

**SALE PROCESS MEMORANDUM**

**Date – 27<sup>th</sup> March, 2024**

Invitation for bids for e-auction for sale of assets of  
**AUTO FRICTION COMPONENTS INDIA PVT LTD (in Liquidation)**

under the provisions of Insolvency & Bankruptcy Code, 2016 and  
Regulations 32(a) of the IBBI (Liquidation Process) Regulations, 2016

By an order of Hon'ble National Company Law Tribunal, Kochi Bench ("NCLT Kochi")  
dated 5<sup>th</sup> February 2021.

Date of Public Announcement – 27-03-2024

Last Date for submission of Forms/Affidavit: 11-04-2024

Last date for submission of EMD : 24-04-2024

**Date of e-Auction – 26 - 04-2024 (14:00 Hrs-16:00 Hrs)**

Date of Sale Process Memorandum – 27-03-2024

Reserve price - Rs. 4,27,50,000

EMD – Rs. 42,75,000

Location of Assets: SIDCO Industrial Estate, Pappanamcode, Trivandrum, Kerala

**Issued and signed by**

Mr. Raju Palanilkunnathil Kesavan (the Liquidator)

In the matter of AUTO FRICTION COMPONENTS INDIA PVT LTD (in Liquidation)

IBBI Registration No. IBBI / IPA-001 / IP-P00801 / 2017-18 / 11356

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## DISCLAIMER

- 1. This process memorandum ("Process Memorandum") is issued by Raju Palanilkunnathil Kesavan, the liquidator ("Liquidator") of AUTO FRICTION COMPONENTS INDIA PVT LTD (in liquidation) (the "Company" or "Corporate Debtor") for general information purposes, to provide general information only, without regard to specific objectives, suitability, financial situations, and the requirements of any particular person. The purpose of this Process Memorandum is to set out the process for submitting electronic auction bids for the asset of the Company in accordance with the Insolvency and Bankruptcy Code, 2016 ("Code" or "IBC"). Nothing herein or in materials relating to the Process Memorandum is intended to be construed as legal, financial, accounting, regulatory or tax advice by the Liquidator. This Process Memorandum is personal and specific to each auction process participant. Neither this Process Memorandum nor anything contained herein shall form the basis of, or be relied upon in connection with any contract, agreement, undertaking, understanding or any commitment whatsoever. This Process Memorandum does not solicit any action based on the material contained herein.*
- 2. The information in this Process Memorandum, which does not purport to be comprehensive, is provided by the Company and has not been independently verified by the Liquidator. While this information has been prepared in good faith, no representation or warranty, expressed or implied, is or will be made and no responsibility or liability is or will be accepted by the Liquidator, the Company or by any of its officers, employees or agents in relation to the accuracy, fairness, authenticity or completeness of this Process Memorandum or any other written or oral information made available to any interested party or its advisers and any such liability is expressly disclaimed. In so far as the information contained in this Process Memorandum includes current or historical information, the accuracy, adequacy, authenticity, correctness, fairness, and completeness of such information cannot be guaranteed. By acceptance of this Process Memorandum, the Bidder (defined herein below) shall be deemed to have acknowledged that it has not relied upon any representation and warranty made by the Liquidator. The participation in the E-Auction (defined herein below) means and implies that the Bidder has read carefully and unconditionally and irrevocably agreed to and accepted all the terms and conditions laid herein. This Process Memorandum is issued in supersession of any and all of its earlier versions as issued by the Liquidator in his earlier endeavors of conducting the auction in respect of the Corporate Debtor.*
- 3. This Process Memorandum has not been filed, registered or approved and will or may not be filed, registered, reviewed or approved by any statutory or regulatory authority in India or by any stock exchange in India or any other jurisdiction. This Process Memorandum and information contained herein or disclosed pursuant to the terms of this Process Memorandum or any part of it does not constitute or purport to constitute any advice or information in publicly accessible media and should not be printed, reproduced, transmitted, sold, distributed, or published by the recipient without prior written approval from the Liquidator. Distributing or taking/sending/dispatching/transmitting this Process Memorandum in certain foreign jurisdictions may be restricted by Applicable Law, and Persons into whose possession this Process Memorandum comes should inform themselves about, and observe, any such restrictions.*
- 4. Neither the Liquidator, nor his professional advisors, consultants, service providers, affiliates, directors, employees, agents, representatives or managers of the process shall be liable for any damages, whether direct or indirect, incidental, special or consequential including loss of revenue or profits that may arise from or in connection with the use of this Process Memorandum, including for the Process Memorandum not being selected as a Successful Bidder or on account of any decision taken by the Liquidator.*

5. *The Liquidator and/or the Company gives no undertaking to provide the recipient with access to any additional information or to update this Process Memorandum or any additional information, or to correct any inaccuracies in it which may become apparent, and he reserves the right, without giving reasons, at any time and in any respect, to amend or terminate the procedures set herein or to terminate negotiations with any Bidder. The issue of this Process Memorandum shall not be deemed to be any form of commitment on the part of the Liquidator or the Company to proceed with any transaction.*
6. *The Liquidator may in his absolute discretion but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this Process Memorandum. Further, the Bidder must specifically note that the Liquidator reserves the right to change, update, amend, supplement, modify, add to, delay or otherwise annul or cease the Bidding process at any point of time, for any reason whatsoever determined in his sole discretion without any obligation, including to notify any person or Bidder of such revision or changes. In addition, the Liquidator also reserves the right to extend or change any particular date or any timeline for completion of the Bidding process for acquisition of Assets of the Corporate Debtor, for any reason whatsoever determined in his sole discretion or under such circumstances as the Liquidator finds appropriate, without any obligation, including the obligation to notify any person or Bidder of such revision or change.*
7. *In providing this Process Memorandum, the Liquidator or his representatives or his professional advisors do not undertake any obligation to provide the Bidders with access to any additional information or to update, expand, revise or amend the information, or to correct any inaccuracies which may become apparent in this or any other document and having said so, the Liquidator or his representatives or his professional advisors will make all endeavors to provide the additional information being sought for by the Bidders.*
8. *In addition to the provisions set out in this Process Memorandum, the Bidder shall be responsible for fully satisfying the requirements of the Code and related regulations as well as all Applicable Laws (defined herein below) in force that are or may be applicable to the Bidder or the sale process and for obtaining requisite regulatory or other approvals, if any, that are or may be required under applicable law and nothing contained in this Process Memorandum shall be deemed to relieve, wholly or partially, directly or indirectly, the Bidder from compliance with the Code and related regulations as well as any other law in force, and/ or any instrument having the force of law as may be applicable and nothing in this Process Memorandum shall be construed as, or operate either, wholly or in part, as exempting the Bidder from complying with all such laws, as are or may be applicable.*
9. *The issue of this Process Memorandum does not imply that the Liquidator is bound to select a Qualified Bidder as a 'Successful Bidder' (as defined below) or to select the Successful Bidder in respect of its Bid and the Liquidator reserves the right to reject at any stage all or any of the Bid/Bids submitted by any Bidder in accordance with Schedule I of Liquidation Process Regulations and without incurring any liability whatsoever.*
10. *By procuring a copy of this Process Memorandum, the recipient accepts the terms of this disclaimer notice, which forms an integral part of this Process Memorandum and all other terms and conditions of this Process Memorandum. Further, no Person, including the Bidder shall be entitled under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise to claim for any loss, damage, cost or expense which may arise from or be incurred or suffered on account of anything contained in this Process Memorandum or otherwise, including the accuracy, adequacy, authenticity, correctness, completeness or reliability of the information or opinions contained in this Process Memorandum and any assessment, assumption, statement or information contained therein or deemed to form part*

*of this Process Memorandum, and the Liquidator, Company, and their consultants, service providers, advisors, affiliates, directors, employees, agents, representatives or managers do not have any responsibility or liability for any such information or opinions and therefore, any liability or responsibility is hereby expressly disclaimed. All expenses incurred towards legal expenses, registration charges, movement / shifting of the Assets of the Company post the E-Auction if any should be borne by the Successful Bidder. The Liquidator shall not be held responsible / liable to pay any expenses towards such movement of any Assets sold in the E-Auction.*

