

INVITATION FOR EXPRESSION OF INTEREST FOR BARIPADA CABLE MANUFACTURING UNIT
“NICCO CORPORATION LIMITED – IN LIQUIDATION”
Dated 15.11.2018

1. Background	2
2. Disclaimer	2
3. Definitions	4
4. Brief Introduction of the Business of the Company	7
5. Sale Asset, Reserve Price, Inspection Details	8
6. Mode and Manner of Sale	10
7. Non-Refundable Fee	11
8. Information Sheet	12
9. Summary of Steps of the Proposed Sale	12
10. Timelines	13
11. Terms and Conditions of Proposed Sale.....	14
12. Eligibility Criteria for Applicants	18

1. BACKGROUND

NICCO Corporation Limited (hereinafter referred to as “the Company”) is a company limited by shares incorporated on 24th March, 1942 under the name and style of ‘National Insulated Cable Company of India limited’ under the provisions of the Companies Act, 1956. Thereafter, pursuant to the merger of National Insulated Cable Company of India Limited with its various group companies, one Telelink Nicco Limited was incorporated in the year 1983 and thereafter the name of Telelink Nicco Limited was changed to “NICCO Corporation Limited” in due compliance of law with effect from 19th May, 1993.

On 17th October, 2017, the Adjudicating Authority, in Company Petition No. 03/KB/2017 ordered for liquidation of the Company. Mr Vinod Kumar Kothari holding IBBI registration No. IBBI/IPA-002/IP-N00019/2016-17/10033, has been appointed as the **Liquidator** of the Company.

Section 35 of the Insolvency and Bankruptcy Code, 2016 (“the Code”), *inter-alia*, empowers the Liquidator to sell the immovable and movable property and actionable claims of a company in liquidation by public auction or private contract, with power to transfer such property to any person or body corporate, or to sell the same in parcels in such manner as may be specified. Further, Chapter VI of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (“the Regulations”) read with Schedule I annexed thereto provide for various matters relating to realisation of assets of a company in liquidation.

Accordingly, with a view to make an informed decision about the sale of assets on liquidation, the Liquidator does hereby invite Expressions of Interest (“**EOI**”) from potential Applicants to evince interest in the assets of the Company. This Invitation is being made to allow the Liquidator to short-list potential Applicants, and thereafter, dispose the Sale Assets of the Company on public auction with the short-listed Applicants as the bidders. The Invitation is for pre-bid qualification of potential Applicants for ensuing disposal of the Sale Assets of the Company in accordance with Section 35 of the Code read with Chapter VI and Schedule I of the Regulations.

2. DISCLAIMER

The Invitation for Expression of Interest for acquisition of the Sale Assets of the Company, hereinafter referred to as “the Invitation”, which expression shall be deemed to include any kind of supplementary document(s) or annexure(s) or information(s) issued in pursuance/furtherance of the Invitation has been prepared by and being in the capacity of the Liquidator of the Company. The Invitation does not constitute a prospectus,

or an offer document or a letter of offer for sale of assets of the Company or an official confirmation of any transaction entered into by the Company. The Invitation is only an invitation for submitting Expressions of Interest in accordance with and under the various provisions of the Code read with rules and regulations issued thereunder to interested parties for submission of response to the Invitation (such parties herein referred to as “the Applicants”). **The Invitation purports to ascertain interest of potential Applicants and does not create any kind of binding obligation on the part of the Liquidator or the Company to effectuate the sale of the assets of the Company.**

The Information contained in the Invitation is substantially based on estimated information, opinions and information sourced from the Company, public domain and independent third parties. The Invitation does not amount to a recommendation, either expressly or by implication, with respect to the Company or other entities mentioned in the Invitation. Except where specifically mentioned otherwise, the Liquidator has not independently verified such information and the same is being provided by the Liquidator for information purpose only. The Liquidator does not make any representation or warranty as to the accuracy, reliability or completeness of such information and does not assume any undertaking to supplement such information as further information becomes available or in light of the changing circumstances. The Liquidator shall not have any liability under any law, statute, rules or regulations for any representations or warranties (express or implied) contained in, or any omissions from this Invitation or any other written or oral communication transmitted to the recipient in the course of its evaluation of the proposed financing or otherwise.

