

# E-AUCTION PROCESS INFORMATION DOCUMENT

## Terms & Conditions

### For

**Invitation for Bids for E-Auction of Sale of Kamineni Steel & Power India Private Limited ("In Liquidation") as a Going Concern under Sec 32 (e) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 on" as is where is whatever there is and without recourse basis"**

**Date of Publication of Advertisement:** 14<sup>th</sup> October 2019

**Date of e-Auction:** 14<sup>th</sup> November 2019 at 11:30 A.M to 3:30 P.M

Description	Manner of sale	Inspection Date	Date And Time Of Auction	Reserve Price INR	EMD Amount & Documents Submission deadline	Bid Increase Amount
Company as a whole	As a going concern	7 <sup>th</sup> November 2019	14 <sup>th</sup> November 2019 from 11.30 am to 3.30 pm	Rs. 610 crores	Rs. 5 crores, 9th November 2019	Rs. 5 lakhs

### E- Auction Process Information Document Issued by:

**Mr. Racharla Ramakrishna Gupta**, Liquidator

Regn. No. IBBI/IPA-002/IP- N00012/2016-17/10029

**Mr. Racharla Ramakrishna Gupta** is a registered insolvency professional with the Insolvency and Bankruptcy Board of India (IBBI). His Registration No. is IBBI/IPA-002/IP-N00012/2016-17/10029).Mr. Racharla Ramakrishna Gupta has been appointed as the Liquidator of "**Kamineni Steel & Power India Private Limited (in Liquidation)**"by the Hon'ble National Company Law Tribunal, Hyderabad Bench vide its order CP (IB) No. 11/10/HDB/2017 dated 26<sup>th</sup> October, 2018 to manage, protect, sell and liquidate the properties, assets, business and other affairs of "**Kamineni Steel & Power India Private Limited (in Liquidation)**".

#### Liquidator:

R. Ramakrishna Gupta

IP Registration No. IBBI/IPA-002/IP-N00012/2016-17/10029

#### Communication Address & E-mail ID:

Liquidator Address: T-202, Technopolis,

1-10-74/B, Chikoti Gardens, Begumpet, Hyderabad - 500 016

Email: rp.ramakrishnagupta@gmail.com

**Date: 14.10.2019**

**Place: Hyderabad**

**NOTES:**

1. This E-Auction Process Information Document is issued only for the Bidders interested in participating in the liquidation process of Kamineni Steel & Power India Private Limited (In Liquidation).
2. The terms and conditions, deadlines etc. for participating in the electronic auction are provided in this E- Auction Process Information Document.
3. The timelines, notifications, updates and other details for the E-Auction Process are available on the website ([www.kaminenisteelpower.com](http://www.kaminenisteelpower.com)) of Kamineni Steel & Power India Private Limited (In Liquidation) and will also be available on the website / link of the E-Auction Service Provider (<https://ncltauction.auctiontiger.net>) Bidders desirous to submit their Bid have to submit their Bids on E-Auction portal of the E-Auction Service Provider, which shall be published on the website Kamineni Steel & Power India Private Limited (In Liquidation).
4. The term “Sale of the Company as a going concern basis” wherever used in this document shall mean, Sale of the Company on Going Concern basis in accordance with the provisions of IBC, Liquidation Process Regulations and this E-Auction Process Information Document.
5. The entire process shall be subject to extant Regulations, the Code and approval of the Adjudicating Authority.

## DISCLAIMER

1. This E-Auction Process Information Document ("this document") is issued by **Mr. Racharla Ramakrishna Gupta** (a registered insolvency professional with Registration No. IBBI/IPA-002/IP-N00012/2016-17/10029), the Liquidator appointed by the Hon'ble National Company Law Tribunal, Hyderabad Bench vide its order CP (IB) No. 11/10/HDB/2017 dated 26<sup>th</sup> October, 2018 in the matter of liquidation of "**Kamineni Steel & Power India Private Limited (in Liquidation)**" for general information purposes only and to provide general information, without regard to specific objectives, suitability, financial situations and the requirements of any particular person.
2. The purpose of this Document is to lay-down the process for submitting the Bid by the prospective Bidders through E- Auction for participating in the process of Sale of Company on going concern basis in accordance with the provisions of E-Auction Process Information Document, IBC, 2016 and Liquidation Process Regulations. Neither this E-Auction Process Information Document nor anything contained herein shall form the basis of, or be relied upon in connection with any contract, agreement, undertaking, understanding or any commitment whatsoever.
3. This Document does not solicit any action based on the material contained herein. This document is not a statutory document and it has not been approved or registered with any regulatory or statutory authority of government of India or any state government or by any stock exchange in India or any other jurisdiction. Nothing herein contained or materials relating to the E-Auction Process Information Document should be construed as legal, financial, accounting, regulatory or tax advice by the Liquidator.
4. It is to be noted that no information being provided in this E-Auction Process Information Document claims to be comprehensive. Independent due diligence of the intended user/recipient of this E-Auction Process Information Document or by the Bidder is highly recommended.
5. While this information has been prepared in good faith, no representation or warranty, expressed or implied, is or will be made and no responsibility or liability is or will be accepted, is or will be expressly disclaimed by the Liquidator or by any of his representatives, officers, agents, or the Company or in relation to the accuracy, fairness, authenticity or completeness of this E-Auction Process Information Document or any other written or oral information made available to any prospective Bidder or its advisors.
6. In so far as the information contained in this E-Auction Process Information Document includes current and historical information, the accuracy, adequacy, authenticity, correctness, fairness, and completeness of such information cannot be guaranteed. By acceptance of this E-Auction Process Information Document, the Bidder shall be deemed to have acknowledged that it has not relied upon any representation and warranty made by the Liquidator.
7. This E-Auction Process Information Document and information contained herein or disclosed should not be printed, reproduced, transmitted, sold, distributed, or published by the recipient of this E-Auction Process Information Document, without prior written approval from the Liquidator. Distributing or taking/editing/dispatching/transmitting this E-Auction Process Information Document in certain foreign jurisdictions may be restricted by law, and Persons in whose possession this E-Auction Process Information Document comes should inform themselves about, and observe, any such restrictions.
8. Neither the Liquidator, nor his professional advisors, affiliates, employees, colleagues, agents, representatives or managers of the process shall be liable for any damages, whether direct or indirect, special or consequential including loss of revenue or profits that may arise from or in connection with the use of this E-Auction Process Information Document, including for the Bidder not being selected as a Successful Bidder or on account of any decision taken by the Liquidator.

9. *Further, apart from the provisions set out in this E-Auction Process Information Document, the Bidder shall be responsible for fully satisfying the requirements and provisions of IBC, 2016 and Liquidation Process Regulations made thereunder as well as all laws in force that are or may be applicable to the Bidder or the intended manner of sale envisaged under this E-Auction Process Information Document and for obtaining consents, waiver from requisite regulatory and statutory approvals from the concerned regulators, third parties and governmental authorities in order to consummate the sale process as contemplated in the E-Auction Process Information Document.*
10. *Under no circumstances shall the Bidder make any contact, direct or indirect, by any mode whatsoever, with the Company until the Liquidator gives his written permission. The Confidential Information shall be kept secret and confidential by the Bidder (s) and shall be used solely in accordance with the terms of the Confidentiality Undertaking and provisions of IBC, 2016.*
11. *No Person, including the Bidder shall be entitled under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise to claim for any loss, damage, cost or expense which may arise from or be incurred or suffered on account of anything contained in this E-Auction Process Information Document or otherwise, including the accuracy, adequacy, authenticity, correctness, completeness or reliability of the information or opinions contained in this E-Auction Process Information Document and any assessment, assumption, statement or information contained therein or deemed to form part of this E-Auction Process Information Document, and the Liquidator or any of his respective advisors, consultants and representatives and the Company, do not have any responsibility or liability for any such information or opinions and therefore, any liability or responsibility is hereby expressly disclaimed.*
12. *The sale of the Company is proposed to be done on "as is where is basis", "as is what is basis", "whatever there is basis" and "no recourse" basis and the proposed sale of the Company on going concern basis does not entail transfer of any other title, except the title which the Company had on its assets as on date of transfer. The Liquidator does not take or assume any responsibility for any shortfall or defect or shortcoming in the moveable/immoveable assets of the Company.*
13. *The Bidders shall bear all its costs and charges associated with or relating to the preparation and submission of its Bid including but not limited to physical and electronic preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Liquidator or any other costs incurred in connection with or relating to its Bid.*
14. *This E-Auction Process Information Document is neither an agreement nor an offer by the Liquidator to the prospective Bidders or any other person. The objective of this E- Auction Process Information Document is to provide prospective Bidders with information that may be useful to them in making their Bid. It may be noted that the assumptions, assessments, statements and information contained in the E-Auction Process Information Document may not be complete, accurate, adequate or correct. Each Bidder should, therefore, conduct its own due-diligence, investigations and analysis and should also check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this E-Auction Process Information Document and may get independent advice from appropriate sources.*
15. *Information provided in this E-Auction Process Information Document to the Bidder(s) has been collected and collated from several sources. This E-Auction Process Information Document may not be all inclusive and may not contain all of the information that the recipient may consider material for the purpose of submission of its Bid. The information given by no means claims to be an exhaustive account of statutory requirements and should not be regarded as complete. The Liquidator accepts no liability or responsibility for the authenticity, accuracy or otherwise for any statement or information contained in the E-Auction Process Information Document.*

16. *The Bidders are prohibited from giving or offering any gift, bribe or inducement and any attempt to any such act on behalf of the Bidder towards the Liquidator, or any of his respective professional advisors, affiliates, or Representatives for showing any favour in relation to this document or the process set out herein, shall render the bidder to such liability and penalty as the Liquidator may deem proper, including but not limited to immediate disqualification and exclusion from the process contemplated hereunder.*
17. *Neither the information in this E-Auction Process Information Document nor any other written or oral information provided by the Liquidator, or any of his respective advisors, consultants and representatives is intended to form the basis of or the inducement for submission of any document or information or the Bid by any prospective Bidder or for any investment activity.*
18. *It is to be noted that by procuring a copy of this E-Auction Process Information Document, the recipient accepts the terms of this Disclaimer, which forms an integral part of this EAuction Process Information Document.*