- 11. In no circumstances shall the Bidder or its officers, employees, agents and professional advisers make any contact, direct or indirect, by any mode whatsoever, with the management, employees, customers, agents or suppliers of the Company until the Liquidator gives permission to do so in writing.*
- 12. The sale of Asset of the Company is 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 the Company does not entail transfer of any title except the title which the Company had over its Assets as on date of the transfer. The Liquidator does not take or assume any responsibility for any shortfall or defect or shortcoming in the Assets of the Company.*
- 13. The Bidder shall bear all its costs and charges associated with or relating to the preparation and submission of its bid including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations for each Assets which may be required by the Liquidator, or any other costs incurred in connection with or relating to its bid on of the relevant Assets. This Process Memorandum shall not deem to be any form of commitment on the part of the Liquidator or the Corporate Debtor to proceed with any transaction.*
- 14. All terms and conditions with respect to the sale of each Assets shall be governed by the directions of the Liquidator, the Adjudicating Authority (defined herein below) and in accordance with the provisions of Applicable Laws. As mandated by the Adjudicating Authority, the Liquidator shall exercise all rights with respect to sale of asset of the Corporate Debtor and it would be open to the Liquidator to appoint such experts, professionals or other persons, as the Liquidator might think necessary, so as to enable the sale of the Corporate Debtor.*
- 15. The Bidders are cautioned against any attempt for giving or offering any gift, bribe or inducement and any attempt to any such act, on behalf of the Bidder towards the Liquidator or his professional advisors or the Corporate Debtor or any of its representatives, for showing any favour in relation to this Process Memorandum or the process set out herein, which if done, shall render the Bidder to such liability and penalty as the Liquidator may deem proper, including but not limited to immediate disqualification and expulsion from the Bidding process.*
- 16. The term "Sale of asset of the Corporate Debtor " wherever used in this Process Memorandum shall mean, Sale of Asset of the Corporate Debtor in accordance with the Regulation 32 (a) of Liquidation Process Regulations read with provisions of the Code, Liquidation Process Regulations and this Process Memorandum. The Bidders shall comply with all the laws of India. The laws of the Republic of India are applicable to this Process Memorandum.*

**INDEX**

**IMPORTANT INFORMATION..... 6**

**ABOUT E-AUCTION ..... 7**

**KEY DEFINITIONS ..... 9**

**INTRODUCTION..... 11**

**THE COMPANY OVERVIEW..... 12**

**ASSETS TO BE AUCTIONED AND RESERVE PRICE ..... 13**

**KEY TIMELINES..... 15**

**ELIGIBILITY ..... 16**

**DOCUMENTS TO BE SUBMITTED TO BECOME A QUALIFIED BIDDER..... 19**

**PHYSICAL VERIFICATION & SITE VISIT ..... 20**

**DUE DILIGENCE ..... 20**

**EARNEST MONEY DEPOSIT..... 20**

**INVOCATION OF BANK GUARANTEE / FORFEITURE OF EARNEST MONEY ..... 22**

**DECLARATION OF SUCCESSFUL BIDDER..... 22**

**ISSUANCE OF LETTER OF INTENT..... 22**

**COMPLETION OF SALE ..... 23**

**FRAUDULENT AND CORRUPT PRACTICES ..... 24**

**COSTS, EXPENSES AND TAX IMPLICATIONS..... 25**

**MODIFICATION IN TERMS AND CONDITIONS..... 26**

**GOVERNING LAW AND JURISDICTION ..... 26**

**MISCELLANEOUS..... 26**

**CLARIFICATIONS ..... 28**

**ANNEXURES ..... 29**

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## I. IMPORTANT INFORMATION

1. This Sale Process Memorandum is being issued with the intent to carry out e-Auction of sale of assets of M/s. Auto Friction Components India Pvt. Ltd. (in Liquidation) (the "**Company**") comprising the liquidation estate of the Company in the manner specified under Regulation 32, 32A, 33 and Schedule I of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016 ("**Liquidation Process Regulations**") and other rules, regulations, orders, circulars, directions or notifications, issued under the Insolvency and Bankruptcy Code, 2016 ("**IBC**") or the Liquidation Process Regulations, as the case may be, and as per directions, if any, of the NCLT in respect of the liquidation process of the Company and in the manner specified in this Sale Process Memorandum.
2. All information provided in this Sale 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 Sale Process Memorandum and the IBC or the Liquidation Process Regulations, the provisions of the IBC or the Liquidation Process Regulations shall prevail.
3. This Sale Process Memorandum is neither a prospectus nor an offer document nor a letter of offer for sale of asset (Industrial Land) of the Company nor an agreement by the Liquidator to the Bidders or any other person. The Sale Process Memorandum purports to ascertain the interest of potential Bidders and does not create any kind of binding obligation on the part of the Liquidator to effectuate the sale of asset (Industrial Land) of the Company.
4. The Liquidator may in his absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment, or assumptions contained in this Sale Process Memorandum.
5. The term "*Sale of asset of the Company*" OR "*Sale of Asset (Land) of the company*" wherever used in this document shall mean, sale of asset (Industrial Land) of the Company along with buildings in dilapidated condition in the land on "as is where is basis", "as is what is basis", "whatever there is basis and "no recourse basis" in accordance with the provisions of IBC, Liquidation Process Regulations and this Sale Process Memorandum.
6. The issue of this Sale Process Memorandum does not imply that the Liquidator is bound to select a Qualified Bidder as a Successful Bidder with respect to the transfer of Asset (Land) of the Company in favor of such Successful Bidder and the Liquidator reserves the right to reject all or any of the Interested Bidders or bids without assigning any reason whatsoever.
7. A new version of the Sale Process Memorandum or addendum to the earlier version of the Sale Process Memorandum may be released prior to every round of auction, at the discretion of the Liquidator.
8. Each Bidder 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.

## II. ABOUT E-AUCTION

1. M/s. NeSL National E- Governance Services Limited (“**E-Auction Service Provider**” or “**Agency**”) has been appointed as the E-Auction Service Provider. The sale of Asset (Land)of the Company on “as is where is basis”, “as is what is basis”, “whatever there is basis” and “no recourse basis” shall be undertaken by the Agency for and on behalf of the Liquidator through an E-Auction platform provided/referred on the website portal of the E-Auction Service Provider (“**Platform**”). Other details of the e-auction are as follows:

#	Particulars	E-Auction
1	Liquidator	Raju Palanilkunnathil Kesavan
2	E-Auction Portal	<a href="https://nbid.nesl.co.in">https://nbid.nesl.co.in</a>
3	E-auction Tender document and Auction Notice	<a href="https://nesl.co.in/auction-notice-under-ibc/">https://nesl.co.in/auction-notice-under-ibc/</a>
4	Address of E-Auction Service Provider	4 <sup>th</sup> Floor, GrehamAssurance House Sir P M Road, Fort, Mumbai – 400 001 Contact person – 1. Araventhans S E – 9384676709 2. Neel Doshi -940400066  Email id: <a href="mailto:araventhans@nesl.co.in">araventhans@nesl.co.in</a> / <a href="mailto:neeld@nesl.co.in">neeld@nesl.co.in</a>
5	Annexures	<ol style="list-style-type: none"> <li>1. <b>Annexure 1</b> - Application Form (to be duly filed in, signed, and stamped by the Auction Participant and submitted)</li> <li>2. <b>Annexure 2</b> – Duly notarized Affidavit certifying eligibility under section 29A of IBC by the Auction Participant (to be duly filled in and signed by the Auction Participant and submitted along with the Application Form)</li> <li>3. <b>Annexure 3</b> - Confidentiality Undertaking</li> <li>4. <b>Annexure 4</b> - Copy of the resolution passed by the board of directors of the Auction Participant (in case the Auction Participant is a company)</li> <li>5. <b>Annexure 5</b> – Earnest Money Deposit Form</li> </ol> <p><i>For timelines regarding the submission of the documents, please refer to “Key Timelines” of this Sale Process Memorandum.</i></p>

6	Special Instructions	This bidding is a serious matter and last-minute bidding may lead to lapses. Neither the E-Auction Service Provider nor the Liquidator will be responsible for any lapses on part of the Qualified Bidders.
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2. The asset (Land) of the Company is to be sold on “As is where is basis”, “As is what is basis”, “Whatever there is basis” and “No recourse basis”. The proposed sale of asset of the Company entails transfer of ownership and control of the Asset (Industrial Land) in favour of the Successful Bidder and does not in any manner entail independent sale/ transfer of the Company’s assets, in favour of the Successful Bidder. It is further clarified that any asset over which the Company does not have any right, title and interest as on the date of transfer, shall not be transferred as part of the Company’s assets.
3. All terms and conditions with respect to the sale of asset (Land) of the Company shall be governed by the directions of the Liquidator, the Liquidation Process Regulations, Hon’ble National Company Law Tribunal (Kochi Bench) (“NCLT”), Hon’ble National Company Law Appellate Tribunal (“NCLAT”), and in accordance with the provisions of other Applicable Laws. The Liquidator shall exercise all rights with respect to the sale of asset (Land) of the Company and it would be open to the Liquidator to appoint such experts, professionals, or other persons, as the Liquidator might think necessary, so as to enable the sale of asset (Land) of the Company. This sale process memorandum is issued pursuant to the order of Hon’ble NCLT Kochi Bench in IA (IBC)/25/KOB/2021 in CP/IB/54/KOB/2019 and further approval required if any.
4. The Annexures to this Sale Process Memorandum shall form an integral part hereof and this Sale Process Memorandum shall always be read in conjunction with the Annexures hereto. In the event of any inconsistency between the terms contained in the Sale Process Memorandum and that of the Annexures, the terms contained in the Sale Process Memorandum shall prevail.
5. Documents and/or relevant and material information about the Company and the title documents relating to the assets of the Company shall be available with the Liquidator. The Liquidator, makes no representation or warranty 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 Sale Process Memorandum or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the Sale Process Memorandum and any assessment, assumption, statement or information contained therein or deemed to form part of this Sale Process Memorandum or arising in any way from participation in the E-Auction Process. Please find appended the details of the properties/assets of the Company in this document further.