The Invitation may contain statements describing documents and agreements in summary form only, and such summaries are qualified in their entirety with reference to such documents and agreements. Some of the facts mentioned herein may be contested by parties in litigation; the Liquidator does not in any manner affirm/ deny or indicate any of the Liquidator’s views on these contested matters. The Liquidator expressly disclaims any and all liability, which is based on the information and statements or any part thereof contained in/ omitted from the Invitation.

The Invitation is not intended to be the sole or *prima facie* basis on which intending Applicants may submit their Bids. The information contained in the Invitation has been prepared to assist interested Applicants in making their own evaluation for the purpose submission of Bids, and for no other purpose. The information does not purport to be all-inclusive or to contain all information that a prospective investor/ entity may require/desire.

The delivery of this Invitation at any time does not imply the information in it is correct as of any time after its date, or that there has been no change in the business/ operations, financial condition, prospects, creditworthiness, status or affairs of the Company or anyone else or in the

quality, condition, efficiency, functionality of the sale assets since that date. The Liquidator may in absolute discretion, but without being under any obligation to do so, update, amend or supplement the information in this Invitation. Any such update/amendment/supplement/corrigendum shall be communicated via Liquidator's webpage for Nicco Liquidation at www.vinodkothari.com/nicco-liquidation. Any further public newspaper advertisement of such update/amendment/supplement/corrigendum may not be issued.

It is understood that each recipient of this Invitation will perform its own independent investigation and due diligence of the Sale Assets of the Company, based on such information as it deems relevant and without reliance on the Liquidator and this Invitation. The Liquidator/Company shall endeavor to provide such cooperation as may be appropriate for carrying any due diligence at the cost and expense of the Applicant. No claim shall lie against the Liquidator with respect to the contents of this Invitation. The information contained herein is not a substitute for the recipient's investigation, due diligence and analysis. Recipients of this Invitation must check and observe all applicable legal requirements, and for the avoidance of doubt, receipt of this Invitation and the information contained herein may not be taken as discharging the regulatory or statutory responsibilities under applicable legislation (included but not limited to anti-money laundering legislation) of any such recipient.

The Liquidator is not committed either contractually or in any other way to the Applicants whose applications are accepted. The issue of this Invitation does not commit or otherwise oblige the Liquidator or the Company to proceed with the process or any part of it. The Liquidator is subject to the directions of the Adjudicating Authority, as may be.

The terms of the Invitation are to be read subject to this Disclaimer. The provisions of this Disclaimer take precedence over any other provision of the Invitation, which is inconsistent with or otherwise conflicts with any provision of this Disclaimer.

3. DEFINITIONS

Unless the context otherwise requires, the words and expressions as used in the Invitation shall have meanings assigned as hereinbelow –

S. No.	Terms as used in the Invitation	Definition
1.	<i>Adjudicating Authority</i>	“Adjudicating Authority” shall refer to National Company Law Tribunal, Kolkata Bench.

2.	<i>Applicant</i>	“Applicant” is any person who submits an Expression of Interest in accordance with the terms and conditions of the Invitation.
3.	<i>Bid</i>	“Bid”, in respect of Sale Asset, is the price tendered by an Eligible Applicant for the Sale Asset in respect of which an Expression of Interest has been submitted. The term “Bidder” shall be construed accordingly.
4.	<i>Eligible Applicant</i>	“Eligible Applicant” is an Applicant who is not an Ineligible Applicant and is entitled to submit a Bid in terms of the Invitation.
5.	<i>Earnest Money Deposit</i>	“Earnest Money Deposit” is the refundable earnest money deposit to be tendered by an Eligible Applicant who intends to submit a Bid for a Sale Asset.
6.	<i>Expression of Interest</i>	“Expression of Interest” refers to interest submitted by an Applicant in accordance with the terms and conditions of this Invitation, or, in case of any Applicant who has expressed interest in relation to the Sale Asset for any earlier Invitation, continuance of such interest.
7.	<i>Going Concern Sale</i>	“Going Concern Sale” means a sale of the Sale Asset of the Company in terms of Regulation 32(f) of the Liquidation Regulations, where, in pursuant to order of the Adjudicating Authority or otherwise, the entire Undertaking relating to or comprised in the Sale Asset is transferred to the Applicant, or it is otherwise provided in the terms of sale that all the contractual rights of the Company in relation to the Sale Asset, including any rights or benefit under contract, license, concession, entitlement, privilege, lease, etc., are transferred to the Applicant.
8.	<i>H1 Applicant</i>	“H1 Applicant” shall be the Bidder who submits the highest Bid in the e-auction.

