liability of the Bidder(s) arising as a result of its fraud or willful default as defined under Applicable Law(s).
8. The undersigned hereby represents and warrants that it has the requisite power and authority to execute, deliver and perform its obligations under this Confidentiality Undertaking.
9. This Confidentiality Undertaking and any dispute, claim or obligation arising out of or about it shall be governed by and construed in accordance with Indian laws and the courts and tribunal of Mumbai shall have exclusive jurisdiction over matters arising out of or relating to this Confidentiality Undertaking.
10. Capitalized terms not defined under this Confidentiality Undertaking shall have the same meaning as provided in the Process Memorandum.

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

Signed on behalf of

(Name of Bidder(s))

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

(Name and Designation)

Authorised Signatory

Date:

Place:

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

**ANNEXURE – 5**

**BOARD RESOLUTION**

*(On the letter head of the Bidder)*

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

---

**WHEREAS** pursuant to the E-auction Process Memorandum for the sale of assets of Kohinoor Diamonds Private Limited (In Liquidation) dated \_\_\_\_\_, issued by Mr. Amit Gupta (IBBI Registration No. IBBI / IPA-001 / IP-P00016 / 2016-17 / 10040) (“**Liquidator**”), the liquidator of Kohinoor Diamonds Private Limited, the Company being a prospective applicant is desirous of submitting a Bid Application for the purchase of assets of Kohinoor Diamonds Private Limited (In Liquidation) in accordance with the requirements of the Process Memorandum published on <https://ncltauction.auctiontiger.net>, for the above-mentioned auction.

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

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

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

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

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

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

Certified to be true

**For the Company**

\_\_\_\_\_

**Director/Company Secretary**

**ANNEXURE 6**

**EARNEST MONEY DEPOSIT FORM**

Date:

To,

**Mr. Amit Gupta (Liquidator),  
Kohinoor Diamonds Private Limited (In Liquidation).**

702, Janki Center, Dattaji Salvi Road,  
Off Veera Desai Road, Andheri West  
Mumbai- 400053.

**REF. ADVERTISEMENT ISSUED IN FREE PRESS JOURNAL (ENGLISH) & NAVSHAKTI (MARATHI) MUMBAI EDITION, FINANCIAL EXPRESS (ENGLISH & GUJARATI) AHEMDABAD EDITION, TIMES OF INDIA (ENGLISH) & JANADESH (GUJARATI) IN SURAT EDITION ON 01<sup>st</sup> February 2021 & HOSTED ON THE WEBSITE [HTTPS://NCLTAUCTION.AUCTIONTIGER.NET](https://ncltauction.auctiontiger.net) FOR SALE OF ASSETS OWNED BY KOHINOOR DIAMONDS PRIVATE LIMITED (IN LIQUIDATION)**

I/We/ M/s am desirous in participating in the e-auction of Assets of Kohinoor Diamonds Private Limited (in Liquidation) announced by you in the newspaper publication dated ..... in ..... (name of media journal).

<b>BID for:</b>	
-----------------	--

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

1.	(a)	Full Name of the Bidder with Telephone Nos.  Mobile Nos. E-mail ID.	
	(b)	Address of the Bidder along with the address proof	
	(i)	Office	
	(ii)	Residence	
2.	<b>Details of EMD</b>		
	(i)	Mode of Payment	RTGS / NEFT/ Bank Transfer
	(ii)	UTR No.	
	(iii)	Date	
	(iv)	Account Holder's Name	
	(v)	Bank Name	
	(vi)	Branch Name	
	(vii)	IFSC Code	
	(v)	Amount Deposited	

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

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

3. I/We /M/s. also agree that after my/our offer given in my/our bid for purchase of an asset(s) is accepted by the Liquidator and If I/We/M/s. breach any of the conditions under this Process Memorandum or am/are/is found to have made any misrepresentation or am/are/is found to be ineligible to submit the Bid under Section 29A of the IBC (as amended from time to time) or is found to have made a false or misleading declaration of eligibility under Section 29A of the IBC or am/are/is found to be, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the auction process or has, undertaken any action in respect of such process which results in the breach of any applicable law including the Prevention of Corruption Act, 1988 or Default in payment of the balance sale consideration by the Successful Bidder within the timeframe set out this Process Memorandum or not able to complete the transaction within the time limit specified in the Process Memorandum for any reason whatsoever and / or fail to fulfil any/all the terms and conditions of the Process Memorandum, the Earnest Money Deposit paid by me/us along with the Bid document is liable to be forfeited by the Liquidator and that the Liquidator has also a right to proceed against me / us for specific performance of the contract.

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

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

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

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

Place:

Date:

**Signature of the Bidder**

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

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

**Name**

**Designation**

## ANNEXURE – 7

### DESCRIPTION OF ASSETS

- Immovable Property

#### Commercial Space - Commercial units situated at Ashoka Tower, Surat



(Note: For more photographs of the subject property, please visit <http://winsome-group.in/>)

The subject property to be sold is Commercial Space units located at Ashoka Tower, Kesharba Market-2, Gotalawadi, Katargam Surat, Gujarat-395004. The said property is proposed to be sold on “As is where is basis”, “As is what is basis”, “whatever there is basis” and “no recourse basis”.

(Amount in INR)

S.No.	Floor No.	Unit No.	Built-Up (Sq. mtr.)	Built-up (Sq. ft.)	Reserve Price (INR)
1	Basement	1	104.08	1120	20,58,000
2	Basement	4	104.08	1120	20,58,000
3	Ground	1	104.08	1120	21,56,000
4	Ground	4	104.08	1120	21,56,000
5	1st Floor	1	97.11	1045	18,28,750
6	1st Floor	5	97.11	1045	18,28,750
7	3rd Floor	1	99.53	1071	18,74,250



8	4th Floor	1	99.53	1071	18,74,250
9	5th Floor	1	99.53	1071	18,74,250
10	6th Floor	1	99.53	1071	18,74,250
11	7th Floor	1	99.53	1071	18,74,250
12	8th Floor	1	99.53	1071	18,74,250
Total			<b>1207.72</b>	<b>12996</b>	<b>2,33,31,000</b>

### **DESCRIPTION OF THE PROPERTY**

- The subject properties are situated on different floor of the building named as, Ashoka tower which has basement, ground floor & 8 upper floors.
- The subject property is in Kesarba market which is majorly occupied by diamond workshops. However, the locality has mixed users like apart from Kesarba market, there are few residential societies. The locality offers health care facilities, refreshment parks, Public parking, temples, restaurants etc. and all of them are well connected via roadways and local public transportation.
- The subject property is well connected with city's main road like Katargam road and Gotalawadi road.
- There are three diamond institute named Arihant Diamond Institute, Eagle Diamond Institute and ISD – International School of Diamonds in proximity. Hospital like Akshar Hospital for Children, Samrat Clinic, Smt. Rasilaben Sevantilal Shah Venus Hospital etc are within 3 to 5 km from subject property.