### III. KEY DEFINITIONS

Unless defined elsewhere in this Sale Process Memorandum, the capitalized terms used herein shall have the following meanings:

1. **“Applicable Laws”** shall mean, 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;
2. **“Associate Company”**, in relation to another company, means a company in which the Bidder has a significant influence in terms of the Companies Act of 2013 and includes an Affiliate of the Bidder having such influence and includes a joint venture company;
3. **“Bid”** shall mean, any bid submitted by the Bidder(s) as required in terms of this Sale Process Memorandum and in accordance with the provisions of IBC read together with the Liquidation Process Regulations and the Applicable Laws;
4. **“Bidder”** shall mean an Interested Bidder or an Eligible Bidder or a Qualified Bidder or a Successful Bidder, as the case may be and as the context requires;
5. **“Bid Documents”** shall mean all the annexures as embedded at latter part of this document.
6. **“Bid Increment Amount”** shall mean the 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;
7. **“Confidentiality and Non-Disclosure Agreement”** shall mean the confidentiality and non-disclosure agreement executed and submitted by an Interested Bidder to the Liquidator as part of the Bid Documents;
8. **“Control”** together with its grammatical variations, when used with respect to any Person shall mean the power to direct the management and policies of a Person, directly or indirectly, whether through the ownership of voting securities, shareholders’ agreements, voting agreements, by contract or otherwise; provided that, in any event: (i) the direct or indirect ownership of more than 25% (twenty-five per-cent) of the voting securities of a Person; or (ii) the right to appoint and/or remove the majority of the members of the board of directors or other governing body of a person, shall be deemed to constitute Control of such Person;
9. **“Declaration”** shall mean the Interested Bidder’s declaration as per **Annexure-II**;
10. **“IBC”** shall mean Insolvency and Bankruptcy Code, 2016 and the related rules, regulations, notifications, circulars, orders, and guidelines issued thereunder, as amended from time to time;
11. **“Liquidator”** shall mean Mr. Raju Palanilkunnathil Kesavan, an Insolvency Professional registered with Insolvency and Bankruptcy Board of India (IBBI) having Registration Number IBBI/IPA-001/IP-P00801/2017-18/11356 appointed by NCLT, vide order dated 5<sup>th</sup> February 2021, 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;
12. **“Liquidation Process Regulations”** shall mean, the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016 as amended from time to time;

13. **"Person"** shall mean an individual, a partnership firm, an association, a corporation, a limited company, a trust, a body corporate, bank or financial institution or any other body, whether incorporated or not;
14. **"Reserve Price"** shall mean the minimum price at which a bid will be accepted on the auction portal from a participating Qualified Bidder;
15. **"Sale Process Memorandum"** shall mean this document including all the annexures hereto, for the purposes of setting out the process for submission of bids with respect to the sale of asset (Land) of the Company on "as is where is basis", "as is what is basis", "whatever there is basis" and "no recourse basis" and selection of Successful Bidder in accordance with the provisions of the IBC and shall include all supplements, modifications, amendments, alterations or clarifications thereto issued in accordance with the terms hereof.
16. **"Seller"** means, M/s. Auto Friction Components India Pvt Ltd (In Liquidation) acting through the Liquidator;
17. **"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 and to whom the Letter of Intent is issued by the Liquidator, in accordance with the terms of this Process Memorandum;
18. **"Successful Bid"** means the Bid of the Successful Bidder for acquisition of asset (Land) of the Corporate Debtor as declared by the Liquidator as per this Process Memorandum;
19. **"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 paid the EMD and has been accepted by the Liquidator as a Qualified Bidder;

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

#### IV. INTRODUCTION

1. The liquidation process for the Company has been initiated under the provisions of the IBC by an order of the NCLT with effect from 5<sup>th</sup> February 2021. As per the said order, Mr. Raju Palanilkunnathil Kesavan has been appointed as the Liquidator.
2. The Auction Agency will be provided User ID & Password to the Qualified Bidders to participate in the E-Auction Process at least 24 (Twenty-Four) Hours prior to the commencement of the E-Auction Process on the Auction Portal.
3. The E-Auction/bidding would be conducted exactly on the scheduled date and time by way of inter-se bidding amongst the Bidders. A Bidder may improve its offer in multiple of the amount mentioned under the column "*Bid Increment Amount*". The E-Auction portal will be open for a period of 2 hours or for such duration as decided by the Liquidator. In case a bid is placed within the last 5 minutes of the closing time of the E-Auction, the closing time will be automatically extended for further 5 minutes.
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.
5. The Liquidator endeavors to sell the asset (Land) of Corporate Debtor 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.
6. 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.

## I. THE COMPANY OVERVIEW

**Brief Background:** The Company, Auto Friction Components India Pvt Ltd. (U34300KL1972PTC002468) incorporated on 15.12.1972 is registered in Kerala and is having registered office at Industrial Estate, Pappanamcode, Trivandrum, Kerala, India, 695019 with the primary objective of manufacturing parts and accessories for motor vehicles and their engines. The company incurred heavy losses from the beginning and after operations for 5 years the company was forced to close all operations in 1983 owing to the losses.

### CORPORATE PROFILE

As per the records of the Ministry of Corporate Affairs, the information regarding the corporate debtor is as follows.

<b>Company Information</b>	
CIN	U34300KL1972PTC002468
Company Name	AUTO FRICTION COMPONENTS INDIA PVT LTD
ROC Name	ROC Ernakulam
Registration Number	002468
Date of Incorporation	15/12/1972
Email Id	-
Registered Address	INDUSTRIAL ESTATEPAPPANAMCODE, TRIVANDRUM, Kerala, India, 695019
Address at which the books of account are to be maintained	-
Listed in Stock Exchange(s) (Y/N)	No
Category of Company	Company limited by shares
Subcategory of the Company	Non-government company
Class of Company	Private
Authorised Capital (Rs)	15,00,000
Paid up Capital (Rs)	10,08,300
Date of last AGM	-
Date of Balance Sheet	-
Company Status	Strike Off
Jurisdiction	
ROC (name and office)	ROC Ernakulam
RD (name and Region)	RD, Southern Region

## V. ASSETS TO BE AUCTIONED AND RESERVE PRICE

The Liquidator proposes sale of Asset of the Company on “as is where is basis”, “as is what is basis”, “whatever there is basis” and “no recourse basis”, subject to exclusions mentioned in this process memorandum.

The sale of Asset of the Company shall result in transfer of ownership and control over the Land including the entire available assets of the Company as described in this Sale Process Memorandum in favour of the Successful Bidder. The cut-off date for the purposes of determination of all assets and liabilities of the Company shall be the liquidation commencement date.

### Particulars of the Asset

The Assets of M/s. Auto Friction Components India Pvt Ltd. is proposed to be sold through E-Auction as per the advice of the Stakeholders Consultation Committee in the meeting held on 25-03-2024. The only Asset available for sale is 100 cents of industrial land along with two buildings in dilapidated condition in it situated in SIDCO Industrial Estate at Pappanamcode, Trivandrum.

### A. Details of Land owned by the Company

1. The Company is in a defunct status for more than 15 years.
2. As per the available information, the company is in possession of land admeasuring 1 acre in Industrial Estate, Pappanamcode, Trivandrum District with survey no. 76/2,77/1,77/2 of Neman village as per Patta No. 19710 dated 03.04.1985, 16.08.1995, 08.01.1998 and 03.03.1999. This land was mortgaged by the Company with the Financial Debtor, KSIDC by deposit of the title deeds. There are no other movable or immovable assets other than two buildings in a dilapidated condition in the above said land.
3. It is required to dispose of the Company's Assets in 'As where is condition' through E-auction. However, as per the Certificate of Patta No. 19710 dated 03.04.1985 issued by the Thahasildar, Trivandrum, the land assigned is heritable but prior permission in writing of the Government was required for alienating this industrial land permission for which was accorded by the Govt. in Jan,2024.
4. Based on the application by Liquidator the Government has accorded sanction for the sale of land vide letter no. DIC/4559/2021-ID591) dated 05.01.2024 by the Director (Industries and Commerce).