9.	<i>Ineligible Applicant</i>	“Ineligible Applicant” is an Applicant who suffers any of the disqualifications mentioned under section 29A of the Code, or is held to be ineligible by the Liquidator to submit a Bid in terms of the Invitation.
10.	<i>Information Sheet</i>	“Information Sheet” refers to a document containing details of the Sale Asset, as described in Paragraph 8 of the Invitation.
11.	<i>Invitation</i>	“Invitation” shall mean this Invitation for Expression of Interest for acquisition of the Sale Assets of the Company, and shall include any kind of supplementary document(s) or annexure(s) or information(s) issued in pursuance/furtherance of the Invitation, with or without amendments.
12.	<i>Non-Refundable Fee</i>	“Non-Refundable Fee” is the amount of fee payable by the Applicant for submission of EOI pursuant to the Invitation in accordance with Paragraphs 8 and 9 of the Invitation, <i>where applicable</i> .
13.	<i>Reserve Price</i>	“Reserve Price”, in respect of a Sale Asset, is the price below which no Bid shall be submitted and shall be as stated in Paragraph 8 of this Invitation.
14.	<i>Sale Asset</i>	“Sale Asset” is all that is comprised in the Baripada plant [details whereof are provided herein] of the Company included in and forming part of the liquidation estate of the Company, in terms of section 36 of the Code, put up for sale by the Liquidator on Going Concern sale basis/Slump Sale basis in accordance with Regulation 32 of the Regulations, <i>more fully</i> described in Paragraph 5 of the Invitation.
15.	Slump Sale	“Slump Sale” means sale of the Sale Asset of the Company for a lump sum consideration as agreed herein, without assigning separate values to individual assets for the computation of such consideration, without precluding, after such computation of agreed consideration has been done, the appropriation of such lump sum consideration to items of assets contained in such slump sale.

16.	Undertaking	<p>“Undertaking” includes the whole of the undertaking of the Company, as contained in and so far as related to the Sale Asset, its businesses, assets, properties, rights, titles and benefits, whether movable or immovable, real or personal, in possession or reversion, whether corporeal or incorporeal, whether tangible or intangible, whether present or contingent and including but without being limited to land and building (whether owned, leased, licensed), all fixed and movable plant and machinery, vehicles, fixed assets, work in progress, current assets, investments, reserves, provisions, funds, licenses, registrations, copyrights, patents, other rights and licenses in respect thereof, applications for copyrights, patents, leases, licenses, tenancy rights, premises, ownership, flats, hire purchase and lease arrangements, computers, office equipment, telephones, telexes, facsimile connections, internet connections, communication facilities, equipment and installations and utilities, electricity, water and other service connections, benefits of agreements, contracts and arrangements, powers, authorities, permits, allotments, approvals, consents, privileges, liberties, advantages, easements and all the right, title, interest, goodwill, benefit and advantage, deposits, reserves, provisions, advances, receivables, deposits, and all other rights, benefits of all agreements, etc, in connection/ relating to the Sale Asset of the Company and other claims and powers, of whatsoever nature and where so ever situated belonging to or in the possession of or granted in favour of the Company in relation to the Sale Asset, excluding any cash or bank balances.</p> <p>Provided that any liabilities, obligations, dues or claims against the Company, in relation to the Sale Asset shall be settled from out of the liquidation estate, in terms of section 53 of the Code.</p>
-----	-------------	---

4. BRIEF INTRODUCTION OF THE BUSINESS OF THE COMPANY

[Note: The paragraphs below pertain to the business of the Company while the Company was not in liquidation. The Company is presently in liquidation and the Liquidator is carrying on the business only to the extent required for beneficial liquidation.]