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**1. INFORMATION MUST BE READ BEFORE BIDDING:**

- 1.1. This E-Auction Process Information Document has been issued for the purpose of carrying out E-Auction for the sale of the Company as a going concern basis in accordance with the provisions of IBC and Liquidation Process Regulations.
- 1.2. The information provided in this E-Auction Process Information Document should be read together with the provisions of the IBC and the Liquidation Process Regulations. In the event of a conflict between this E-Auction Process Information Document and the IBC or the Liquidation Process Regulations, the provisions of the IBC or the Liquidation Process Regulations, as the case may be, shall always prevail.
- 1.3. The information contained in this E-Auction Process Information Document or subsequently provided to Bidder(s), whether verbally or in documentary or electronically or any other form by or on behalf of the Liquidator, is provided to Bidder(s) on the terms and conditions as set out in this E-Auction Process Information Document.
- 1.4. The Liquidator has no responsibility towards the authenticity of the trademark registration of the brand / name of the Company and in relation to the products or services of the Company. Interested Bidder(s) is / are advised to conduct their own legal due diligence towards continuing with the same name in the hands of the Successful Bidder. This E-Auction Process Information Document does not constitute advice and the Liquidator should not be held responsible for any sort of claim on use of such trademark/brand by any constitution / party (including related party (s)). The Liquidator hereby excludes any warranty, express or implied by any party on such trademark/brand. No responsibility is taken by the Liquidator regarding any implications on the future usage of such trademark/brand.
- 1.5. The Liquidator also hereby disclaims any and all liability for any statements made or omitted to be made in this E-Auction Process Information Document or, any action taken or omitted to be taken pursuant to this E-Auction Process Information Document. The Liquidator may in his absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this E-Auction Process Information Document. Further, the Bidders must specifically note that the Liquidator reserves the right to change, update, amend, supplement, modify, add to, delay or otherwise annul or cease the liquidation proceedings at any point in time, for any reason whatsoever determined in his sole discretion without obligation to notify any Person of such revision or changes.
- 1.6. The issuance of this E-Auction Process Information Document does not imply that the Liquidator is bound to select a bidder or to declare the preferred Bidder as Successful Bidder for acquisition of the Company and the Liquidator reserves the right to reject all or any of the Bidders or their Bid(s) without assigning any reason whatsoever.
- 1.7. The name and details of the E-Auction Service Provider shall be published on the website ([www.kaminenisteelpower.com](http://www.kaminenisteelpower.com)) of Kaminen Steel & Power India Private Limited (In Liquidation). The sale of the Company as contemplated in this E-Auction Process Information Document shall be undertaken by the E-Auction Service Provider for and on behalf of the Liquidator through an E-Auction platform provided on the website portal of the E-Auction Service Provider (“Platform”).
- 1.8. Other details with respect to the E- Auction are as follows and the relevant annexures and formats are provided herein:

<b>Type of Bid</b>	<b>E-Auction</b>
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Seller	Mr. Racharla Ramakrishna Gupta, Liquidator for Kamineni Steel & Power India Private Limited (In Liquidation)
Website of E-Auction Service Provider	<a href="https://ncltauction.auctiontiger.net">https://ncltauction.auctiontiger.net</a>
E-Auction Service Provider	M/s E-Procurement Technologies Limited B-704/705, Wall Street - II, Opp. Orient Club, Nr. Gujarat College, Ellis Bridge, Ahmedabad - 380006, Gujarat, India
Annexures	<b>Annexure I</b> : Affidavit and Undertaking  <b>Annexure II</b> : Confidentiality Undertaking  <b>Annexure III</b> : Bid Application form  <b>Annexure IV</b> : Bid Declaration Form
Special Instructions	Please note that this bidding is a serious matter and last-minute bidding may lead to unnecessary lapses. Neither the E-Auction Service Provider nor the Liquidator will be responsible for any lapses on part of the Bidders.

- 1.9. All terms and conditions with respect to the sale of the company as a going concern basis shall be governed in accordance with the provisions of IBC and Liquidation Process Regulations read with the directions of the Liquidator and NCLT from time to time. As mandated by the NCLT, the Liquidator shall exercise all rights with respect to sale 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 to facilitate in conducting the sale of the Company.
- 1.10. The Annexures to this E-Auction Process Information Document shall form an integral part hereof and this E-Auction Process Information Document shall always be read in conjunction with the Annexures and Formats appended hereto.
- 1.11. This E-Auction Process Information Document is neither transferable nor assignable.
- 1.12. All the title documents in relation to assets of the Company as is available with the Liquidator will be made available to Eligible Bidder(s) on request to the Liquidator for inspection. Nothing contained in this E-Auction Process Information Document shall be deemed to relieve, wholly or partially, directly or indirectly, the Bidder from their compliance with the IBC, any other law in force, and/or any instrument having the force of law, as may be applicable to them.
- 1.13. The Bidder shall inform themselves concerning, and shall observe and comply with, any applicable legal requirements.

## **2. KEY DEFINITIONS:**

- 2.1** “**Adjudicating Authority**” or “**NCLT**” shall mean the National Company Law Tribunal, Hyderabad Bench;
- 2.2** “**Affidavit and Undertaking**” shall mean the affidavit and undertaking provided by the Bidder substantially in form and manner as annexed in **Annexure I** hereto;
- 2.3** “**Agency**” shall mean e-auction service provider M/s E-procurement Technologies Limited ( <https://ncltauction.auctiontiger.net>)
- 2.4** “**Applicable Law(s)**” shall mean, any or all the applicable laws, codes, regulations, rules, guidelines, circulars, re-enactments, revisions, applications and adaptations



thereto, judgments, decrees, injunctions, writs and orders of any court, arbitrator or governmental agency or authority, rules, regulations, orders and interpretations of any governmental authority, court or statutory or other body applicable for such transactions including but not limited to the IBC, Liquidation Regulations, Companies Act, 1956 / 2013 (as applicable), Competition Act, 2002 , Income Tax Act, 1961, The Goods and Services Tax Act, 2017, Transfer of Property Act, 1882, Sale of Goods Act, 1930, Foreign Exchange Management Act, 1999, whether in effect as of the date of this E-Auction Process Information Document or thereafter and each as amended from time to time;

- 2.5 **“Bid”** means, any bid or offer along with other documents, submitted by the Bidder(s) as required in terms of the Public Advertisement and E- Auction Process Information Document issued by the Liquidator and in accordance with the provisions of IBC read together with the Liquidation Process Regulations as amended from time to time and the Applicable Law(s);
- 2.6 **“Bidder(s)”** shall mean a Person or Persons as the case may be, who submitted a Bid as per the E-Auction Process Information Document; and shall include a Eligible Bidder or the Successful Bidder, as the case may be, and as the context requires;
- 2.7 **“Bid Application Form”** shall mean the form as specified in **Annexure III** of this E-Auction Process Information Document;
- 2.8 **“Bid Declaration Form”** shall mean a declaration by the Bidders in form as specified in **Annexure IV** of this E-Auction Process Information Document;
- 2.9 **“Company”** or **“Corporate Debtor”** shall mean ‘Kamineni Steel & Power India Private Limited’ a company incorporated in India under the Companies Act of 1956, having its registered office at **“KAMINENI”**, 4<sup>th</sup> Floor, King Koti, Hyderabad-500001, India;
- 2.10 **“Confidential Information”** shall mean any and all information and other materials disclosed, furnished, communicated or supplied by the Company to any bidder, in written or electronic or verbal form, including without limitation, and shall be determined to include(without limitation) the following types of information of a similar nature: any commercial and/ or financial information, improvement, know how, intellectual property, discoveries, ideas, concepts, papers, techniques, models, data, documentation, manuals, flow charts, research, process, procedures, functions and other information related to price lists and pricing policies and any other information which the Company identifies to be confidential at the time of disclosure to the relevant bidder, and shall include any information that is provided by the Liquidator or his representatives pursuant to the liquidation process or through the Confidentiality Undertaking;
- 2.11 **“Confidentiality Undertaking”** shall mean an undertaking as specified in **Annexure II** herewith;
- 2.12 **“Data Room”** shall mean the virtual data room maintained by the Liquidator, created for the Eligible Bidders to access information in relation to the Company;
- 2.13 **“E-Auction Process”/“E-Auction”** shall mean the electronic auction process for sale of the Company conducted in accordance with the provisions of IBC, Liquidation Process Regulations, Applicable Law(s) and this E- Auction Process Information Document inviting Bid from the Bidders for consummating the sale of Company on going concern basis in accordance with the provisions of IBC and Liquidation Process Regulations;
- 2.14 **“E-Auction Process Information Document”** means this document including all the annexures, Information Memorandum, Data Room information / documents,

for the purposes of setting out the process for submission of a bid and selection of Successful Bidder in accordance with the provisions of the IBC and Liquidation Process Regulations and shall include all supplements, modifications, amendments, addendums, alterations or clarifications thereto issued in accordance with the terms hereof;