### Particulars of e-Auction:

#	Particulars	Details
1.	e-Auction Commencement Date	26-04-2024 (Friday)
2.	e-Auction Commencement Time (Proposed)	14:00 Hrs. IST
3.	e-Auction Closure Date	26-04-2024 (Friday)
4.	e-Auction Closure Time (Proposed)	16:00 Hrs. IST
5.	Reserve Price	INR 4,27,50,000 (Rupees Four Crore Twenty Seven lakh Fifty Thousand only)
6.	Earnest Money Deposit	INR 42,75,000 (Rupees Forty-Two Lakh Seventy-Five Thousand only)
		<b>Last date for remitting EMD – 24-04-2024</b>

7.	Minimum Bid Increment Amount	INR 50,000 ( Fifty Thousand only)
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**Note:**

- (i) **Only Qualified Bidders who have submitted Application and affidavits (before 11.04.2024) and EMD (by 24.04.2024) shall be entitled to participate in the e- Auction Process.**
- (ii) Cognizance should be taken of the fact that the Liquidator does not give any assurance or warranty of the physical condition of assets of the Company and their suitability for any sort of operation that the Bidder envisages.
- (iii) **GENERATION OF USER ID FOR PARTICIPATION IN E-AUCTION THROUGH E-AUCTION SERVICE PROVIDER.**

After submission of all documents / EMD by the Qualified Bidder to the satisfaction of the Liquidator, the e-auction service provider will provide User id and password after due verification of PAN of the Qualified Bidders to participate in the e-auction process

Bidders shall hold a valid email ID as it is necessary for the Qualified Bidder, as all the relevant information and allotment of ID & password will be conveyed through e-mail by the service provider.

Contact Persons:

1. Mr. Araventhhan S E- 9384676709) E-mail - [araventhhanse@nesl.co.in](mailto:araventhhanse@nesl.co.in)
2. Mr. Neel Doshi – 9404000667 E-mail: [neeld@nesl.co.in](mailto:neeld@nesl.co.in)

- (iv) **BIDDING THROUGH E-AUCTION SERVICE PROVIDER PLATFORM ON THE APPOINTED DAY**  
The Sale of asset (Land) of the Corporate Debtor shall take place through online e- auction service provider, M/s. NeSL National E- Governance Services Limited with e-auction platform <https://nesl.co.in/auction-notices-under-ibc/> on 26<sup>th</sup> April, 2024 between 14:00 Hrs. IST to 16:00 Hrs. IST with unlimited extension of "5 minutes" i.e. the end time of the e-auction will be extended by 5minutes each time if bid is made within the last 5 minutes before closure of auction. The highest bid amount (not below the Reserve Price) at any given point shall be visible to other Qualified Bidders. The Qualified Bidder may improve their offer in multiple of "Bid Incremental Value". The Bid Incremental Value is Rs. 50,000 (Fifty Thousand only). The highest bidder on the closure of e-auction process shall be declared as SuccessfulBidder and a communication to that effect will be issued through electronic mode by the Liquidator.

## VI. KEY TIMELINES

Sl no.	Event	Dates (on or before)
1.	Public Announcement of E-Auction	27-03-2024
2.	Submission of Bid Application with Documents by Interested Bidders	<b>11-04-2024</b>
2(a)	Date of declaration of qualified bidders	<b>13-04-2024</b>
3.	Due Diligence & Site Visits <b>by Eligible Bidders</b> who received communication of eligibility ( <i>Pleaserefer "PHYSICAL VERIFICATION &amp; SITE VISIT" on Page 34 of this Sale Process Memorandum</i> ) after consultation with Liquidator	15-04-2024- to 22-04-2024, (10.00 AM 5.00 PM)
4.	Deposit of Earnest Money by Eligible Bidders for participation in e-Auction Process	24-04-2024, up to 5 PM
5.	Auction Start Date & Time	26-04-2024, at 14:00 Hrs IST
6.	Auction End Date & Time	26-04-2024, at 16:00 Hrs IST
7.	Announcement of Successful Bidder	27-04-2024
8.	Letter of Intent (LoI) to be issued to the Successful Bidder	30-04-2024 (subject to approval of NCLT required , if any)
9.	Unconditional acceptance of LoI	02-05-2024
10.	Payment of the balance amount of sale consideration and any applicable GST/ other levies (if any) by Successful Bidder	02-06-2024 [Subject to clause 12 of Schedule 1 of the Liquidation Regulations]

**Note:** The Liquidator reserves the right to amend the key terms of the auction process including Reserve Price, Earnest Money Deposit, Bid Increment Amount, and timelines at his sole discretion, to the extent permissible under the Applicable Laws. Any information about amendments/extension of any of the timelines will be available on the E-auction website and communicated to the Qualified/ Successful Bidder.

## VII. ELIGIBILITY

1. Interested Bidders who meet the eligibility criteria as set out in Section 29A of the IBC (as amended from time to time) shall qualify as Eligible Bidders and only Eligible Bidders (subject to becoming Qualified Bidders) can take part in the e-auction process.
2. An Interested Bidder shall not be eligible to qualify as an Eligible Bidder and submit a bid if it fails to meet the eligibility criteria as set out in Section 29A of the IBC (as amended from time to time).
3. An Eligible Bidder shall also not be eligible to qualify as a Qualified Bidder and submit a bid if it does not comply with the conditions prescribed in Clause VIII of this Sale Process Memorandum.
4. A careful reading of Section 29A of the IBC states that a person shall not be eligible to submit a bid, if such person, or any other person acting jointly or in concert with such person –
  - 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 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 a 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 elapsed from the date of such classification till the date of commencement of the liquidation process of the corporate debtor:

Provided that the person shall be eligible to submit a bid if such person makes payment of all overdue amounts with interest thereon and charges relating to non-performing asset accounts before submission of bid:

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

Explanation I — For the purposes of this clause, the expression “connected person” means –

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

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

Provided further that the expression “related party” shall not include a financial entity, regulated by a financial sector regulator, if it is a financial creditor of the corporate debtor and is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares, prior to the insolvency commencement date;

Explanation II – or 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: -

- (i) a scheduled bank;
- (ii) any entity regulated by a foreign central bank or a securities market regulator or other financial sector regulators of a jurisdiction outside India which jurisdiction is compliant with the Financial Action Task Force Standards and is a signatory to the International Organization of Securities Commissions Multilateral Memorandum of Understanding;
- (iii) 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);
- (iv) an asset reconstruction company registered with the Reserve Bank of India under section 3 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);
- (v) an Alternate Investment Fund registered with Securities and Exchange Board of India;
- (vi) such categories of persons as may be notified by the Central Government.

## VIII. DOCUMENTS TO BE SUBMITTED TO BECOME AN ELIGIBLE BIDDER

1. To become an Eligible Bidder, an Interested Bidder, subject to fulfillment of other conditions as laid down hereunder, shall be required to submit:
  - (i) Application Form as provided in Annexure 1 here of;
  - (ii) Affidavit in a format provided in Annexure 2 hereof;
  - (iii) Confidentiality Undertaking as provided in Annexure 3 hereof;
  - (iv) Copy of Board Resolution in a format provided in Annexure 4 hereof;
  - (v) Other necessary documents to complete the eligibility check formalities (Collectively referred to as "Eligibility Documents")
  - (vi) Ownership Structure and composition of the Interested Bidder.
  - (vii) Proof of identification, current address proof, PAN card, valid e-mail ID, landline, and mobile phone number of the authorized signatories of the Interested Bidder.
  - (viii) Copy of Income Tax Returns for the last two years
  - (ix) Copies of Audit reports and Audited financial statements for the financial years 2021-22 and 2022-23
  
2. The Bidders, shall be required to submit a certified true copy of proof of Earnest Money Deposit in accordance with the terms and conditions contained in this Sale Process Memorandum.
  
3. Further, it should be noted that at any stage of the E-Auction process, the Liquidator may ask for any documents from the Bidders to evaluate their eligibility. The Liquidator, at his discretion, may disqualify a Bidder/s for non-submission of the requested documents or submitting false or misleading documents.
  
4. Section 29A Affidavit and Declaration to be submitted by each Interested Bidder should be duly authenticated, notarized by a notary public. In addition to Section 29A Affidavit, an Interested Bidder can submit any additional documents it may feel necessary to establish its eligibility under Section 29A of the IBC. Any Interested Bidder being a non-resident shall submit the Bid Documents duly notarized by a notary public of the jurisdiction where the registered office of the non-resident Interested Bidder is situated.

## IX. PHYSICAL VERIFICATION & SITE VISIT

1. Eligible Bidders may request the Liquidator to arrange for physical verification of the assets of the Company and related site visits. Upon receipt of such a request, the Liquidator may first arrange a discussion meeting at any time prior to the closure of the e-auction process.
2. The Liquidator may coordinate a site visit for Eligible Bidders at any time prior to the closure of the E-Auction process, following a request for such a visit by the Eligible Bidders. The Liquidator will communicate, in advance, to such Eligible Bidder, all the relevant details, terms, and conditions, if any, with respect to such site visit. The Liquidator reserves the right to not arrange a site visit for any reason whatsoever, irrespective of the request of the Eligible Bidders.
3. The intending bidders cannot claim lack of permission to visit the site as a reason for not participating in the auction or disputing the entire process.