The Company is one of the oldest cable manufacturing companies in India engaged in the business of manufacturing and marketing various types of power, electrical and specialty cables to a large base of customers including power, railways, wind energy, defense, automotive, mining, material handling, process industries, OEMs and EPC Contractors. It is the flagship company of the very old industrial group that is, the NICCO Group in West Bengal & Odisha, operating for over 70 years.

The Company produces a wide variety of power cables. It has manufacturing units in Shyamnagar in West Bengal and Baripada in Odisha. A brief description of the manufacturing units has been provided hereinbelow –

- (i) The **Shyamnagar** manufacturing unit manufactures power cables, special cables, irradiated rubber cables, and defence cables. The property at Shyamnagar plant consists of land and buildings, factory sheds, plant and machinery. The freehold land area is approximately 15.03 acres. The Shyamnagar guesthouse is located nearby, on land approx. 723 sqm. Major customers of the products of this unit are entities engaged in utilities, railways, defence, refineries, steel, mining, power, among others.
- (ii) The **Baripada** manufacturing unit manufactures electrical XLPE Aluminium and Copper cable upto 66 KV. The products of Baripada unit are utilised in power distribution, mobile machines, material handling and cranes. The property at Baripada plant consists of land and buildings, factory sheds, plant and machinery, and testing equipments. The leasehold land area is approximately 20.34 acres, while freehold land area is approximately 0.16 acres.

Note: Please note that out of the above, 36.422 sq. m. of the freehold land and 242.811 sq. m. of the leasehold land in Baripada is under acquisition by the Government for construction of National Highway.

A brief description of the Sale Asset has been provided in **Paragraph 5** below. Detailed description of the business and the units of the Company and Sale Asset have been provided in the Information Sheet.

5. SALE ASSET, RESERVE PRICE, INSPECTION DETAILS

5.1. The Invitation seeks to invite Expression of Interest for acquisition of the following Sale Asset of the Company, the brief description of which is being provided hereinbelow.

Detailed aspects relating to the Sale Asset have been discussed in the Information Sheet, which will be shared with the Applicants on submission of Expression of Interest –

S. No.	Sale Asset	Brief description	Reserve Price	Non-Refundable Fee
1.	<p><i>Manufacturing Unit in Baripada, Odisha, As a whole</i></p>	<ul style="list-style-type: none"> • Location: Hamilton Garden, Palbani area about 3 Km from Baripada town on way to Balasore Railway station. The site is abutting NH- 18 (previously NH- 5) Kolkata – Balasore Highway. • Product profile: Electrical XLPE Aluminium & Copper cable up to 66 KV • Land and other assets: Lease hold land area – 20.34 acres*, Freehold land near gate – 0.16 acres*, Factory sheds, Building, Plant & Machinery & Testing Equipments. • *IMP Note: <u>Out of the entire land, 36.422 sq. m. of the freehold land and 242.811 sq. m. of the leasehold land is under acquisition by the Government of Baripada, for construction of National Highway.</u> • Regarding leasehold land: The Liquidator has received communication from the office of Sub-Collector and Sub-Divisional Magistrate, Sadar, Baripada, Mayurbhanj, wherein the 	<p>Rs.6,50,00,000/-[#]</p> <p>[Rupees Six Crores Fifty Lakhs Only]</p> <p>#Note 1: The reserve price is exclusive of all applicable taxes.</p> <p>#Note 2: The reserve price has been fixed excluding the proportionate valuation of the freehold land which has been acquired by the Government. Hence, the compensation, in respect of the said part of the land, shall accrue to the liquidation estate and not to the Buyer.</p>	<p>Rs. 25,000/-</p> <p>[Rupees Twenty Five Thousand only]</p>

		<p>Liquidator has been informed that Orissa High Court, vide judgement dated 18.05.2018, in OJC No. 4392 and 4393 of 1989 has held Sir Daniel Hamilton Trust to be a non-entity in law.</p> <p>As per latest information, the Trust has filed WA/347 and WA/349 against the order.</p>		
--	--	--	--	--

The Applicants may, prior to submitting their Bids, but only after submission of EOI and obtaining Information Sheet from the Liquidator, visit and inspect the Sale Asset between during working hours from Monday to Friday by taking prior appointment of the persons designated by the Liquidator.