- 2.15 “Eligible Bidder(s)”** shall mean a Bidder who fulfills the eligibility criteria listed out in the E-Auction Process Information Document to the satisfaction of the Liquidator;
- 2.16 “Eligibility Criteria”** shall mean the legal criteria as specified in the Clause 4.5 of this E- Auction Process Information Document;
- 2.17 “IBC”/ “Code”** shall mean Insolvency and Bankruptcy Code, 2016 and the related rules and regulations issued there under, as amended from time to time;
- 2.18 “LOI”** shall mean the letter of intent to be issued by the Liquidator to the Successful Bidder detailing out the terms and conditions to complete the sale of Company on going concern basis, including the balance sale payment by Successful Bidder as per the provisions of IBC and the Liquidation Process Regulations;
- 2.19 “Liquidation Process Regulations”/ “Regulations”** means, the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016 as amended from time to time including Insolvency and Bankruptcy Board of India (Liquidation Process) (Amendment) Regulations, 2019 dated July 25, 2019;
- 2.20 “Liquidator”** means Mr. Racharla Ramakrishna Gupta is a registered insolvency professional with the Insolvency and Bankruptcy Board of India (IBBI). His Registration No. is IBBI/IPA-002/IP-N00012/2016-17/10029). Mr. Racharla Ramakrishna Gupta has been appointed as the Liquidator of “Kamineni Steel & Power India Private Limited (in Liquidation)” by the Hon’ble National Company Law Tribunal, Hyderabad Bench vide its order CP(IB) no. 11/10/HDB/2017 dated 26th October, 2018 to manage, protect, sell and liquidate the properties, assets, business and other affairs of “Kamineni Steel & Power India Private Limited (in Liquidation)”.
- 2.21 “Person”** shall mean an individual, a partnership firm, an association, a corporation, a limited company, a trust, a body corporate, bank or financial institution or any other body, whether incorporated or not;
- 2.22 “Public Advertisement”** shall mean an advertisement dated 12<sup>th</sup> October 2019 published in English language in an English newspaper ,i.e. Economic Times and in the principal vernacular language in a Telugu newspaper ,i.e. Namaste Telangana inviting bid from interested persons to participate in the liquidation process of the Company in accordance with the provisions of IBC and Liquidation Process Regulations and the same was published in the respective newspapers on 14<sup>th</sup> October, 2019;
- 2.23 “Representatives”** shall include partners, directors, officers, employees, affiliates, agents, consultants, advisors or such other representatives of the relevant Person expressly authorised by such Person pursuant to corporate authorizations, powers of attorney, or contract;
- 2.24 “Reserve Price”** shall mean the minimum price at which a bid will be accepted on the auction portal from a participating eligible bidder;
- 2.25 “Site”** shall mean the location of all the immovable and moveable properties including land parcels, office premises, buildings, factories, project locations, plant

and machinery and fabrication units, owned, leased or occupied by the Company, for the purposes of conducting business;

**2.26 “Site Visit”** shall mean a visit to the Site; and

**2.27 “Successful Bidder”** means, the Eligible Bidder whose Bid is approved and who is declared successful by the Liquidator at the end of the determined auction phase as per the provision of this E-Auction Process Information Document, provisions of IBC and the Liquidation Process Regulations.

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

### **3. BACKGROUND:**

#### **3.1 An Overview of the company**

Kamineni Steel & Power India Private Limited, (“the Corporate Debtor” or “KSPL” or “the Company”) is a company registered under the Companies Act, 1956, incorporated in the year 2008 with its registered office at “KAMINENI”, 4th Floor, King Koti, Hyderabad-500001, India with corporate identification number U27100TG2008PTC061482 (the “Company”). KSPL is promoted by M/s. United Steel Allied Industries Private Limited (USAIPL) having a stake of 99.98%. USAIPL, a group company Kamineni Group, is associated with the steel manufacturing and trading activities for last five decades.

KSPL has set up a steel billet manufacturing plant, both round and square billers, with a capacity of 3,60,000 MTPA located at Yellareddyguda Village, Narketpally Mandal, Nalgonda District, Telangana. A captive gas based power plant of 220 MW was envisaged at the same location to meet the power requirement of steel plant; however power plant implementation was kept in abeyance due to uncertainty in availability of natural gas.

Steel billets manufactured by KSPL were envisaged to be the raw material for manufacturing seamless pipe by their group company M/s United Seamless Tubular Private Limited (USTPL), to be used in oil & gas industry.

Key equipment was supplied by SMS Siemag (Germany) and the alloy steel billets are produced using 60MT Electric Arc Furnace and 60MT Ladle Refining Furnace. The market segments include oil and gas, power, line pipes, automotive and forging, Defense and Railways, etc.

#### **3.2 Initiation of the CIRP**

In 2017, an application was filed for initiating the corporate insolvency resolution process (“CIRP”) of the Company by the Corporate Debtor under Section 10 of Insolvency and Bankruptcy Code, 2016. The Hyderabad Bench of the National Company Law Tribunal (“NCLT”) by way of its order dated February 10, 2017 admitted the CIRP application filed against the Company and appointed Mr. Chandravarapu Bala Mouli as the interim resolution professional of the Company. The appointment of Mr. Chandravarapu Bala Mouli as the resolution professional of the Company was ratified pursuant to the approval of the Committee of Creditors (“CoC”) on March 8, 2017. The CIRP was extended for 90 days vide order dated July 27, 2017. NCLT, Hyderabad Bench has approved the Resolution Plan approved by CoC with vide its order dated 27<sup>th</sup> November, 2017.

The Resolution plan Approved by Hon’ble NCLT was set aside by Hon’ble National Company Law Appellate Tribunal, New Delhi (“NCLAT”) on the basis of appeal made by the Indian Overseas Bank and others on the grounds of not

achieving 75% voting for the resolution plan in the Committee of Creditors in favour of the resolution plan and directed the NCLT to pass the liquidation order.

Consequently, a liquidation order has been passed by the Hon'ble NCLT on 26th October, 2018 pursuant to the orders of Hon'ble NCLAT and appointed Mr. Racharla Ramakrishna Gupta as the Liquidator.

### **3.3 Present Status**

NCLT vide order CP(IB) No. 11/10/HDB/2017 dated 26.10.2018 had ordered commencement of liquidation process of the Company as per Section 33 of the IBC read with Liquidation Process Regulations. Pursuant to the Liquidation Order, the Liquidator was appointed to perform its duties as per the provisions of the IBC and Liquidation Process Regulations. The Liquidator is inviting eligible bidders to participate in the E- Auction for sale of the Company on going concern basis in accordance with the provisions of IBC and Liquidation Process Regulations, subject to the terms laid down in this E-Auction Process Document.

## **4. TERMS AND CONDITIONS OF THE E-AUCTION:**

### **4.1 Sale of the Company as a Going Concern**

The sale of the company as a going concern mentioned in this E -Auction Process Document and in the public advertisement published by the Liquidator pursuant to the appointment by the Hon'ble NCLT Hyderabad, Bench, shall be subject to the terms and conditions set out in this document.

As per the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, the Liquidator is authorised to sell the company as a going concern "**as is where is whatever there is and without recourse basis**" through e-auction process. Hence, the Liquidator is issuing this document for invitation of bid from prospective bidders.

This E -Auction Process Document has been issued with the intent to carry out e-auction (E-Auction) of M/s Kamineni Steel & Power India Private Limited (in liquidation) as a going concern under the provisions of the Insolvency and Bankruptcy Code, 2016 (IBC) and the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (Liquidation Process Regulations) and which is more feasible will be considered by the Liquidator.

The Annexures to this E -Auction Process Document shall form an integral part hereof and this E -Auction Process Document shall always be read in conjunction with the Annexures hereto. In the event of any inconsistency between the terms contained in the E -Auction Process Document and that of the Annexures, the terms contained in the Annexures shall prevail.

### **4.2 Nature and object of the E-Auction**

The online e-auction sale is with the object of facilitating a free, fair and transparent sale of the Company and for achieving best-possible recovery for the Company.

### **4.3 Caution to bidders**

- a) The auction is being conducted strictly on an "**as is where is whatever there is and without recourse basis**".
- b) Bidders are advised to go through all the terms and conditions of sale given in this E -Auction Process Document and also in the public advertisement before participating in the online bidding/auction.

- c) Documents regarding the sale of the company are as per the details available with the Liquidator and neither the Liquidator nor the Agency shall, in any way, be responsible for any variation in the extent of the properties due to any reason.

#### **4.4 Inspection of The Assets- Buyers Beware**

- a) Bidders are requested to inspect the Properties and satisfy themselves regarding the area, physical nature, condition, extent etc., of the Properties prior to submission of their online bids. All costs incurred in connection with such inspection shall be borne by the Bidders.
- b) Bidders are advised / cautioned to verify with the sub-registrar's office as well as obtain and analyze the land/revenue records with respect to the Properties and to satisfy themselves regarding the existence, title, nature, description, condition, existing encumbrances, liens, charges, statutory dues, etc., over the Properties before submitting their bids.
- c) The Agency / the Liquidator shall not be responsible for rendering any assistance to the Bidder in connection with its independent inspection of the Properties.
- d) Bidders are bound by the principle of Caveat Emptor (buyer beware).
- e) Bidders are requested to submit their bids only after conducting their own independent due diligence exercise with respect to the title to the properties.

#### **4.5 Eligibility undertaking u/s 29A of the IBC (Annexure - I)**

A prospective Bidder shall not be eligible to bid if he fails to meet the eligibility criteria in terms of the provision to Section 35(1)(f) read with 29A of the IBC. Therefore, the Prospective Bidder concerned shall submit an eligibility undertaking in prescribed format (**Annexure I**) which should be duly authenticated and notarized by a notary public and supported by a certificate by a registered Insolvency Professional registered with IBBI confirming the eligibility of the bidder.

#### **4.6 Documents Required to be submitted before ascertainment of Eligibility**

- a) The auction shall be conducted through the process of an E-auction facilitated by the Liquidator. The Liquidator/ E-Auction Service Provider shall inform the Bidders *via* email of the procedure for obtaining access to the Platform for the purposes of submitting necessary forms and documents thereat and making bids thereon.
- b) Each intending bidder shall, pursuant to gaining access to the Platform, provide such details as may be required by the E-Auction Service Provider.
- c) The Prospective Bidder(s) is required to submit BID along with the following documents within 15 days of date of public advertisement of e-auction to the Liquidator hard copy duly notarized:
  - i) KYC documents as given below
  - ii) Authorization to the Signatory (in case the bidder is a legal entity).
  - iii) Demand Draft payable at Hyderabad, for the non-refundable process participation fees of INR 3,00,000/in favour of "Kamineni Steel & Power India Private Limited - in Liquidation".
  - iv) Affidavit and Undertaking in specified format as per Annexure -I
  - v) Confidentiality Undertaking in specified format as per Annexure-II
  - vi) Bid Application Form - Annexure -III
  - vii) Bid Declaration Form - Annexure IV

#### **4.7 KYC Documents to be Submitted**

I. Individual Bidders or Bidders in the nature of Hindu undivided families (“HUFs”) would be required to submit the following:

- a) Copy of the valid passport or voter’s ID or valid driving license or Aadhar card or photo identity card issued by Govt./ PSU; and
- b) Copy of the permanent account number (“PAN”) card and in case the copy of the PAN card is not available with the Bidder, an affidavit stating the reason for not holding a valid PAN card on a non-judicial stamp paper of Rs. 100 (Rupees One Hundred only) duly notarized in lieu of the PAN card shall be submitted.