## X. DUE DILIGENCE

1. The Liquidator shall endeavor to provide necessary assistance, facilitating the conduct of due diligence by the Eligible Bidders. The information and documents shall be provided by the Liquidator in good faith.
2. Please note that Eligible Bidder(s) will gain access to documents, additional information required for due diligence. Further, if needed, the site visits for the Eligible Bidders may be coordinated by the Liquidator (at his discretion).
3. Eligible Bidder(s) 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. The Qualified Bidders, prior to participation in e-Auction should make their independent inquiries searches, and diligence about the Company at their own expenses and satisfy themselves.
4. The Eligible Bidder shall not be entitled to receive any reimbursement of any expenses which may have been incurred in carrying out of due diligence, search of title to the assets of the Company and matters incidental thereto or for any purpose in connection with the E-Auction Process.
5. It must also be noted that the Liquidator does not give any assurance or warranty of the physical condition of the Company's assets and their suitability for any sort of operation that the Bidder envisages.

## XI. EARNEST MONEY DEPOSIT

1. In order to become a Qualified Bidder and participate in the E-Auction Process, an Eligible Bidder shall deposit at least 2 (two) days prior to the E-Auction Date, (Indian Rupees as earnest money ("**Earnest Money Deposit**" or "**EMD**").
2. The Earnest Money Deposit shall be provided by the Eligible Bidder (s) by way of direct bank transfer (RTGS / NEFT) to the bank account specified below. No interest will be paid to the Eligible Bidder (s) in relation to the amount deposited as Earnest Money Deposit.
3. Earnest money has to be paid by electronic transfer of funds only and no other mode of payment including payment by guarantee is permitted.

4. Eligible Bidders providing the non-interest-bearing Earnest Money Deposit by remittance of funds to the bank account of the Company should transfer funds through RTGS / NEFT to the account number provided as below:

Account No.	Will be Intimated to the eligible applicants separately.
Beneficiary Name	
Bank Name	
Branch	
IFSC	

5. All payments made by the Eligible Bidder shall be intimated to the Liquidator along with a scanned copy of the remittance challan and such intimations shall clearly indicate the following:

- (i) Reserve Price
- (ii) Earnest Money Deposit (in INR)
- (iii) Mode of Earnest Money Deposit payment
- (iv) Payer's bank and account number
- (v) Bank transfer reference number and date

Eligible Bidders shall preserve the original remittance challan and produce the same in front of the Liquidator as and when demanded. No documents (including copies of remittance challans) shall be furnished to the Agency directly by an Eligible Bidder.

An undertaking to deposit the Earnest Money Deposit in order to be a Qualified Bidder shall be entered in the Bid Form submitted by the Interested Bidder. The entire Earnest Money Deposit amount shall be remitted by an Eligible Bidder(s) from a single bank account only which should be owned by the Interested Bidder. In the event, the entire Earnest Money Deposit is remitted by an Associate Company of an Eligible Bidder, the same shall be duly notified to the Liquidator in writing (along with duly certified documents which goes on to establish that the remitter of funds is an Associate Company of the Eligible Bidder).

6. Subject to the first proviso below, the Earnest Money Deposit without interest shall be returned to unsuccessful Qualified Bidder(s) within 15 (Fifteen) days of the date of closure of the E-Auction process or cancellation of the E-Auction process, except that the Liquidator may retain the Earnest Money Deposit of the next highest Qualified Bidder for up to 30 (Thirty) days (or such further extended date as may be decided by the Liquidator) from the date of conclusion of the E-Auction (where a Successful Bidder has been identified) in order to consider that bid (at the discretion of the Liquidator) in the event the original Successful Bidder is disqualified or fails to adhere to the terms of the Lol.

Provided that, in the event, the Liquidator proposes to cancel the E-Auction process on the scheduled date or decides not to accept any of the bids submitted during the E-Auction process, and in both the instances, proposes to follow up the same with another E-Auction process, then if a Qualified Bidder indicates in writing its desire to receive a refund of its Earnest Money Deposit, then the Earnest Money Deposit shall be returned to the Qualified Bidder, within 7 (seven) days of giving notice requesting for the return of the Earnest Money Deposit. Provided further that, failure to participate in a round of E-Auction or requesting a refund of the Earnest Money Deposit shall not debar a Qualified Bidder from participating in any subsequent round(s) of E-Auction.

7. For a Successful Bidder, the Earnest Money Deposit shall be allowed to be set-off against or used as part of the consideration in the final payment only.

## XII. FORFEITURE OF EARNEST MONEY DEPOSIT

1. The Earnest Money Deposit, paid by bank transfer or demand draft may be forfeited, at any time, upon the occurrence of any of the following events:
  - (i) if any of the conditions under this Sale Process Memorandum are breached by the Qualified Bidder or in case the Qualified Bidder is found to have made any misrepresentation; or
  - (ii) if the Qualified Bidder or any person acting jointly or in concert with such Qualified Bidder is found to be ineligible to submit a 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
  - (iii) if the Successful Bidder does not accept the Letter of Intent issued by the Liquidator within the period and in the manner specified; or
  - (iv) if the Successful Bidder fails to pay the balance sale consideration (plus any applicable GST/other taxes, if any) before the expiry of the period for payment of the same.

## XIII. DECLARATION OF SUCCESSFUL BIDDER

1. The Liquidator shall determine and at his sole discretion, declare at the end of the E-Auction, the Successful Bidder(s). Determination of the Successful Bidder(s) shall be done on the basis of the highest bid received via the E-Auction unless the Liquidator determines at his sole discretion that the highest Bidder shall not be identified as the Successful Bidder. No Qualified Bidder shall quote below the Reserve Price during the e-Auction process.
2. Where the Earnest Money Deposit has been provided by means of 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 purchase of asset (Land) of the Company.
3. 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 at any stage without assigning any reason therefor.

## XIV. ISSUANCE OF LETTER OF INTENT

1. The Liquidator shall, as soon as reasonably possible following the end of the E-Auction, but not more than 4 (four) days from the end of E-Auction, issue to the Successful Bidder, a letter of intent ("**Lol**" / "**Letter of Intent**"), inviting the Successful Bidder to provide balance sale consideration (plus any applicable GST, if any) within 30 (Thirty) days of the date of issuance of the Lol. However, in terms of Clause 12 of Schedule 1 of the liquidation Regulations any payment after 30 days from the date of demand shall attract interest @ 12% and the transaction has to be completed within 90 days. However, the stakeholder's committee will have the power to extend this period beyond 90 days with applicable interest as provided in Regulation 31A(1)(h) at its discretion. This Lol per se does not confirm the sale of asset (Land) of the Company in favor of the Successful Bidder. Confirmation of sale is subject to the fulfillment of conditions stated hereunder, the approval of the Liquidator and compliance of Applicable Laws.
2. The Successful Bidder shall, within a period of 2 (two) days from the date of issuance of the Lol,

unconditionally accept the Lol, and record such acceptance by providing the Liquidator with 1 (one) copy of the Lol with an endorsement stating that such Lol is, “*AcceptedUnconditionally*”, under the signature of the authorized Director / Authorized Signatory of the Successful Bidder.

3. Failure to accept the Letter of Intent within the time period specified may result in the disqualification of the Successful Bidder along with the cancellation of the Lol and forfeiture of the Earnest Money Deposit.
4. In case of disqualification of a Successful Bidder, the Qualified Bidder who had submitted the next highest bid, may be asked to match the Successful Bidder's bid and be considered the new Successful Bidder. Should the latter be unwilling to match the bid submitted by the earlier Successful Bidder, the Liquidator, at his sole discretion, may decide to carry out a fresh E-Auction.

#### **XV. COMPLETION OF SALE**

- a) The sale of the asset (land) of the Company shall result in transfer of ownership and possession of the land in favour of the Successful Bidder.
- b) All known or unknown, claimed or unclaimed, disclosed or undisclosed liabilities / obligations/ risk as on the Liquidation Commencement Date including prior claims of all creditors whether secured unsecured, workers, employees, statutory authorities on account of Income Tax, Sales Tax, GST, Service Tax, DGFT, Excise, Customs etc. shareholders on account of transactions prior to the Liquidation Commencement Date shall be extinguished / waived / infructuous once the distribution of the purchase consideration / bid amount is made by the Liquidator, as per the provisions of the code and regulations thereof and specifically as per Section 53 of The Insolvency and Bankruptcy Code, 2016 as full and final settlement of their dues. The Liquidator shall be in no event be responsible for any liabilities / obligation / risks pertaining to the period prior to the Liquidation Commencement Date, and the same shall be dealt with, as per the provisions of law and directions of the NCLT or any higher authority thereof.
- c) The sale deed shall be issued only in the name of the Successful Bidder (and its nominees who are ‘eligible’ in accordance with the parameters set forth under this Sale Process Memorandum) and will not be issued in any other name. The Successful Bidder shall bear all the necessary expenses like applicable stamp duties/additional stamp duty / transfer charges, registration expenses, fees, etc., for acquisition of ownership/ control over the asset of the company.
- d) The Successful Bidder shall be required to provide balance sale consideration within 30 (Thirty) days of the date of issuance of the Lol in a single tranche payment. However, in terms of Clause 12 of Schedule 1 of the liquidation Regulations any payment after 30 days from the date of demand shall attract interest @ 12% and the transaction has to be completed within 90 days. However, the stakeholder’s committee will have the power to extend this period beyond 90 days with applicable interest as provided in Regulation 31A(1)(h) at its discretion Where the Successful Bidder has provided Earnest Money Deposit by remittance of cash to the bank account of the Company, the balance sale consideration shall be an amount equal to the bid sum reduced by the Earnest Money Deposit already paid (plus any applicable GST/taxes, if any).