Please also refer to *Disclaimer Clause* of this Invitation wherein the Applicants have been encouraged to conduct their own due diligence on the Sale Assets.

6. MODE AND MANNER OF SALE

- 6.1. Regulation 32 of the Regulations, as amended from time to time, permits the Liquidator to sell the business(es) of the Company as a going concern. It is intended to sell the Sale Asset, being one of the businesses of the Company, as a Going Concern in accordance with the directions of the Adjudicating Authority or otherwise. Therefore, the mode of sale shall be Going Concern piecemeal sale. It is the understanding of the Liquidator that in case of a Going Concern sale, the undertaking of the Company, as a whole, forms part of the liquidation estate, and shall be transferred to the Buyer. Alternatively, the entire undertaking as contained in the Sale Asset of the Company, including all contracts, licenses, concessions, agreements, benefits, privileges, rights or interests may be transferred, whether based on an order of the Adjudicating Authority, or otherwise.

62. However, in case the intended manner of sale is not feasible or is not achieved for any reason whatsoever, the Seller shall cause sale of the Sale Asset on Slump Sale Basis. The Invitation herein shall be deemed to be invitation on either Going Concern basis, or Slump Sale basis, as may be applicable.
63. Further, Regulation 33 requires that the Liquidator shall ordinarily sell the assets of the Company through an auction in the manner specified in Schedule I. The Sale Asset shall be sold through electronic auction platform “BankAuctions.In” (hereinafter referred to as “E-auction Platform”), a unit of M/s 4 Closure, at the website <https://bankauctions.in>. A brief manual on participating in the e-auction is given in **Annexure – III**.
64. Pursuant to and in accordance with the aforesaid provisions of the Code and the Regulations, the Invitation calls for Expression of Interest for the acquisition of the Sale Asset, by way of Going Concern Sale/Slump Sale.

7. NON-REFUNDABLE FEE

- 7.1. An Applicant who intends to submit an EOI in terms of this Invitation shall tender a Non-Refundable Fee as mentioned in Paragraph 8 of the Invitation.
- 7.2. The Applicant who has furnished Non-Refundable Fee along with the expression of interest in terms of an earlier invitation, shall not be required to re-furnish the Non-Refundable Fee, specified hereinabove.
- 7.3. The Non-Refundable Fee shall be paid by the Applicant by RTGS/NEFT/Funds Transfer in favour of “Nicco Corporation Limited-in Liquidation” to the credit of Account No.: 1392201980308 Canara Bank, Kolkata Hare Street Branch, Branch Code - 1392, IFSC Code – CNRB0001392 **or** by Demand Draft/Pay Order in favour of “Nicco Corporation Limited-in Liquidation”.
- 7.4. It must be noted that the fee is non-refundable irrespective of subsequent cancellation or deferment of the proposed sale at the discretion of the Liquidator. However, in the event of cancellation of the proposed sale or failure of the proposed auction, if the Liquidator conducts a subsequent auction sale, the Applicants furnishing the Non-Refundable Fee shall be entitled to express their interests in the subsequent auction sale, without re-furnishing the said amount.

7.5. The payment of the non-refundable fee as above will entitle the Applicant to the following:

- (a) The right to submit an EOI in terms herein;
- (b) A copy of the Information Sheet;

Additionally, the Applicant may carry such due diligence as the Applicant prefers to carry, and the Liquidator's office or the retained staff of the Company will provide cooperation feasible at their end.

8. INFORMATION SHEET

On submission of EOI in terms of the Invitation and on payment of Non-refundable Fee, if applicable, as above, the Applicant will be provided Information Sheet relating the Sale Asset, for which the EOI has been submitted. The Information Sheet, inter-alia, shall contain the following details –

- (i) Description of the Company
- (ii) Description of the business carried on by the Company, prior to the liquidation
- (iii) Details of the Sale Assets
- (iv) Reserve Price of the Sale Asset and EMD
- (v) Other matters, as the Liquidator may include.