It is clarified that in the case of an HUF, the Karta of the HUF would have to submit his own passport/ voter ID/ driving license/ Aadhar card/photo identity card issued by Govt. / PSU.

II. Non-Resident Indian(s) would be required to submit the following documents:

- a) Their passport and residence visa copies duly attested by foreign offices or notary public or the Indian embassy; and
- b) A copy of the PAN card and in case the copy of the PAN card is not available with the Bidder, an affidavit stating the reason for not holding a valid PAN card on a non-judicial stamp paper stamp paper of Rs. 100 (Rupees One Hundred only) duly notarized in lieu of the PAN card shall be submitted.

III. Proprietary concerns shall submit the following documents evidencing the identity and address proof of the proprietor and proprietorship concern. The proprietor should also provide a copy of the permanent account number (“PAN”) card and in case the copy of the PAN card is not available, an affidavit stating the reason for not holding a valid PAN card on a stamp paper of Rs. 100 (Rupees One Hundred only) in lieu of the PAN card shall be submitted.

IV. Partnership firms and limited liability partnerships shall be required to submit following documents providing the identity and address proof of the partnership or limited liability partnership, as applicable, any 2 (two) documents evidencing the identity and address proof the partner authorized to act on behalf of the partnership or limited liability partnership, as the case may be, and the following documents:

- a) Registration certificate or incorporation certificate, if any, as applicable;
- b) Partnership deed or limited liability partnership agreement, as applicable;
- c) An officially valid document in respect of the person holding a power of attorney to transact on behalf of the partnership or copy of the resolution passed by the partners of the limited liability partnership or other valid document evidencing authority of the designated partner to transact on behalf of the limited liability partnership; and
- d) Copy of the permanent account number (“PAN”) card of the partnership firm/ limited liability partnership and in case the copy of the PAN card is not available, an affidavit stating the reason for not holding a valid PAN card on a non-judicial stamp paper of Rs. 100 (Rupees One Hundred only) duly notarized in lieu of the PAN card shall be submitted.

V. Companies shall be required to submit following documents evidencing the identity and address proof of the company and the following documents

- a) Certificate of incorporation;

- b) A resolution from the shareholders/ Board of Directors granted to its managers, officers or employees to transact on its behalf with respect to the matters contemplated herein; and
- c) Copy of the permanent account number ("PAN") card of the company and in case the copy of the PAN card is not available, an affidavit stating the reason for not holding a valid PAN card on a stamp paper of Rs. 100 (Rupees One Hundred only) in lieu of the PAN card shall be submitted.

It is clarified that no power of attorney would be accepted, and the person authorized to act on behalf of a company must be so authorized only by means of a resolution of the board or shareholders of the company.

#### **4.8 Confidentiality Undertaking (ANNEXURE -II):**

All information about the Corporate Debtor furnished to the prospective Bidder pursuant to the terms hereof shall be governed by the provisions of the Confidentiality Undertaking/Non-Disclosure Agreement -Annexure-II. The said undertaking/agreement in specified format (**Annexure-II**) shall be submitted by the Prospective Bidder along with the Bid.

#### **4.9 Evaluation of Bids for Eligibility**

Bid applications would be subject to evaluation on various Technical & Financial Parameters e.g. revenues, turnover, Net worth and/or Funds available for deployment etc., Only eligible bidders will be given access to data room.

#### **4.10 Declaration of Eligible Bidder**

- a) The Liquidator will verify the details mentioned in the Forms based on the documents submitted pursuant to the terms and conditions mentioned herein and ascertain submission of the EMD, and also the adherence of timelines specified in the Clause 13.
- b) Pursuant to such verification, the Liquidator will notify the Bidders (via email) regarding their eligibility to participate in the e-auction for the assets within 18 days of public advertisement of e-auction.
- c) Such Bidders shall hereinafter be referred to as the "**Eligible Bidders**". It is clarified that an Eligible Bidder shall be entitled to submit a bid only with respect to the specified auction for which he has submitted the Form and in respect of which he has paid the EMD.
- d) The Eligible Bidders will be given access to data room and site visit will also be arranged as per the e-auction process schedule.

#### **4.11 Due Diligence / Data Room / Clarifications**

- a) The Liquidator shall endeavor to provide necessary assistance, facilitating the due diligence by Eligible Bidders. The information and documents shall be provided by the Liquidator in good faith.
- b) The Liquidator proposes sale of Company on going concern basis in accordance with the provisions of IBC and Liquidation Process Regulations on "As is where is basis", "As is what is basis", "Whatever there is basis" and "No recourse" basis and the proposed sale as specified above does not entail transfer of any title, except the title which the Company has on the assets as on date of the transfer. All local taxes / maintenance fee / electricity / water charges/ annual lease rentals / unearned income in case of leasehold assets, etc., outstanding as on date or yet to

fall due in respect of the relevant asset should be ascertained by the Bidder and would be borne by the Successful Bidder.

**c) Clarifications:**

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

**4.12 Site Visit and Management Meetings**

- a) The Corporate Debtor (represented by the Liquidator) shall endeavor to arrange for and facilitate a site visit, on a best effort basis and will intimate the Prospective Bidder regarding the date and venue of the Site Visit, as may be applicable as per the e-auction process schedule under Clause 13.



- b) The Prospective Bidder who is/are desirous of undertaking a Site Visit or Management Meeting, may depute a team comprising of a maximum of 3 (three) personnel of the Prospective Bidder, for such a Site Visit or Management Meeting.
- c) The purpose of the Site Visit shall be to facilitate the Prospective Bidder to ascertain the current status of the Corporate Debtor including the site conditions, location, surroundings, climate, availability of power, water and other utilities for operations, access to site, handling and storage of materials etc, provided that such Site Visit shall not be utilized for discussions regarding the terms of the bid.
- d) The Prospective Bidder is expected to make its own arrangements including accommodation for the Site Visit. All costs and expenses incurred in relation to such Site Visit shall be borne by the Prospective Bidder. The Prospective Bidder may intimate its preferred date for purpose of the Site Visit to the Liquidator via email to [rp.ramakrishnagupta@gmail.com](mailto:rp.ramakrishnagupta@gmail.com) reasonably in advance. The Liquidator will use its reasonable endeavor to fix one date for each Site Visit depending on the availability of Company officials and Liquidator.
- e) It is hereby clarified that no separate meeting or telephonic conversation / email with the Prospective Bidder shall be entertained by the Liquidator for the purposes of providing clarifications with respect to any such Site Visit. Any unauthorized contact with the employees, officers or management of the Corporate Debtor may result in disqualification of the Prospective Bidder.
- f) The Prospective Bidder may carry out its own comprehensive due diligence in respect of the corporate debtor and shall be deemed to have full knowledge of the condition of the corporate debtor, assets, relevant documents, information, etc. whether or not the Prospective Bidder actually inspects or participates in the Site Visit or verifies the documentation provided by the liquidator.

The Prospective Bidder shall not be entitled to receive re-imbusement of any expenses which may have been incurred during the sale process and/or for carrying out of due diligence, search of title to the assets and matters incidental thereto or for any purpose in connection therewith.

The last day by which the Site Visit by any Prospective Bidder shall have to be completed is fixed as 7<sup>th</sup> November 2019 by 5.00 PM.

- g) The eligible bidders who are interested, shall submit Interest Free Earnest Money Deposit (EMD) of INR 5.00 crores in the form of Demand Draft/ RTGS.
- h) Upon submission of EMD, User Id and Password for participation in E-Auction through designated service provider will be sent to the respective Applicant. On the day of E-auction, the bidding will take place through designated e-auction platform. The highest bidder will be required to complete the sale.

Note: The Liquidator reserves the right to invite the successful bidder for completion of sale. Emerging as a successful bidder does not confer any right whatsoever on the said bidder, to acquire the Corporate Debtor nor does it guarantee any confirmation of sale by the Liquidator until all conditions are fulfilled.

#### **4.13 Earnest Money Deposit (EMD)**

In order to participate in the E-Auction process, an Eligible Bidder is, *inter alia*, required to deposit interest free earnest money (“**Earnest Money Deposit**”) on or before 9<sup>th</sup> November 2019 an amount of INR 5,00,00,000.00 (Indian Rupees Five Crores) of this document and shall be paid by either mode as specified below.

- a) By remittance of funds to the bank account of the Company through RTGS/ NEFT to the Account as per the details given below

Name	Kamineni Steel & Power India Private Limited(In Liquidation)
Account Number	50200044651902
Bank Name	HDFC Bank Limited
Branch	Begumpet
IFSC Code	HDFC0000621

- b) Provide an EMD of INR 5,00,00,000/- (Indian Rupees Five Crores) by way of demand draft, in favour of Kamineni Steel & Power Private Limited-in Liquidation, issued by any scheduled commercial bank in India ("Bank").

The details of the remittance made in this regard shall be entered in the form submitted by the bidder and shall be intimated to the Liquidator thorough email along with the scanned copy of the remittance challan. The Bidders shall preserve the remittance challan and shall produce the same as and when demanded. The entire Earnest Money amount shall be remitted by the Eligible Bidder (s) from one bank account only and to be owned by the Eligible Bidder.