- e) The sale of the asset shall be subject to conditions prescribed under the IBC and provisions and regulations thereunder.
- f) Default in payment of the sale consideration or balance sale consideration, and any applicable GST/taxes, if any, by the Successful Bidder will result in disqualification of the Successful Bidder, including forfeiture of Earnest Money Deposit or invocation of bank guarantee, as the case may be.
- g) The Successful Bidder(s) shall deposit the balance sale consideration within 30 (Thirty) days from the date of such demand. Payments after 30 (thirty) days shall attract interest at the rate of 12% per annum. However, in terms of Clause 12 of Schedule 1 of the liquidation Regulations any payment after 30 days from the date of demand shall attract interest @ 12% and the transaction has to be completed within 90 days or such other period as extended by the Stakeholders Committee under Regulation 31A(1)(h). The sale of the asset to the Successful Bidder shall be cancelled if entire sale consideration (in cases where the EMD has been submitted by way of bank guarantee) or balance sale consideration, as the case may be, is not received within 90 (ninety) days or such extended time.

## XVI. FRAUDULENT AND CORRUPT PRACTICES

The Bidders shall observe the highest standard of ethics prior to and during the E-Auction process and subsequently during the closure of the E-Auction process and declaration of Successful Bidder. Notwithstanding anything to the contrary contained in this Sale Process Memorandum, or in the Lol, the Liquidator shall reject an auction bid and/or revoke the Lol, as the case may be, without being liable in any manner whatsoever to the Qualified / Successful Bidder, if the Liquidator, in his sole discretion, determines that the Qualified / Successful Bidder has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the E-Auction process or has undertaken any action in respect of such process which results in the breach of any Applicable Law including the Prevention of Corruption Act, 1988. In such an event, the Liquidator may invoke the Earnest Money Deposit without prejudice to any other right or remedy that may be available to the Liquidator under this Sale Process Memorandum or Applicable Law.

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

- (i) **“Coercive Practice”** shall mean impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the auction process;
- (ii) **“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 of such Bidder (excluding any commercial relationship pursuant to the ordinary course of business) with the other Bidder or Company, group companies of the Company, or affiliates of the Company, directly or indirectly, or by any other means including colluding with other Bidder(s), the Company, or group companies of the Company;
- (iii) **“Corrupt Practice”** shall mean (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the



auction process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Liquidator or the Company, who is or has been associated or dealt in any manner, directly or indirectly with the auction process or arising there from, before or after the execution thereof, at any time prior to the expiry of 1 (one) year from the date such official resigns or retires from or otherwise ceases to be in the service of the Liquidator or the Company, shall be deemed to constitute influencing the actions of a person connected with the auction process); or (ii) engaging in any manner whatsoever, during the auction process or thereafter, any person in respect of any matter relating to the Company, who at any time has been or is a legal, financial or technical adviser of the Liquidator or the Company, in relation to any matter concerning the auction process;

- (iv) **“Fraudulent Practice”** shall mean a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the auction process;
- (v) **“Restrictive Practice”** shall mean forming a cartel or arriving at any understanding or arrangement among the Bidder(s) with the objective of restricting or manipulating a full and fair competition in the auction Process; and
- (vi) **“Undesirable Practice”** shall mean (i) establishing contact with any person connected with or employed or engaged by the Liquidator with the objective of canvassing, lobbying, or in any manner influencing or attempting to influence the auction process; or (ii) having a Conflict of Interest.

A Bidder shall not involve itself or any of his representatives in price manipulation of any kind directly or indirectly by communicating with other Bidders. An 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, other than to his professional advisors and financiers, who are in each case required in the course of their duties to receive and consider the same for the purpose of advising in relation to the transaction and who are bound by confidentiality obligations that are at least as stringent as the obligations that the Bidder is subject to.

## **XVII. COSTS, EXPENSES, AND TAX IMPLICATIONS**

- a) The Bidder(s) shall be responsible for all the costs incurred by it on account of its participation in the E-Auction process, including any costs associated with participation in the discussion meeting (if any), site visit, etc. The Liquidator shall not be responsible in any way for such costs of any nature whatsoever, regardless of the conduct or outcome of the E-Auction process.
- b) It is to be noted that all taxes applicable whether direct and / or Indirect taxes and / or duties and / or penalties and / or interest (including stamp duty implications and registration charges) on sale of asset (Land) of Company; as the case may be in accordance with the provisions of IBC and Liquidation Process Regulations, as the case may be, would be borne by the Successful Bidder. Some of the costs and charges for the sale transaction may include inter-alia the following:
  - (i) The sale of the asset attracts stamp duty, registration charges etc. as per relevant Applicable Law(s);
  - (ii) The Successful Bidder shall bear all the necessary expenses like applicable stamp duties additional stamp duty / transfer charges, fees, etc. for transfer of the asset in

its name; and

- (iii) The payment of all statutory / non statutory dues, taxes, rates, assessments, charges, fees, cess or other applicable tax i.e. GST, TDS etc. and transfer fee if any payable to Govt/SIDCO.

For the avoidance of doubt, it is hereby clarified that all the aforesaid costs shall be payable over and above the bid offered during the E-Auction process.

- c) The Eligible / Qualified Bidder(s) shall be responsible for fully satisfying the requirements of the IBC and related Liquidation Process Regulations as well as all Applicable Laws that are relevant for the sale process. The Successful Bidder shall be responsible for obtaining requisite regulatory or statutory or third-party approvals, no-objections, permission, or consents, if any, that are or may be required under Applicable Law.

#### **XVIII. MODIFICATION IN TERMS AND CONDITIONS**

In the interest of the liquidation process of the Company, the Liquidator reserves the right to alter, modify, or relax any of the terms and conditions mentioned in this Sale Process Memorandum. Any such alteration, modification, or relaxation, to the terms and conditions contained in this document, shall be binding on all the Bidder.

#### **XIX. GOVERNING LAW AND JURISDICTION**

This Sale Process Memorandum and any information provided earlier or subsequently, the auction process and the other documents pursuant to the Sale Process Memorandum shall be governed by the laws of India and any dispute arising out of or in relation to the Sale Process Memorandum or the auction process shall be subject to the exclusive jurisdiction of Hon'ble NCLT, courts, and tribunals at Kochi

#### **XX. Miscellaneous**

The information in this Asset Sale Process Memorandum and any information provided earlier or subsequently, whether verbally or in documentary or any other form by or on behalf of the Liquidator, which does not purport to be comprehensive, is provided by the Company and has not been independently verified by the Liquidator or his professional advisors. While this information has been prepared in good faith, no representation or warranty, expressed or implied, is or will be made and no responsibility or liability is or will be accepted by the Liquidator, his professional advisors, the Company or by any of their respective officers, employees or agents in relation to the accuracy, fairness, authenticity or completeness of this Asset Sale Process Memorandum or any other written or oral information made available to any Interested Bidder(s) or its advisers and any such liability is expressly disclaimed

The asset of the Corporate Debtor is to be sold on "As is where is basis", "As is what is basis", "Whatever there is basis" and "No recourse basis". The proposed sale of asset (Land) of the Company does not entail transfer of any title except the title which

the Company had on the assets as on date of transfer. However, if any asset that should have been transferred to the Successful Bidder, is found in the possession of the Company, the Liquidator shall take all reasonable efforts to promptly transfer such asset to the Successful Bidder, post completion of the sale. Whilst it is not the intention to transfer any liabilities associated with the Asset Lot(s) as part of the Asset, the Interested Bidders is advised to ascertain all statutory liabilities / taxes / demands / claims / maintenance fee / electricity / water charges etc., outstanding as on date or yet to fall due in respect of the relevant asset.

If any Bidder conceals any material information or makes a wrong statement or misrepresents facts or makes a misleading statement in its Bid, in any manner whatsoever, found to be ineligible to submit bid under Section 29A of the Code, the Liquidator reserves the right to reject such Bid and/or cancel the Letter of Intent (if issued) and forfeit the Earnest Money Deposit. The Bidder shall be solely responsible for such disqualification based on its declarations in the Bid.

The Bidder(s) hereby agrees and releases the Liquidator and his representatives, advisors etc. irrevocably, unconditionally, fully and finally, from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/or performance of any obligations set out under this Process Memorandum, and/or in connection with the Bidding process, and waives any and all rights and/or claims the Bidder(s) may have in this respect, whether actual or contingent, whether present or in future.