The requisition of Information Sheet shall be sent to niccoliquidation@gmail.com. The Applicant obtaining the Information Sheet shall not share or distribute the Information Sheet with any other person(s). A breach of this condition shall be deemed to be a breach of terms of conditions stated herein and shall be liable to be dealt with accordingly.

9. SUMMARY OF STEPS OF THE PROPOSED SALE

The proposed sale of the Sale Asset shall follow the following steps:

- (i) Invitation for EOI on the website of the Company, and the Liquidator.
- (ii) Publication of Invitation in newspapers.

- (iii) Submission of EOI along with Non-Refundable Fee (where applicable), along with required documents [For format of EOI and affidavit, refer **Annexure I**].
- (iv) Providing Information Sheet of the Sale Asset to the Eligible Applicant, in respect of which EOI has been submitted by the said Applicant.
- (v) Conduct of e-auction.
- (vi) Declaration of results of e-auction to the successful Applicant.
- (vii) Letter of Acceptance being sent by the Liquidator to the successful Applicant, for signing and acceptance.
- (viii) Pre-sale preparation by the Buyer for effecting a Going Concern sale, including identification of employees/workmen to be retained.
- (ix) Execution of agreement of sale between the Liquidator and the Buyer.
- (x) Issuance of Certificate of Sale by the Liquidator in favour of the Buyer.

Important Note: An Applicant, who has already furnished documents/Non-Refundable Fee in terms any earlier Invitation, is not required to re-furnish the same. The Applicant may send an e-mail confirmation for participation in the auction process under this Invitation. However, the EOI and any further action of such Applicant shall be governed by this Invitation only.

10. TIMELINES

10.1. The cut-off dates have been specified in the table below. The timelines shall be strictly adhered to by the Applicants.

Submission of EOI along with Non-refundable Fee (if applicable)	23 rd November, 2018
Submission of EMD with bid form	27 th November, 2018
Conduct of auction	30 th November, 2018

10.2. The Liquidator reserves the right to alter/extend the timelines as per the sole discretion of the Liquidator. Any information about alteration/extension of any of the timelines above shall be published at the Liquidator's webpage for Nicco liquidation at www.vinodkothari.com/nicco-liquidation, and further newspaper advertisement of such alteration/extension may not be given.

11. TERMS AND CONDITIONS OF PROPOSED SALE

- 11.1. The proposed sale will be conducted on “AS IS WHERE IS AND WHATEVER THERE IS BASIS” and “NO RECOURSE” basis
- 11.2. The proposed sale shall be conducted through E-auction Platform to be managed by M/s. 4 Closure, under the supervision of Authorized Officer(s) (AO) of the Liquidator.
- 11.3. Only the Applicant(s) who is not an Ineligible Applicant and who submits the Non-refundable Fee in terms of Paragraphs 7 and 8, where applicable, shall proceed with the submission of the EOI in accordance with the Invitation.
- 11.4. The Applicant shall fulfil the eligibility criteria described in Paragraph 12 of this Invitation at the time of submission of EOI.
- 11.5. The Applicant shall submit the EOI in the format prescribed in Annexure I, along with the documents stated thereunder.
- 11.6. The EOI shall be submitted, duly filled and signed by the Applicant or an authorised signatory of the Applicant by 7:00 P.M of 21st November, 2018. An Applicant who has submitted the EOI in terms of any earlier invitation is not required to re-furnish the same; however, the Applicant shall send an e-mail confirmation expressing intention to participate further in the process, in terms of this Invitation.
- 11.7. The Applicant is required to register its name at the E-auction Platform and get user ID and password free of cost and get training / on-line training on electronic auction from M/s 4 Closure, whereupon it would be allowed to participate in the auction sale.
- 11.8. As a pre-requisite for submission of a Bid, the Eligible Applicant has to deposit EMD at the rate of 10% of Reserve Price of the Sale Asset [that is, Rs. 65,00,000/- (Rupees Eight Lakhs Only)], by RTGS/NEFT/Funds Transfer/Bank Guarantee in favour of “Nicco Corporation Limited-in Liquidation” to the credit of Account No. : 1392201980308 Canara Bank, Kolkata Hare Street Branch, Branch Code - 1392, IFSC Code – CNRB0001392 or by Demand Draft/Pay Order in favour of “Nicco Corporation Limited-in Liquidation”.