#### **4.14 Return of Earnest Money Deposit**

- a) Subject to the first proviso below, the Earnest Money without interest shall be returned to unsuccessful Eligible 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 of the next highest Eligible Bidder for up to 30 (thirty) days 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 Eligible or fails to adhere to the terms of the Letter of Intent.
- b) Provided that, in the event, the Liquidator proposes to cancel the E-Auction process on the scheduled date or decides to not 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 Eligible Bidder indicates in writing its desire to receive refund of its Earnest Money deposit, then the Earnest Money shall be returned to the Eligible Bidder, within 7 (seven) days of giving notice requesting for the return of the Earnest Money deposited.
- c) Provided further that, failure to participate in a round of E-Auction or requesting refund of the Earnest Money shall not debar a Eligible Bidder from participating in any subsequent round(s) of E-Auction.
- d) The Earnest Money without interest shall also be returned to a Eligible Bidder, within 7 (seven) days of a demand being raised by such Eligible Bidder on the basis of any of the following grounds:
- (i) Any increase in the Reserve Price or minimum incremental value;
  - (ii) Any increase in EMD amount by more than 10% of the immediately previous specified EMD;
  - (iii) Any reduction on the timelines within which the balance sale proceed is required to be paid;
  - (iv) Change in eligibility requirement post the submission of the Earnest Money, such that the Bidder becomes ineligible. However, imposition of additional compliance requirements (such as requirement of providing additional undertakings) shall not be considered as change in eligibility norm;
  - (v) Postponement of the date of the scheduled auction beyond 30 (thirty) days, except on account of any direction from Adjudicating Authority; or

#### **4.15 Forfeiture of Earnest Money**

The Earnest Money, paid will be forfeited, upon the occurrence of any of the following events:

- a) If any of the conditions under this E -Auction Process Document are breached by the Eligible Bidder or in case the Eligible Bidder is found to have made any misrepresentation; or
- b) If the Eligible Bidder or any person acting jointly or in concert with such Eligible Bidder is found to be ineligible to submit a bid under Section 29A of the IBC or is found to have made a false or misleading declaration of eligibility under Section 29A of the IBC; or
- c) If the Successful Bidder does not accept the Letter of Intent issued by the Liquidator within the period and in the manner specified or
- d) If the Successful bidder fails to pay the balance sale consideration (plus any applicable taxes, registration fees, if any, on 100% of the bid sum) before the expiry of the period for payment of the same for reasons other than specified in Clause 4.14 of this E -Auction Process Document.

#### **4.16 Bidding Process**

- a) Bidding will be through the E - Auction.
- b) Bidders are cautioned to be careful while entering the bid amount.
- c) The Liquidator and the Agency shall not have any liability towards bidders for any interruption or delay in access to the Platform irrespective of the cause, issues relating to the Platform, failure of internet connections, server problems, etc.
- d) Any problem arising out of the e - auction sale of the assets shall be decided by the Liquidator, whose decision shall be final and binding.
- e) A training manual will be available on the website of the E - Auction Service Provider at <https://ncltauction.auctiontiger.net>. The intending bidder may avail online training/demonstration on the e-auction process from the E - Auction Service Provider.

#### **4.17 Duration of Auction Sale**

- a) The auction will be conducted via an electronic auction platform.
- b) Online e-auction sale will commence and be carried out as per the timelines set out in the Clause 13.
- c) The e-Auction shall commence strictly at the scheduled time and at a price equal to reserve price. The closing time of the auction is system controlled; the time will get automatically extended by 10 (ten) minutes if any bid is received during the last 5 (five) minutes, i.e. while an active bid is in process and kept open till the auction-sale concludes.
- d) If any market-leading bid (bid higher than the highest at the point in time) is received within the last 5 (five) minutes of closing time, the bidding time will be extended automatically by 10 (ten) minutes and if no bid higher than last quoted highest bid is received within the said extended 10 (ten) minutes, the auction sale will automatically get closed at the expiry of the extended 10 (ten) minute period.

There will thus be an extension of bidding-time, each of 10 (ten) minutes duration, till auction is concluded.

- e) Eligible Bidders are advised to enter their bid accordingly keeping in mind the duration as specified above.
- f) No complaint on the time-factor for bidding or paucity of time for bidding will be entertained by the Agency and/ or the Liquidator.

## **5. DECLARATION OF SUCCESSFUL BIDDER:**

- 5.1 The Liquidator shall determine and at his/her sole discretion (which discretion shall not be used arbitrarily), declare at the end of the E-Auction, the Successful Bidder(s) for any auction. Determination of the Successful Bidder(s) shall be done on the basis of highest bid received for each auction, unless the Liquidator determines, acting reasonably, that the highest bidder shall not be identified as the Successful Bidder.
- 5.2 After the conclusion of the e-auction for each bid, the Eligible Bidder submitting the highest bid shall be informed through a message generated automatically by the Platform, of the outcome of the e-auction. A separate intimation shall also be sent to the Successful Bidder via e-mail (“Intimation”) within 3 days of closure of e-auction and the results of the e-auction would also be displayed through publication on the Platform. The Platform shall also generate an auction outcome report for each bid which will be sent to the Agency and the Liquidator. Date of sending the e-mail will be considered as the date of receipt of the Intimation i.e. Date of Intimation.
- 5.3 Where the Earnest Money has been provided by means of a remittance to the Company’s bank account or way of a demand draft, such funds will be retained by the Liquidator as part payment of the consideration that the Successful Bidder has agreed to pay for the specific auction.
- 5.4 The Liquidator is not bound to accept the highest offer and has the absolute right to accept or reject any or all offer(s) or adjourn / postpone / cancel the e-Auction or withdraw any auction thereof from the E-Auction proceedings at any stage without assigning any reason there for.

## **6. ISSUANCE OF LETTER OF INTENT:**

- 6.1 The Liquidator shall issue to the Successful Bidder a letter of intent (“LoI” / “Letter of Intent”), within 10 days after the closure of the e-Auction, inviting the Successful Bidder to pay the balance sale consideration (plus any applicable GST/taxes, registration fees, etc if any, on 100% of the bid sum) within 30 days without interest or within 90 days of closure of e-auction provided that the payment made after 30 days will attract interest at the rate of 12% of the date of issuance of the LoI . This LoI per se does not confirm sale in favour of the Successful Bidder. Confirmation of sale is subject to the fulfilment of conditions stated hereunder and the approval of the Liquidator.
- 6.2 The Successful Bidder shall, within a period of 2 (two) days from the date of issuance of the LoI, unconditionally accept the LoI, and record such acceptance by providing the Liquidator with 1 (one) copy of the LoI with an endorsement stating that such LoI is, “Accepted Unconditionally”, under the signature of the authorized Director / Authorized Signatory of the Successful Bidder.
- 6.3 Failure to accept the LoI within the time period specified may result in the disqualification of the Successful Bidder along with cancellation of the LoI and forfeiture of the Earnest Money.

6.4 In case of disqualification of a Successful Bidder, the Eligible 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. If the latter is unwilling to match the bid submitted by the earlier Successful Bidder, the Liquidator, at his sole discretion, may decide to carry out a fresh auction, withdraw the Asset Lot(s) from the auction or sell the Asset Lot to the next highest Eligible bidder at its bid amount.

## **7. BALANCE SALE CONSIDERATION:**

7.1 Except for reasons specified In the Clause 4.14 of this E -Auction Process Document, the Successful Bidder shall be required to provide balance sale consideration within 30 (thirty) days of the date of issuance of the LoI in a single tranche payment.

7.2 The successful bidder can make the payment after 30 days (but not later than 90 days from the date of issuance of LoI) with interest at the rate of 12%, provided that the sale shall be cancelled if the payment is not received within ninety days.

7.3 Where the Successful Bidder has provided Earnest Money, the balance sale consideration shall be an amount equal to the bid sum (plus any applicable GST/taxes, registration fees, etc if any, on 100% of the bid sum) as reduced by the Earnest Money already paid.

7.4 All the payments of the bid amount made by the Successful Bidders shall be made through RTGS/ NEFT to the Account number mentioned as above or by drawing Demand Draft payable at Hyderabad favoring "Kamineni Steel & Power India Private Limited (In Liquidation)". The payments of the bid amounts shall be made by the Successful Bidder from the same bank account from which he has made payment of the EMD amounts.

7.5 The Successful Bidders would be required to provide the Liquidator, at any time within a period of 15 (Fifteen) days from the date of the auction, originals of all the documents whose copies they have submitted for verification purposes.

7.6 It may be noted that the other timelines mentioned in this document will not change irrespective of the date of submission of Bid by any Prospective Bidder.

### **7.7 Default in Payment**

Default in payment of the balance sale consideration and any applicable GST/taxes, registration fees, etc. if any, on 100% of the bid sum by the Successful Bidder will result in disqualification of the Successful Bidder including forfeiture of Earnest Money, unless such default in payment is pursuant to any event stipulated under Clause 4.14 of this E -Auction Process Document. Any auction may be put to re-auction or sold to the next highest Eligible Bidder and the defaulting Successful Bidder shall have no claim/right in respect of such auction.

## **8. CONFIRMATION OF SALE:**

8.1 On payment of the full amount of sale consideration, and any applicable GST/taxes, registration fees, etc. if any, the sale shall stand completed, and the Liquidator shall execute Certificate of sale or Sale deed.

8.2 It is expressly stipulated that there are no implied obligations on the part of the Liquidator to do all acts, things and deeds whatsoever for the completion of the sale.

8.3 The sale shall be subject to conditions prescribed under the IBC and provisions and regulations thereunder.

- 8.4 The sale attracts stamp duty, registration charges, GST and other applicable taxes as per relevant laws.
- 8.5 The Successful Bidder shall bear all the necessary expenses like applicable stamp duties/ additional stamp duty / transfer charges, registration expenses, fees, etc., for transfer of the Property (s) in his / her name.
- 8.6 The payment of all statutory / non-statutory dues, taxes, rates, assessments, charges, fees, etc., owed by the Company to anybody in respect of the Properties shall be the sole responsibility of Successful Bidder only.

#### **8.7 Issue of Sale Certificate**

- a) The sale certificate will be issued, within 30 (thirty) days from date of last date of payment of full bid amount subject to compliance of all terms and conditions of sale, unless cancelled by the Liquidator for any reason as per applicable law.
- b) The Certificate of sale or Sale deed will be issued and /or transaction / sale documents will be executed in the name of the Successful Bidder only and will not be issued in any other name(s).
- c) Sale certificate shall be collected in person by the Successful Bidder or through an authorized person with submission of appropriate authority.

#### **8.8 Stay/ Cancellation of the Sale**

- a) In case of stay of further proceedings by the Competent Authority, the e-auction may either be deferred or cancelled and persons participating in the sale shall have no right to claim damages, compensation or cost for such postponement or cancellation.
- b) In case the Successful Bidder has not paid the balance sale consideration stipulated herein within the due date the entire amount paid by the Successful Bidder (including EMD amount) shall be forfeited and the sale shall stand cancelled.
- c) The Liquidator shall also have the right to postpone/ cancel the auction of the sale for reasons whatsoever. In case of adjournment of sale for any reason, no fresh public advertisement will be given. However, the new date of sale will be informed through e-mail and the adjournment dates and time for submission of tenders will also be informed through e-mail.