The Liquidator in its sole discretion and without incurring any obligation or liability or cost, reserves the right, at any time, to;

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

- (g) accept any Bid, conduct subsequent rounds of auction as per the terms deemed fit by the Liquidator.

## XXI. Clarifications

While the data/information provided in this Process Memorandum, has been prepared and provided in good faith, the Liquidator and his representatives shall not accept any responsibility or liability, whatsoever, in respect of any statements or omissions herein, or the accuracy, correctness, completeness or reliability of the information provided, and shall incur no liability under any law, statute, rules or regulations as to the accuracy, reliability and completeness of the information provided, even if any loss or damage is caused to any of the Bidders by any act or omission on their part.

A Bidder requiring any clarification on this Process Memorandum, for submission of the Bid or on the Corporate Debtor shall email such request for clarification to [rajupkin@gmail.com](mailto:rajupkin@gmail.com) or [carajuip@gmail.com](mailto:carajuip@gmail.com)

The Liquidator reserves the right not to respond to any query or provide any clarification, at their sole discretion, and no extension of time and date referred to in this Process Memorandum shall be granted on the basis of not having received response to clarifications sought from the Liquidator. Nothing contained herein shall be considered or read as compelling or requiring the Liquidator and/or his representatives to respond to any query or to provide any clarification to the queries raised by a Bidder. The Liquidator and her Representatives will not be held responsible for any delay in response or non-response to clarifications raised by the Bidders.

The Liquidator and/or his representatives may issue interpretations and clarifications on this Process Memorandum or in relation to the Bidding process to the Bidder(s). All clarifications and interpretations issued by the Liquidator, or his representatives shall be deemed to be part of this Process Memorandum if provided in writing.

Sd/-

**Raju Palanilkkunnathil Kesavan,**  
(Reg. No. IBBI/IPA-001/IP-P00801/2017-18/11356)  
**Liquidator, AUTO FRICTION COMPONENTS INDIA PVT LTD (in  
Liquidation)**  
**Kochi, Dtd. 27-03-2024**

**ANNEXURES**  
**ANNEXURE 1**

**APPLICATION FORM**

Date:

**To,**  
**Mr. Raju Palanilkunnathil Kesavan**  
**Liquidator of AUTO FRICTION COMPONENTS INDIA PVT LTD (in liquidation)**

**REF. Auction notice dated 27<sup>th</sup> March, 2024 for sale of Asset (Industrial Land) of M/s. Auto Friction Components India PVT LTD (in liquidation)**

I/We/ M/s .....am desirous in participating in the e-auction of the AUTO FRICTION COMPONENTS INDIA PVT LTD (in liquidation) announced by you

<b>BID for:</b>	The Assets of Corporate Debtor i.e AUTO FRICTION COMPONENTS INDIA PVT LTD (in liquidation)
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I/We /M/s..... the Bidder/s, do hereby state that, I/we/M/s..... have read the Process Memorandum and the terms and conditions of bid and the above advertisement and understood them fully. I/We/M/s..... hereby unconditionally agree to conform with and to be bound by the said conditions. My/Our offer for purchase of the Asset is as under:

1	(a)	Full Name of the Bidder with Telephone Nos.	
		Mobile Nos.	
		E-mail ID.	
	(b)	Address of the Bidder along with the address proof	
	(I)	Office	
	(II)	Residence	
	Identity Proof (Self-attested)		
(c)	(i)	Pan Card*	

		(ii)	Aadhaar Card*	
		(iii)	Passport ‡	
		(iv)	Voter ID Card	
		(v)	Driving License	
		*	Compulsory for Indians	
		‡	Compulsory for NRIs	
	(Provide authority letter in case of a partnership firm/LLP/or any other legal entity and board resolution in a form set out in Annexure 5 in case of a company)			
2.	Constitution documents (Sole Proprietary/Partnership/Company)  (In case of company/firm, also give names of Directors/ partners with contact numbers)			
3	Name of the Contact person (in case Applicant is not an individual)			

1. I/We/M/s..... further declare that I/We/M/s..... intend to purchase the **asset (Industrial Land)** of the corporate debtor from the Liquidator on “**AS IS WHERE IS BASIS**”, “**AS ISWHAT IS BASIS**”, “**WHATEVER THERE IS BASIS**” And “**NO RECOURSE BASIS**” as on **handover date** for our/ its own use / business and that the information revealed by me/us in this Application Form is true and correct to the best of my/our knowledge and belief.
2. I/We/M/s..... certify that I/We/M/s. ....am/are eligible to be a Bidder, under Section 29A read with Sec. 35(f) of IBC 2016 and affidavit for the same is enclosed herewith.
3. I/We/M/s .....certify that I/We/M/s. ....am/are eligible to be a Bidder, in accordance to the Eligibility criteria laid down in clause VII of the Process memorandum dated 27<sup>th</sup> March 2024.
4. I/We/M/s. ....also enclose copies of the required KYC documents. We request you to kindly verify the same and arrange with the auction portals for issue of an ID and password for us to enable us to take part in the e-auction process.
5. I/We/M/s..... agree if any of the statement / information revealed by me/us is found incorrect, my/our bid document is liable to be cancelled and, in such case,

the EMD paid by me/us is liable to be forfeited by the Liquidator and the Liquidator is at liberty to annul the offer made to me/us at any point of time.

6. I/We /M/s. ....also agree that after my/our offer given in my/our bid for purchase of the assets of Corporate Debtor is accepted by the Liquidator, if I/We/M/s..... fail to accept the terms and conditions of this Process Memorandum or Letter of Intent or fail to complete the transaction within the time limit as specified in the Letter of Intent for any reason whatsoever and / or fail to fulfil any/all the terms and conditions of the bid document and Letter of Intent, the EMD paid by me/us along with the bid document is liable to be forfeited by the Liquidator and that the Liquidator has also a right to proceed against me / us for specific performance of the contract.
7. I/We/M/s..... will not claim any interest from the date of submission of offer incase the process of sale is delayed for any reason.
8. The general terms and conditions of sale as mentioned in Process memorandum issued by Liquidator dated 27<sup>th</sup> March, 2024 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. Brief Profile of the Applicant and their business
- b. Address Proof given under point 1(B)(I) and 1(B)(II)
- c. Self-attested copy of Identity Proof given under point 1(C)(III).
- d. Authority Letter of the authorized representative bidding in case of any bidder other than proprietorship firm given under point 1(C)(III).
- e. Notarized Affidavit under section 29A.
- f. Confidentiality Undertaking
- g. Copy of Income Tax Returns for the last two years
- h. Copies of Audit reports and Audited financial statements for the financial years 2021-22 and 2022-23

- i. Copy of the resolution passed by the board of directors of the Auction Participant (in case the Auction Participant is a company)
- j. Copy of the memorandum and articles of association and certificate of incorporation or other equivalent organizational document (as applicable in the case of the jurisdiction of incorporation of the prospective Bidder and, in case the prospective Bidder is a special purpose vehicle set up for submitting the Bid, of the Parent Company), including amendments, if any, certified by the company secretary, or equivalent or a director of the prospective Bidder (as an annexure to this Format)
- k. If the prospective Bidder is a consortium, then copy of the Memorandum and Articles of Association and certificate of incorporation or other equivalent organizational document (as applicable in the case of a foreign company), including their amendments of each of the consortium member (certified by the company secretary or a director) (as attachment to this document).
- l. Please provide details in following format for directors of prospective Bidder, and in case the prospective Bidder is a special purpose vehicle set up for submitting the Bid, provide details of directors of the Parent Company as per format below:

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

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

- m. Details of Ownership Structure of the prospective Bidder (in case the prospective Bidder is a listed company, please provide details of persons owning 10% (ten percent) or more of the total paid up equity of the prospective Bidder).
- n. Please provide details of Parent Company, ultimate Parent and Group Companies of the prospective Bidder and their respective business activity. The determination of relationship of Parent Company, Ultimate Parent and/or the Group Companies of the prospective Bidder shall be as on date of submission of the Bid Application Form;
- o. Please provide a list of persons acting jointly, persons acting in concert and connected persons (as per Section 29A). Please also explain relationship of prospective Bidder with all connected persons. The Liquidator may request for credit opinion/ CIBIL Reports of connected persons as appropriate. [In case of any exemption available, please explain the same].