- 11.9. The Applicant shall submit the Bid Form (as set out in **Annexure –II**) through the E-auction Platform only in the format prescribed along with a scanned copy of the Applicant's Identity Proof and PAN Card. The Bid Form can be downloaded from the webpage www.vinodkothari.com/nicco-liquidation
- 11.10. The date and time for bidding will be intimated to the Eligible Applicants at least 5 days prior to the scheduled auction date.
- 11.11. It shall be presumed that all the facts were taken into account by the Applicant while submitting its Bid. Even if the Applicant chooses not to inspect or conduct due diligence on the Sale Asset, it shall be presumed that the Applicant has made himself aware of the physical condition, market value, etc., of the Sale Asset and therefore, no complaint/ claim against the same shall be entertained in this regard by the Liquidator after the submission of the Bid.
- 11.12. The Applicant should thoroughly satisfy itself about the nature, conditions and quality of the Sale Asset. The Liquidator gives no guarantee or warranty as to title of the Sale Asset or the conditions of the assets/material or/its quality for any specific purpose or use. It should be clearly understood that no claim/complaint about the quality /conditions /fitness for use will be entertained by the Liquidator.
- 11.13. The submission of the Bid means and implies that the Applicant has read carefully and unconditionally and irrevocably agreed to and accepted all the terms and conditions laid herein.
- 11.14. Bids once submitted cannot be withdrawn or revised.
- 11.15. The Liquidator reserves the right to accept or reject any/or all the Bids or adjourn, postpone or cancel the proposed auction sale anytime without assigning any reason thereon. Any notice of such adjournment/postponement/cancellation of the auction sale shall be published at the Liquidator's webpage for Nicco liquidation at www.vinodkothari.com/nicco-liquidation and public notice thereof may not be published.
- 11.16. The Applicant who submits the highest Bid shall be declared as H1 Applicant. The Liquidator shall issue Letter of Acceptance to the H1 Applicant, which shall be countersigned by the H1 Applicant having accepted the terms and conditions stated therein. The duly accepted and signed Letter of Acceptance shall be returned to the Liquidator within 3 days of receipt thereof.

- 11.17. Letter of Acceptance *per se* does not confirm sale in favour of the H1 Applicant. Confirmation of sale is subject to the fulfilment of conditions stated hereunder and approval of the Liquidator.
- 11.18. Immediately after signing of the Letter of Acceptance, or anytime after declaration of the results of the e-auction, the H1 Applicant shall make preparations for acquiring the Sale Asset as Going Concern, which amongst others, include identification of employees/workmen to be retained by the Buyer.
- 11.19. The highest bid offered in the e-auction shall be the purchase consideration, which shall be exclusive of all applicable taxes. However, the Buyer shall have the right to deduct TDS from such purchase consideration, if so applicable.
- 11.20. The H1 Applicant shall have to deposit 25% of the purchase consideration, within 5 days of receipt of the Letter of Acceptance from the Liquidator.
- 11.21. The balance 75% of the purchase consideration shall be paid on or before 15th day of receipt of Letter of Acceptance from the Liquidator.
- 11.22. The EMD by the H1 Applicant against accepted bid shall be adjusted towards the amount deposited under paragraph 11.20 above. However, in case the EMD was furnished by way of bank guarantee, the successful bidder shall furnish the 25% of purchase consideration (without considering the value of bank guarantee), on which the bank guarantee shall stand retired.
- 11.23. In the event of default of payment of any of the stipulated instalments of purchase consideration within the stipulated period, as mentioned above, the amount received till date, as well as the EMD shall be forfeited and the assets shall forthwith be sold again and such defaulting Applicant shall forfeit all claims to the assets or to any part of the amount for which it may be subsequently sold.
- 11.24. The EMDs of the unsuccessful Applicants shall be refunded within 15 days from the date of issue of Letter of Acceptance by the Liquidator to the H1 Applicant. However, the Liquidator may retain EMD of the top 2 Bidders for up to 15 days from the date of opening of the auction in order to consider the bid submitted by the second highest Applicant in the event the successful bidder fails to pay the bid amount within the stipulated period. In case of cancellation of the auction sale, the EMDs of the Applicants shall be refunded within 15 days of the date of cancellation of the auction sale.