#### **8.9 Delivery of Title Deeds**

- a) The Successful Bidder, on receipt of sale certificate, shall contact the Liquidator for delivery of title deeds and other documents related to the Properties as available with the Liquidator.
- b) The Liquidator shall ensure that title deeds and other documents are handed over to the Successful Bidder subject to post issuance of the sale certificate in accordance with the Order and the Subsequent Orders.

#### **8.10 Delivery of Possession**

- a) Delivery of possession of the Properties sold shall be as per the directions of the authorities, Codes, Rules, Regulation, as the case may be.

- b) After obtaining the sale certificate and getting the sale registered with appropriate authorities under applicable laws, the Successful Bidder is entitled to obtain possession of the Property. Possession will be given separately.
- c) All expenses and incidental charges thereto shall be borne by the Successful Bidder.

## **9. OTHER TERMS AND CONDITIONS:**

- 9.1 The Eligible 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, regardless of the conduct or outcome of the E-Auction process.
- 9.2 All expenses including any taxes/duties incurred towards movement / shifting of plant & machinery or any Assets post the E- Auction process should be borne by the Successful Bidder. The Liquidator shall not be held responsible / liable to pay any expenses towards such movement of plant & machinery or any Assets sold in the E- Auction process. 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.
- 9.3 **A forensic audit has been initiated by a financial creditor and transaction audit by the Liquidator on the Corporate Debtor's books of accounts and final reports are awaited. Upon receipt of the final reports, the Liquidator proposes to file an application with Hon'ble NCLT, Hyderabad seeking directions. Any amount recovered from the promoters upon Hon'ble NCLT's directions, the amount will be distributed to the financial creditors only and will not form part of the assets to be taken over by the successful bidder.**
- 9.4 Eligible / Successful Bidder(s) shall not be entitled to receive re-imbusement of any expenses which may have been incurred in carrying out of the due diligence, search of title to the assets and matters incidental thereto or for any purpose in connection with the E-Auction process.
- 9.5 It is expressly stated that the Liquidator does not take or assume any responsibility for any dues, statutory or otherwise, of the Company, including such dues, if any, which may affect transfer of the company/assets to the Successful Bidder and such dues, if any, will have to be borne/ paid by the Successful Bidder.
- 9.6 The Eligible 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 for purchasing the company/relevant asset.
- 9.7 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 E -Auction Process Document. Any such alteration, modification or relaxation, to the terms and conditions contained in this document, subject to provisions contained in Clause 4.14 of the E -Auction Process Document, shall be binding on all the Interested/ Eligible Bidders.
- 9.8 It shall be deemed that by submitting the bid, the Bidder agrees and releases the Agency/ the Liquidator, its employees, subsidiaries, agents and advisers, 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 hereunder,

pursuant hereto and/ or in connection with the e-auction process and waives, to the fullest extent permitted by applicable laws, any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or in future.

- 9.9 This E -Auction Process Document and any information provided earlier or subsequently, the auction process and the other documents pursuant to the E - Auction Process Document shall be governed by the laws of India and any dispute arising out of or in relation to the E -Auction Process Document or the auction process shall be subject to the discretion of the Liquidator.
- 9.10 No counteroffer /conditions by the Bidder, Eligible Bidder and/or Successful Bidder will be entertained.
- 9.11 The Liquidator shall have liberty to amend/ modify/ delete any of the conditions of the E-Auction Process Document or public advertisement as may be deemed necessary in the light of facts and circumstances of each case.
- 9.12 The Liquidator shall have the right to accept or reject all or any bid or bids as well as to postpone or cancel the sale for reasons whatsoever.
- 9.13 Bidders shall be deemed to have read and understood all the conditions of sale, the E -Auction Process Document and the public advertisement and are bound by the same.
- 9.14 The above terms and conditions are general in nature, subject to change and are in addition to other specific conditions given in the E-Auction Process Document and Notice of Sale.
- 9.15 Bidders are advised to preserve the EMD documents and documents pertaining to other deposits/ payments made by it and also a copy of the terms and conditions of the application Form downloaded from the portal.

#### **10. FRAUDULENT AND CORRUPT PRACTICES:**

- 10.1 The Eligible Bidder 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 E -Auction Process Document, or in the Letter of Intent, the Liquidator shall reject a bid and/or revoke the Letter of Intent, as the case may be, without being liable in any manner whatsoever to the Eligible / Successful Bidder, if the Liquidator, in his/her sole discretion, determines that the Eligible / 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 without prejudice to any other right or remedy that may be available to the Liquidator under this E-Auction Process Document or Applicable Law.
- 10.2 For the purposes of this Clause the following terms shall have the meaning hereinafter respectively assigned to them:
- a) “**coercive practice**” shall mean impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the auction process;
  - b) “**Conflict of Interest**” shall mean an event or circumstance, determined at the discretion of the Liquidator, where a Eligible/ Successful Bidder is found to be in



a position to have access to information about, or influence the bid of another Eligible Bidder pursuant to a relationship of such Eligible/ Successful Bidder (excluding any commercial relationship pursuant to the ordinary course of business) with the other Eligible 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 Eligible Bidder(s), the Company, or group companies of the Company;

c) **“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;

d) **“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;

e) **“restrictive practice”** shall mean forming a cartel or arriving at any understanding or arrangement among the Interested / Eligible Bidder(s) with the objective of restricting or manipulating a full and fair competition in the auction Process; and

f) **“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.

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

**10.4** The Eligible 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 Eligible Bidder is subject to.

## **11. VERIFICATION OF INFORMATION BY THE BIDDER:**

It shall be deemed that by participating in the e-auction process, the Bidder has:

- 11.1 made a complete and careful examination of the E -Auction Process Document and public advertisement and unconditionally and irrevocably accepted the terms thereof;
- 11.2 familiarized itself with the Order of the Competent Authority;
- 11.3 reviewed all relevant information provided by the Agency/ the Liquidator, as may be relevant to the e-auction process;
- 11.4 satisfied itself about all matters regarding the e-auction process required for submitting an informed bid in accordance with this E-Auction Process Document and performance of all its obligations hereunder;
- 11.5 acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the E -Auction Process Document or ignorance of any of the matters related to the e-auction process shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc., from the Liquidator/ the Agency; and
- 11.6 agreed to be bound by the undertakings provided by it under and in terms hereof.

## **12. VERIFICATION OF DOCUMENTS AND DISQUALIFICATION:**

- 12.1 The Liquidator reserves the right to verify (in accordance with the provisions of this E -Auction Process Document all statements, information and documents submitted by the Bidder in response to the E -Auction Process Document and the Bidder shall, when so required by the Liquidator, make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification by the Liquidator shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Agency/ the Liquidator thereunder.
- 12.2 Without prejudice to any other right or remedy that may be available to the Liquidator under this, E -Auction Process Document Liquidator reserves the right to disqualify the Bidder, cancel the sale and to appropriate the entire EMD and other amounts paid, if:
  - a) at any time, a misrepresentation on part of the Bidder is made or uncovered;
  - b) the Bidder does not provide, within the time specified by the Agency/ the Liquidator, the supplemental information/ documentation sought by the Agency/ the Liquidator, or
  - c) any act or omission of the Bidder results in violation of or non-compliance with the E-Auction Process Document and/ or any other document referred herein or issued pursuant thereto or any applicable law relevant for the e-auction process.
- 12.3 The Liquidator, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to
  - a) consult with any Bidder in order to receive clarification or further information;
  - b) retain any information and/ or evidence submitted to the Liquidator/ the Agency by, on behalf of, and/ or in relation to any Bidder; and/ or
  - c) 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.

**12.4** Any person who participated in E-Auction, if found ineligible u/s 29A of Insolvency & Bankruptcy Code, 2016, or regulation thereunder, EMD of such ineligible bidder shall be forfeited.

**13. E-AUCTION PROCESS SCHEDULE:**

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

<b>S No.</b>	<b>EVENT</b>	<b>TIMELINE</b>	<b>TIMELINE (DAYS)</b>
1.	Public Advertisement of E-auction	14/10/2019	T
2.	E-auction process documents uploaded in the site	15/10/2019	T +1 day
3.	Submission of requisite forms, affidavits, declarations, etc by the prospective bidder	29/10/2019	T + 15 days
4.	Shortlisting and notifying the eligible Bidders	01/11/2019	T + 18 days
5.	Sharing of Data Room to short listed bidders	01/11/2019	T+ 18 Days
6.	Site visit/Inspection	07/11/2019	T+ 24 Days
7.	Last date for receiving EMD	09/11/2019	T+ 26 Days
8.	E-auction date	14/11/2019	T+ 31 Days
9.	Declaration of Successful Bidder	14/11/2019	T+ 31 Days
10.	Closure of Data Room	14/11/2019	T+ 31 Days
11.	Issue of Email Confirmation to Successful Bidder	17/11/2019	T+ 34 Days
12.	Execution of LoI by Successful Bidder	24/11/2019	T+ 41 Days
13.	Return of EMD to unsuccessful Bidder	29/11/2019	T+ 46 Days
14.	Payment of Balance consideration by successful Bidder	13/12/2019	Before T+ 60 days or T+120 with interest @12% after the 60 days period
15.	Issue of Sale Certificate	Within 30 days of receipt of full bid amount	Within 30 days of receipt of full bid amount

Please note that access to Data Room, documentation, additional information and site visits will be granted only once the bidder submits the requisite forms, documents and authorizations; Affidavit and Undertaking; executing a Confidentiality Undertaking and the demand draft by the bidder as stated. Bidders should regularly visit the website(s)/link(s) mentioned in public advertisement to keep themselves updated regarding clarifications, amendments and/or extension of time, if any. Note - The timeline for payment of final sale consideration may be extended at the sole discretion of

Liquidator, to the extent permissible under the Applicable Law(s) and the Liquidation Process Regulations. In case the final sale consideration is not paid within the timelines prescribed under this document / IBC / Liquidation Process Regulations, the Liquidator shall forfeit the EMD.

*Sd./-*

Mr. Racharla Ramakrishna Gupta,

Regn. No. IBBI/IPA-002/IP- N00012/2016-17/10029

Liquidator, Kamineni Steel & Power India Private Limited (In Liquidation)

**Issued on behalf of**

Kamineni Steel & Power India Private Limited (In Liquidation)

Regd office: "KAMINENI" 4th Floor, King Koti Hyderabad Telangana- 500001

Liquidator's Address: T-202, Technopolis, 1-1074/B, Above Ratnadeep Super market, Chikoti Gardens, Begumpet, Hyderabad-500016.