## ANNEXURE 2

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

**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 Raju Palanilkunnathil Kesavan (IBBI Regn No. IBBI / IPA-001 / IP-P00801 / 2017-18 / 11356) ("**Liquidator**"), the liquidator of Auto Friction Components India PVT LTD (in liquidation) ("**Corporate Debtor**"), as follows:

1. That I am duly authorized and competent to make and affirm the instant affidavit for and on behalf of the 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 AUTO FRICTION COMPONENTS INDIA PVT LTD (in Liquidation).
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 AUTO FRICTION COMPONENTS INDIA PVT LTD (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 AUTO FRICTION COMPONENTS INDIA PVT LTD (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 \_\_\_\_\_ 2024

**DEPONENT**

**VERIFICATION:**

I, \_\_\_\_\_ [name of the chairman/managing director/director/ authorized 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 \_\_\_\_\_ 2024

**DEPONENT**

**NOTARY**

### ANNEXURE 3

#### CONFIDENTIALITY UNDERTAKING

#### **ON RS. 200/- STAMP PAPER**

This Confidentiality Undertaking has been signed by (Name of potential Bidders) having its office at \_\_\_\_\_ acting through Mr..... (Name of person authorized 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 favor of Mr. Raju Palanilkunnathil Kesavan Insolvency Professional having Regn no. IBBI / IPA-001 / IP-P00801/ 2017-18/ 11356.

WHEREAS Auto Friction Components India PVT LTD (in liquidation), a company registered under Companies, Act, 1956 (hereafter referred as the "**Company**") is undergoing liquidation vide NCLT Kochi Bench ("**NCLT**") order dated 5<sup>th</sup> February, 2021 vide the said NCLT Order Mr. Raju Palanilkunnathil Kesavan, a Registered Insolvency Professional with Insolvency and Bankruptcy Board of India (IBBI) having registration number IBBI / IPA-001 / IP-P00801/ 2017-18 /11356 has been appointed as liquidator to manage, protect, sell and liquidate the property, assets, business and other affairs of Auto Friction Components India PVT LTD (in liquidation).

WHEREAS the Liquidator has invited prospective Bidders for the purpose of submission of bid through e-auction process in respect of sale of asset (Industrial Land) of the 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 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 any other data shared by the Liquidator, through oral or written communication or through any mode to anyone and the same shall constitute "Confidential Information". Any information or documents generated or derived by the recipients of Confidential Information that contains, reflects or is derived from any Confidential Information shall also be deemed as Confidential Information.
2. The Bidder (s) further unconditionally and irrevocably undertake and declare that-
  - a. the Confidential Information shall be kept secret and confidential by the Bidder(s) and shall be used solely in accordance with the terms of the IBC;
  - b. the Bidder(s) shall not use the Confidential Information to cause any undue gain or undue loss to itself, the Company, Liquidator or any other person;
  - c. the Bidder(s) shall comply with all provisions of Applicable Law(s) for the time being in force relating to confidentiality and insider trading;
  - d. the Bidder (s) shall protect any intellectual property of the Company which it may have access to;
  - e. the Confidential Information may only be disclosed to and shared with any employees or its advisors by the Bidder(s), in accordance with Applicable Law(s), including in relation to confidentiality and insider trading, and terms of this

Confidentiality Undertaking on a strict need-to-know basis and only to the extent necessary for and in relation to the liquidation process of the Company, provided that the Bidder binds such employees and third parties, by way of an undertaking/ agreements, to terms at least as restrictive as those stated in this Confidentiality Undertaking;

- f. the Bidder(s) shall ensure that all Confidential Information is kept safe and secured at all times and is protected from unauthorized access, use, dissemination, copying, any theft or leakage;
- g. the Bidder(s) shall immediately destroy and permanently erase all Confidential Information upon the completion of the sale of asset (Land) of the Corporate Debtor as provided under Process Memorandum and the Liquidation Process Regulations;
- h. the Bidder(s) shall take all necessary steps to safeguard the privacy and confidentiality of the information received pursuant to the Process Memorandum and shall use its best endeavors to secure that no person acting on its behalf divulges or discloses or uses any part of the Confidential Information, including but not limited to the financial position of the Company, all information related to disputes by or against the Company and other matter pertaining to the Company; and
- i. the Bidder(s) shall be responsible for any breach of obligations under this confidentiality undertaking (including any breach of confidentiality obligations by any employee or advisor or agent or director of the Bidder) and shall indemnify the Liquidator for any loss, damages, expenses and costs incurred by the Liquidator due to such breach of such obligations by the Bidder (s) or any person acting on its behalf.

3. Notwithstanding anything to the contrary contained herein, the following information shall however not be construed as Confidential Information:
  - a. information which, at the time of disclosure to the Bidder(s) was already in the public domain without violation of any provisions of Applicable Law(s); or
  - b. information which, after disclosure to the Bidder(s) becomes publicly available and accessible without violation of Applicable Law(s) or a breach of this Confidentiality Undertaking; or
  - c. information which was, lawfully and without any breach of this Confidentiality Undertaking, in the possession of the Bidder (s) prior to its disclosure, as evidenced by the records of the Bidder(s).
  
4. The Bidder(s) hereby expressly agrees and acknowledges that the Liquidator makes no representation, warranty or inducement, whether express or implied, as to the accuracy, completeness, authenticity or adequacy of the information (including but not limited to the Confidential Information) provided to the Bidder(s) in the Process Memorandum/ additional information obtained. The Bidder(s) further agrees and acknowledges that the Liquidator shall not be liable to the Bidder(s) for any damage arising in any way out of the use of the Confidential Information and further that the Bidder(s) shall not have any claim against the Liquidator or the Company in relation to any information provided.
  
5. The terms of this Confidentiality Undertaking may be modified or waived only by a separate instrument in writing signed by the Bidder(s) and the Liquidator that expressly modifies or waives any such term.
  
6. Damages may not be an adequate remedy for a breach of this Confidentiality Undertaking and the Liquidator may be entitled to the remedies of injunction, specific performance and other equitable relief for a threatened or actual breach of this Confidentiality Undertaking.



7. Nothing in this Confidentiality Undertaking shall have the effect of limiting or restricting the liability of the Bidder(s) arising as a result of its fraud or willful default as defined under Applicable Law(s).
8. The undersigned hereby represents and warrants that it has the requisite power and authority to execute, deliver and perform its obligations under this Confidentiality Undertaking.
9. This Confidentiality Undertaking and any dispute, claim or obligation arising out of or about it shall be governed by and construed in accordance with Indian laws and the courts and tribunal of Mumbai shall have exclusive jurisdiction over matters arising out of or relating to this Confidentiality Undertaking.
10. Capitalized terms not defined under this Confidentiality Undertaking shall have the same meaning as provided in the Process Memorandum.

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

Signed on behalf of

(Name of Bidder(s))

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

(Name and Designation)

Authorized Signatory

Date:

Place:

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

**ANNEXURE – 4**

**BOARD RESOLUTION**

(On the letter head of the Bidder)

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

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**WHEREAS** pursuant to the E-auction Process Memorandum for the sale of Asset (Land) of the AUTO FRICTION COMPONENTS INDIA PVT LTD (in Liquidation) dated 27<sup>th</sup> March 2024, issued by Mr. Raju Palanilkunnathil Kesavan (IBBI Registration No. IBBI/IPA-001/IP-P00801/2017-18/11356) (“**Liquidator**”), the liquidator of Auto Friction Components India PVT LTD (in liquidation), the Company being a prospective applicant is desirous of submitting a Bid Application for the purchase of assets of Auto Friction Components India PVT LTD (in liquidation) in accordance with the requirements of the Process Memorandum published, 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 Auto Friction Components India PVT LTD (in liquidation), in accordance with the terms of the Process Memorandum.”

“**RESOLVED THAT Mr./Ms. \_\_**, be and is hereby authorized 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 AUTO FRICTION COMPONENTS INDIA PVT LTD (in Liquidation), 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

Date:

**(TO BE SUBMITTED ON OR BEFORE 24-04-2024)**

**ANNEXURE 5**

**EARNEST MONEY DEPOSIT FORM**

Mr. Raju Palanilkunnathil Keasavan(Liquidator),  
Auto Friction Components India PVT LTD (in liquidation)

**REF: SALE OF ASSETS OF Auto Friction Components India PVT LTD (in liquidation)**

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I/We/ M/s am desirous in participating in the e-auction of the asset of Auto Friction Components India PVT LTD (in liquidation) announced by you in the newspaper publication dated 27-03-2024 appeared in .....dated .....

<b>BID for:</b>	The Asset (Industrial Land) of Corporate Debtor i.e Auto Friction Components India PVT LTD (in liquidation).
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I/We /M/s....., the Bidder/s, do hereby state that, I/we/M/s..... have read the Bid Document and the terms and conditions of the Bid and the above advertisement and understood them fully. I/We/M/s..... hereby unconditionally agree to conform with and to be bound by the said conditions. My/Our offer for purchase of the Asset as appearing in the Bid document is as under:

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

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

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

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

3. I/We /M/s..... also agree that after my/our offer given in my/our bid for purchase of an asset(s) is accepted by the Liquidator and If I/We/M/s. ....breach any of the conditions under this Process Memorandum or am/are/is found to have made any misrepresentation or am/are/is found to be ineligible to submit the Bid under Section 29A of the IBC (as amended from time to time) or is found to have made a false or misleading declaration of eligibility under Section 29A of the IBC or 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 in 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. \_\_\_\_\_)

Name Designation

[Rubber stamp of the proprietor/company/firm]