- 11.25. On full and final payment of the purchase consideration by the H1 Applicant, there shall be an agreement of sale between the H1 Applicant and the Liquidator
- 11.26. The Liquidator reserves the right to impose penalty, where an Applicant/Bidder interrupts/disrupts/attempts to delay or jeopardise the process of auction in any manner, whether wilfully, negligently or otherwise.
- 11.27. The Liquidator shall not be responsible for any technical fault in the auction process or where any bidder, who inspite of being present during the auction, fails to tender Bid for any technical glitch, etc. Presence of a Bidder during the auction is sufficient evidence of his capability to tender Bid during the auction period. In the event of any technical difficulties faced by the bidder, the bidder shall forthwith contact the representative of the e-auction service provider and drop an e-mail at niccoliquidation@gmail.com. In the event no complaint is made during the time period of the auction, it shall be deemed that the bidder did not face any difficulty during the auction and the non-participation of the bidder in the auction was due to his lack of want to increase the bid.
- 11.28. The Buyer will be required to bear all the necessary expenses for transfer of assets in his/her/its name, including but not limited to stamp duty, registration charges, etc. payable on the transaction. It is expressly stipulated that there are no implied obligations on the part of the Liquidator and it shall be solely the obligation of the Buyer, at his/her cost, to do all acts, things and deeds whatsoever for the completion of the sale. The Liquidator does not take any responsibility to provide information on the same.
- 11.29. The Buyer shall take the Sale Asset subject to any statutory liabilities like arrear of property tax, outstanding electricity charges, etc. The Liquidator does not assume any responsibility for such arrears except as permitted under the provisions of the Code.
- 11.30. Any taxes that may be arising out of the present transaction shall be payable by the Buyer.
- 11.31. Any adverse change in a material fact/information about any Applicant/Buyer as submitted with the Bid, which may affect its capacity to participate in the proposed sale in the opinion of the Liquidator, shall disqualify the Applicant/Buyer from participating further in the proposed sale. In such an event, if the Buyer has already been identified, any amount paid by the Buyer shall be forfeited without providing any notice or intimation to the Buyer.

- 11.32. Where the sale is deferred or stayed for any reason, including but not limited to litigation, etc., no interest is payable on the monies received from the bidder. The Liquidator's liability is restricted to refund of the monies received from the bidder, subject to the directions of NCLT.
- 11.33. The Invitation is valid till the last date for submission of EOIs, or such dates as may be extended by the Liquidator from time to time. In case no EOI is received within the period or the extended period, as the case may be, or in case no bidder participates in the proposed auction, the auction shall be deemed to have failed, without prejudice to the rights of the Liquidator to proceed with a subsequent sale of the Sale Asset.

12. ELIGIBILITY CRITERIA FOR APPLICANTS

- 12.1. The Applicant must be legally competent to enter into contracts as per prevailing laws.
- 12.2. The Applicant must be lawfully organised and carrying business in India or having permission to carry business in India.
- 12.3. The Applicant may be a single bidder or may be a consortium consisting of not more than 4 members. In case the Applicant is a consortium, each member of the consortium shall furnish an affidavit in terms of Paragraph 12.5 below.
- 12.4. In case the Applicant chooses to conclude the sale in favour of its nominee, the nominee shall not be an Ineligible Applicant under section 29A of the Code, and the nominee shall sign a deed of adherence, as required by the Liquidator.
- 12.5. The Applicant shall file an affidavit (as per format set out in **Annexure I**) with the EOI that the Applicant is not an Ineligible Applicant nor does he have any contract or understanding with any such person in relation to the Sale Asset being acquired. The submission of such affidavit is without prejudice to the right of the Liquidator to conduct such enquiry as the Liquidator may deem appropriate for ascertaining, and forming a view, on the eligibility of the Applicant in terms of section 29A of the Code.