Email: rp.ramakrishnagupta@gmail.com

## ANNEXURE I

### AFFIDAVIT AND UNDERTAKING

(To be notarised on stamp paper)

Date:

To,

**Mr. Racharla Ramakrishna Gupta**

Liquidator of Kamineni Steel & Power India Pvt. Ltd.(In Liquidation)

T-202, Technopolis, 1-1074/B,

Above Ratnadeep Supermarket,

Chikoti Gardens, Begumpet,

Hyderabad-500016

**Sub:** Disclosure and Undertaking on eligibility under Section 29A of the Insolvency and Bankruptcy Code, 2016

Dear Sir,

A. I hereby submit this declaration under Section 29A of the Insolvency and Bankruptcy Code, 2016 (“**IBC**”) as inserted by the Insolvency and Bankruptcy Code (Amendment) Act, 2018 and further amendments thereto:

I have understood the provisions of Section 29A of IBC and confirm that I am eligible to submit my bid under section 29A of IBC. I confirm that in accordance with the provisions of section 29 A of IBC, inter-alia, **neither [XYZ Limited nor any person acting jointly with XYZ Limited or any person who is a promoter or in the management or control of XYZ Limited or any person acting jointly with XYZ Limited:**

- a) Is an un-discharged insolvent;
- b) Is a 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, has an account, or an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, classified as non-performing asset in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 or the guidelines of a financial sector regulator issued under any other law for the time being in force and at least a period of one year has lapsed from the date of such classification till the date of commencement of the corporate insolvency resolution process of the corporate debtor;
- d) Has been convicted for any offence punishable with imprisonment - (i) for two years or more under any Act specified under the Twelfth Schedule; or (ii) for

seven years or more under any law for the time being in force: Provided that this clause shall not apply to a person after the expiry of a period of two years from the date of his release from imprisonment : Provided further that this clause shall not apply in relation to a connected person referred to in clause(iii) of Explanation I.

- e) Is disqualified to act as a director under the Companies Act, 2013;
- f) Is prohibited by the Securities and Exchange Board of India from trading in securities or accessing the securities markets;
- g) Has been a promoter or in the management or control of a corporate debtor in which a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been made by the Adjudicating Authority under this 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) of Section 29A, under any law in a jurisdiction outside India; or
- j) Has a connected person (as defined in Explanation to Section 29A) who is ineligible under clauses (a) to (i) of Section 29A of IBC.

I, therefore, confirm that XYZ Limited is eligible under Section 29A of IBC submit its Bid for KAMINENI STEEL & POWER INDIA PVT LTD. Limited - In Liquidation as Going concern.

- B. I undertake on behalf of XYZ Limited, that during the Liquidation Process, no person who would be considered as Connected Person as is not eligible to submit resolution plan under Section 29A of Insolvency and Bankruptcy Code, 2016 and the regulation 38 of IBBI (Insolvency Resolution Process of Corporate Persons) regulations, 2016 shall be engaged in the management and control of the corporate debtor.
- C. I declare and undertake that in case XYZ Limited becomes ineligible at any stage during the Liquidation Process, it would inform the Liquidator forthwith on becoming ineligible.
- D. I also undertake that in case XYZ Limited becomes ineligible at any time after submission of EMD, then the EMD would be forfeited and the same would be deposited in the account of KAMINENI STEEL & POWER INDIA PVT LTD. Limited - in liquidation.

- E. I confirm that the said declaration and disclosure is true and correct and the undefined legal terms in this undertaking shall have the same meaning as ascribed to them under IBC and regulations thereunder.
- F. I am duly authorized to submit this declaration by virtue of [Insert the details of the corporate authorizations]

(DEPONENT)

#### VERIFICATION

I, the deponent above, do hereby solemnly declare and affirm that the above statement given by me is true and correct to the best of my knowledge and belief and nothing stated above is false or misrepresentation or misleading.

(DEPONENT)

## ANNEXURE -II

### CONFIDENTIALITY UNDERTAKING

(on stamp paper)

This Confidentiality Undertaking has been signed by (**Name of potential Bidders**) having its office at \_\_\_\_\_ acting through Mr. (**Name of person authorised by potential Bidder(s)**), the authorized signatory/authorized representative ("**Bidder**"), which expression shall, unless repugnant to the context, be deemed to include its successors, assigns or legal representative) in favour of **Mr. Racharla Ramakrishna Gupta** Liquidator of Kamineni Steel & Power India Pvt. Ltd.(In Liquidation)

WHEREAS M/s Kamineni Steel & Power India Pvt. Ltd.(In Liquidation), a company registered under Companies, Act, 1956 (thereafter referred as the "**Company**") is undergoing liquidation vide NCLT Hyderabad Bench ("**NCLT**") order dated October 21, 2018, **Mr. Racharla Ramakrishna Gupta**, a registered insolvency professional with Insolvency and Bankruptcy Board of India (IBBI) having registration number IBBI/IPA-002/IP- N00012/2016-17/10029 has been appointed as liquidator to manage, protect, sell and liquidate the property, assets, business and other affairs of M/s Kamineni Steel & Power India Pvt. Ltd.(In Liquidation)("Liquidator").

WHEREAS the Liquidator has invited prospective Bidders for the purpose of submission of Bid through E-Auction Process in respect of sale of the Company in accordance with the provisions of E-Auction Process Information Document and provisions of Insolvency and Bankruptcy Code, 2016 ("**IBC**") read with the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 ("**Liquidation Process Regulations**").

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

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

1. The Bidder(s) shall not divulge any part of the information contained accessed through the data room which shall mean the virtual data room maintained by the Liquidator, created for the Eligible Bidders to access information in relation to the Company ("**Data Room**") or any other data shared by the Liquidator, through oral or written communication or through any mode to anyone and the same shall constitute "**Confidential Information**". Any information or documents generated or



derived by the recipients of Confidential Information that contains, reflects or is derived from any Confidential Information shall also be deemed as Confidential Information.

2. The Bidder (s) further unconditionally and irrevocably undertake and declare that:
  - a) the Confidential Information shall be kept secret and confidential by the Bidder (s) and shall be used solely in accordance with the terms of the IBC;
  - b) the Bidder(s) shall not use the Confidential Information to cause any undue gain or undue loss to itself, the Company, Liquidator or any other person;
  - c) the Bidder(s) shall comply with all provisions of Applicable Law(s) for the time being in force relating to confidentiality and insider trading;
  - d) the Bidder (s) shall protect any intellectual property of the Company which it may have access to;
  - e) the Confidential Information may only be disclosed to and shared with any employees or its advisors by the Bidder(s), in accordance with Applicable Law(s), including in relation to confidentiality and insider trading, and terms of this Confidentiality Undertaking on a strict need-to-know basis and only to the extent necessary for and in relation to the liquidation process of the Company, provided that the Bidder binds such employees and third parties, by way of an undertaking/ agreements, to terms at least as restrictive as those stated in this Confidentiality Undertaking.
  - f) the Bidder(s) shall ensure that all Confidential Information is kept safe and secured at all times and is protected from unauthorised access, use, dissemination, copying, any theft or leakage;
  - g) the Bidder(s) shall immediately destroy and permanently erase all Confidential Information upon the completion of sale of the Company as provided under E-Auction Process Information Document and the Liquidation Process Regulations;
  - h) the Bidder(s) shall take all necessary steps to safeguard the privacy and confidentiality of the information received through the access of the Data Room and shall use its best endeavours to secure that no person acting on its behalf divulges or discloses or uses any part of the Confidential Information, including but not limited to the financial position of the Company, all information related to disputes by or against the Company and other matter pertaining to the Company; and
  - i) the Bidder(s) shall be responsible for any breach of obligations under this confidentiality undertaking (including any breach of confidentiality obligations by any employee or advisor or agent or director of the Bidder) and shall

indemnify the Liquidator for any loss, damages, expenses and costs incurred by the Liquidator due to such breach of such obligations by the Bidder (s) or any person acting on its behalf.

3. Notwithstanding anything to the contrary contained herein, the following information shall however not be construed as Confidential Information:
  - a) information which, at the time of disclosure to the Bidder(s) was already in the public domain without violation of any provisions of Applicable Law(s); or
  - b) information which, after disclosure to the Bidder(s) becomes publicly available and accessible without violation of Applicable Law(s) or a breach of this Confidentiality Undertaking; or
  - c) information which was, lawfully and without any breach of this Confidentiality Undertaking, in the possession of the 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 E-Auction Process Information Document/ Data Room. The Bidder(s) further agrees and acknowledges that the Liquidator shall not be liable to the Bidder(s) for any damage arising in any way out of the use of the Confidential Information and further that the Bidder(s) shall not have any claim against the Liquidator or the Company in relation to any information provided.
5. The terms of this Confidentiality Undertaking may be modified or waived only by a separate instrument in writing signed by the Bidder(s) and the Liquidator that expressly modifies or waives any such term.
6. Damages may not be an adequate remedy for a breach of this Confidentiality Undertaking and either party may be entitled to the remedies of injunction, specific performance and other equitable relief for a threatened or actual breach of this Confidentiality Undertaking.
7. Nothing in this Confidentiality Undertaking shall have the effect of limiting or restricting the liability of the 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 Chennai shall have exclusive jurisdiction over matters arising out of or relating to this Confidentiality Undertaking.

10. Capitalised terms not defined under this Confidentiality Undertaking shall have the same meaning as provided in the E-Auction Process Information Document.

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

Signed on behalf of  
(Name of Bidder(s))  
by Mr. \_\_\_\_\_  
(Name and Designation)  
Authorised Signatory

Date:

Place:

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

### ANNEXURE III

*[On the Letterhead of the Entity Submitting the Bid]*

#### BID APPLICATION FORM

Date: \_\_\_\_\_

To,

The Liquidator,  
Kamineni Steel & Power India Private Limited(In Liquidation)  
T-202, Technopolis, 1-10-74/B,  
Above Ratnadeep Supermarket,  
Chikoti Gardens, Begumpet,  
Hyderabad-500016

Dear Sir,

I am desirous in participating the E- Auction announced by you in the newspaper  
Publication dated \_\_\_\_\_ in \_\_\_\_\_(Name of the Newspaper):

#### Details of Company:

Name	Kamineni Steel & Power India Private Limited(In Liquidation)
Account Number	
Bank Name	
Branch	
IFSC Code	

#### Details of Interested Bidder

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

**Details of Earnest Money:**

Description of Asset	
Reserve price	
Earnest Money deposited	
Mode of Earnest Money payment	
Payer's bank and account number	

**Bank details of Bidder (for refund of Earnest Money as may be applicable):**

Name	
Account Number	
Bank Name	
Branch	
IFSC Code	

**KYC documents being provided as per clause 4.7**

I/We/M/s.----- also enclose copies of the required KYC documents and copies of documents substantiating deposit of the Earnest Money. 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.

I/We/M/s ----- hereby declare that we have inspected the assets and properties and ascertained the quality and quantity, etc. and gone through and have understood the Terms & Conditions of sale and shall be abided by the same.

Place:  
Date:

Signature  
  
(Seal in case of Company/firm)

## **TERMS AND CONDITIONS OF THE E-AUCTION ARE AS UNDER:**

1. E-Auction is being held on **“AS IS WHERE IS WHATEVER THERE IS WITHOUT RECOURSE BASIS”** and will be conducted “Online”. The auction will be conducted through the approved service provider M/s E-procurement Technologies Limited on the web portal <https://ncltauction.auctiontiger.net> E-Auction Process document containing E-Auction bid form, Declaration, General terms and conditions of online auction sales are available in Websites <https://ncltauction.auctiontiger.net>.
2. The intending Bidders should make their own Independent inquiries regarding the encumbrances, title of property/s put on auction and claims/rights/dues/affecting the property, prior to submitting their bid. The e-Auction advertisement does not constitute and will not be deemed to constitute any commitment or any representation of the liquidator.
3. The intending purchasers/bidders are required to deposit EMD amount either through NEFT/RTGS in the Account of M/s Kamineni Steel & Power India Private Limited (In Liquidation) having Account No provided in this document.
4. The intending bidders should submit the evidence for EMD deposit like UTR number along with the Request Letter for participation in E-auction, self- attested copies of (i) Proof of identification (KYC) viz. Voter ID card/Driving License/Passport etc., (ii) Current Address-Proof for communication, (iii) PAN card of Bidder, (iv) Valid e-mail ID, (v) contact number (Mobile/Landline) of the bidder etc., to office of the Liquidator on or before **9<sup>th</sup> November 2019, at 5.00 PM**, scanned copies of the original of these documents can also be submitted to e-mail ID of Liquidator.
5. Name of qualified bidders will be identified and conveyed by Liquidator to participate in online e-auction on the portal <https://ncltauction.auctiontiger.net> *“M/s Kamineni Steel & Power India Limited*. The e - auction service provider (E-procurement Technologies Limited) will provide User ID & Password after due verification of KYC of the Eligible Bidders.
6. It should be the responsibility of the interested bidders to inspect and satisfy themselves about the property before submission of the bid.
7. The e-Auction/ bidding of above assets would be conducted exactly on the schedule Date & Time as mentioned against each asset by way of inter-se bidding amongst the bidders. The bidder shall improve their offer in multiple of amount mentioned under the column “Bid Incremental Value” against each

property. In case bid is placed in the last 5 minutes of the closing time of the e-auction, the closing time will automatically get extended for 10 minutes. The Bidder who submits the highest bid amount (not below the Reserve Price) on closure of e-Auction process shall be declared as Successful Bidder and a communication to that effect will be issued through electronic mode which shall be subject to approval by Authorised Officer/Liquidator.

8. The Earnest Money Deposit (EMD) of the successful bidder shall be retained towards part sale consideration and the EMD of unsuccessful bidders shall be refunded within 15 Working Days. The Earnest Money Deposit shall not bear any interest. The Liquidator shall issue Letter of Intent to the successful bidder and the successful bidder after accepting the Letter of Intent shall have to deposit the balance of the sale price on or before 30th day of E-auction. The balance of sale price can be deposited up to 90 days from the date of E-auction, with interest at the rate of 12.00%. Default in deposit of amount by the successful bidder would entail forfeiture of the whole money, already deposited and property shall be put to re-auction and the defaulting bidder shall have no claim/right in respect of property/amount.
9. The prospective qualified bidders may avail online training on e-Auction from M/s. E-procurement Technologies Limited prior to the date of e-Auction. Neither the Liquidator nor e -auction service provider will be held responsible for any internet network problem/ power failure/ any other technical lapses/ failure etc. In order to ward-off such contingent situation the interested bidders are requested to ensure that they are technically well equipped with adequate power backup etc. for successfully participating in the e-Auction event.
10. The purchaser shall bear the applicable stamp duties/ additional stamp duty/ transfer charges, fee, Taxes, GST, etc. and also all the statutory/ non statutory dues, taxes, rates assessment charges fees etc. owing to anybody.
11. The Liquidator is not bound to accept the highest offer and has the absolute right to accept or reject any or all offer(s) or adjourn/ postpone/ cancel the e-Auction or withdraw any property or portion thereof from the auction proceedings at any stage without assigning any reason there for.
12. The sale certificate will be issued in the name of purchaser(s)/ applicant(s) only and will not be issued in any other name(s).

13. The sale shall be subject to rules/conditions prescribed under the Insolvency & Bankruptcy Code, 2016 and provisions, rules and regulations thereunder.

Place:

Date:

Signature(Seal in case of company/firm)

Notes:

For further details on the proposed sale please refer to the Bid Document available on the website: <https://ncltauction.auctiontiger.net>



## ANNEXURE-IV

### BID DECLARATION FORM/ DECLARATION BY BIDDERS

To,  
The Liquidator,  
Kamineni Steel & Power India Private Limited(In Liquidation)  
T-202, Technopolis, 1-10-74/B,  
Above Ratnadeep Super Market,  
Chikoti Gardens, Begumpet,  
Hyderabad-500016

Dear Sir,

1. I/We, (*insert name and address of the Interested Bidder*) aforesaid do hereby state that, I/We have read the entire terms and conditions for the sale of the Company or assets/asset lots including division wise business units as specified and have understood them fully. I/We, hereby unconditionally agree to confirm with and to be bound by the said terms and conditions and agree to take part in the e-auction process.
2. I/We declare that the Earnest Money has been made by me/us as against my/our bid and that the particulars of remittance and all other information given by me/us in the form is true and correct.
3. I/We further understand and agree that if any of the statement / information revealed by me/us is found to be incorrect and / or untrue, the bid submitted by me/us is liable to be cancelled and in such case, the Earnest Money and / or any monies paid by me/us is liable to be forfeited by the Liquidator and the Liquidator will be at liberty to annul the offer made to me/us at any point of time.
4. I/We also agree that after my/our offer given in my/our bid for purchase of the company or assets/asset lots including division wise business units is accepted by the Liquidator and if, I/We, fail to accept or act upon the terms and conditions of the sale or am/are not able to complete the transaction within the time limit specified for any reason whatsoever and/or fail to fulfil any/all the terms and conditions of the auction as per the E -Auction Process Document issued by the Liquidator seeking submission of bids for M/s Kamineni Steel &Power India Private Limited (in liquidation) ("E -Auction Process Document"), the offer letter and/or the Letter of Intent, the Earnest Money and other monies paid by me/us thereafter, are liable to be forfeited in case final

sale consideration and any applicable GST/taxes, if any is not paid within the specified timeline, the Liquidator shall forfeit Earnest Money.

5. I/We also agree that in the eventuality of forfeiture of the amount by the Liquidator, the I/We shall neither have claim on the Assets for which my/our bid was approved nor on any part of the sum for which it may be subsequently sold.
6. I/We also understand that the Earnest Money Deposit shall be retained by the Liquidator and returned only in accordance with the timelines and circumstances specified in the E -Auction Process Document. I/We, state that I/We, have fully understood the terms and conditions therein and agree to be bound by the same.
7. I/We also understand that a forensic audit has been initiated by a financial creditor and transaction audit by the Liquidator on the Corporate Debtor's books of accounts and final reports are awaited. Upon receipt of the final reports, the Liquidator proposes to file an application with Hon'ble NCLT, Hyderabad seeking directions. Any amount recovered from the promoters upon Hon'ble NCLT's directions, the amount will be distributed to the financial creditors only and will not form part of the assets to be taken over by the successful bidder.
8. I/We confirm that our participation in the e-auction process, submission of bid or acquisition of the company/assets pursuant to the provisions of the E - Auction Process Document will not conflict with, or result in a breach of, or constitute a default under (i) our constitutional documents; or (ii) any applicable laws applicable to me/us; or (iii) any authorisation or approval of any government agency or body applicable to me/us; or (iv) any judgement, order, injunction, decree, or ruling of any court or governmental authority, domestic or foreign binding on me/us; or (v) any agreement to which I am / we are a party or by which I am / we are bound.
9. That the Liquidator reserves the right to request for additional information or clarification from us in relation to our proposal and we shall promptly comply with such requirements. Failure to satisfy the queries of the Liquidator within the given timelines may lead to rejection of our proposal.
10. That submission of our proposal alone does not automatically entitle us to participate in the next stage of the bid process. The decision taken by the Liquidator with respect to the selection of the qualified Bidder and communicated to us shall be binding on me/us. We acknowledge that the Liquidator reserve the right to determine at his/her sole discretion, whether or

not we qualify for the submission of the proposal and may reject our proposal without assigning any reason whatsoever.

11. I/We also undertake to abide by the additional conditions if announced during the e-auction including any announcement (s) on correction of and/or additions or deletions to the time of auction portal and asset lots being offered for sale.
12. I/We confirm that the Liquidator and his/her professional advisors along with employees/agents/advisors, shall not be liable and responsible in any manner whatsoever for my/our failure to access and bid on the e-auction portal due to any unforeseen circumstances etc. before or during the auction event.
13. I/We hereby confirm that I/we are not ineligible to purchase the company or assets/asset lots including division wise business units of the Company under Section 29A of the Insolvency and Bankruptcy Code, 2016.

(Signature with SEAL)

Name:

Address:

Email: