

INVITATION FOR EXPRESSION OF INTEREST

Invitation for Submission of Expression of Interest for sale of Kquality Limited (In Liquidation) or its business as a 'Going Concern" basis, including by way of a Scheme for Compromise or Arrangement under Section 230 of the Companies Act, 2013, under the Insolvency & Bankruptcy Code, 2016 read with the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016 for Kquality Limited (In Liquidation) and in terms of the Order dated 11th January 2021 passed by the Hon'ble Adjudicating Authority, National Company Law Tribunal, Bench III, New Delhi.

BY

**MR. SHAIENDRA AJMERA
LIQUIDATOR FOR
KQUALITY LIMITED (IN LIQUIDATION)**

REGISTRATION NO.: IBBI/IPA-001/IP-P00304/2017-18/10568

**Ernst & Young LLP,
3rd Floor, Worldmark 1,
Aerocity Hospitality,
New Delhi - 110037**

Email for submission of EOI: liquidator.kquality@in.ey.com

DATE OF PUBLIC ADVERTISEMENT: 11 February 2021

LAST DATE FOR SUBMISSION OF EOI: 26 February 2021

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SECTION 1: INTRODUCTION

A. Brief Background

The Hon'ble Adjudicating Authority, National Company Law Tribunal, Bench III, New Delhi (hereinafter, "NCLT") vide order dated 11th December, 2018 ordered initiation of the Corporate Insolvency Resolution Process ("CIRP") in respect of Kquality Limited, (hereinafter "Corporate Debtor") on an application filed by one of the financial creditors of the Corporate Debtor under Section 7 of the Insolvency & Bankruptcy Code, 2016 ("I&B Code"). Mr. Shailendra Ajmera IP Registration No. IBBI/IPA-001/IP-P00304/2017-18/10568 was appointed as the Resolution Professional ("RP") by the committee of creditors ("CoC") of the Corporate Debtor under the provisions of the I&B Code.

As no resolution plan of the Corporate Debtor was approved by the CoC, vide order dated 11th January 2021, the Hon'ble NCLT ordered initiation of liquidation process in respect of the Corporate Debtor under the provisions of the I&B Code. Mr. Shailendra Ajmera having IP Registration No: IBBI/IPA-001/IP-P00304/2017-18/10568 has been appointed as the Liquidator of the Corporate Debtor by the Hon'ble NCLT.

In accordance with Regulation 32 (e) and (f) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 ("**Liquidation Process Regulations**") read with Regulation 2B of the Liquidation Process Regulations and the said Order dated 11th January 2021, the Liquidator proposes to sell the Corporate Debtor or its business, as a "going concern", including by way scheme, if any proposed by the creditors/members of the Corporate Debtor under Section 230 of the Companies Act, 2013.

B. Brief description of the Corporate Debtor

Kwality Limited (In Liquidation) was incorporated on 21st August 1992. The registered office of the Corporate Debtor is at KDIL House, F-82, Shivaji Place, Rajouri Garden, New Delhi West, Delhi - 110027, India. The Corporate Debtor is engaged in the business of milk and dairy products. The Corporate Debtor has two owned milk processing units in the States of Uttar Pradesh and Haryana, the details whereof are as under:

SI No.	Location	Milk handling capacity in lac liters per day*	Products, which can be catered to by the Manufacturing facility	Current Status
1	Softa, Haryana	21	Pouched milk, UHT toned milk, butter, ghee, cream, curd, flavored milk, milk powder, and buttermilk/chaach. With limited investment, Cheese assembly line can be made operational.	Operational
2	Dibai, Uttar Pradesh	3	Milk, butter/ghee and milk powder	Non-operational

*Bidders are expected to carry out their own technical assessment

The Corporate Debtor is a listed company and its shares are listed on Bombay Stock Exchange ('BSE') and National Stock Exchange ('NSE') and continue to be traded. As on 5 February 2021 the closing share price on the Corporate Debtor is INR 2.73 at BSE and INR 2.70 at NSE.

Presently, the Corporate Debtor is operating as a going concern under the supervision of the Liquidator. As on 5th February 2021, there are ~ 169 own employees/ workmen on the payroll of Corporate Debtor.

Currently, the Corporate Debtor is catering to B2B customers (primarily institutional customers like 'Britannia', 'Canteen Stores Department', 'Dr Oetkar', 'Dabur' etc) and Job work given the financial & regulatory constraints to maintain going concern. Order book visibility is on short term basis and was ~ 573 MT (includes Ghee, Butter & Milk Powder) as on 3rd February 2021 besides the job work.

SECTION 2: INVITATION TO EXPRESSION OF INTEREST

A. Expression of Interest

This Invitation for Submission of Expression of Interest ("**Invitation for EOI**") is issued to invite Expression of Interest ("**EOI**") from Prospective Bidders to submit their EOI for purchase of Corporate Debtor, along with all its assets and liabilities, or the business of the Corporate Debtor, as identified by Liquidator in consultation with Stakeholders' Consultation Committee, under the provisions of Chapter III of the I&B Code, including by way of proposal for Scheme of Compromise or Arrangement under Section 230 of Companies Act, 2013 read with Regulation 2B of the Liquidation Process Regulations.

EOI is invited from Prospective Bidders who satisfy the Eligibility Criteria set out in Section 3.

The Prospective Bidders (each member of Consortium of Prospective Bidders) shall be required to sign and deliver a Non-Disclosure Agreement ("**NDA**") as a condition for receiving the complete information of the Corporate Debtor including group of assets and liabilities in the event the EOI submitted is found to be eligible.

B. Transaction Process

The process for sale of the Corporate Debtor, along with all its assets and liabilities, or the business of the Corporate Debtor shall be completed in two stages ("**Transaction**"), brief of which are provided hereunder:

STAGE-I

- a) Submission of EOI by Prospective Bidders in separate sealed envelopes before the due date of submission of EOI;

- b) Payment of INR 50,000/- as non-refundable process fees for participation in the process (“**Facilitation Charges**”) and submission of proof of payment of Facilitation Fees by way of demand draft/banker’s cheque or electronic transfer, along with the EOI.
- c) Screening of EOI and short listing of eligible Bidders by the Liquidator (“**Shortlisted Bidders**”) as per the Eligibility Criteria provided in Clause 3 below.

STAGE-II

- a) Signing of Non-Disclosure Agreement by Shortlisted Bidders in the form attached and marked as **Annexure-D**.
- b) The Bid Terms Document prescribing the bidding process shall be provided separately to the Shortlisted Bidders after execution of Non-Disclosure Agreement.
- c) Access to data room to the Shortlisted Bidders who have signed the Non-Disclosure Agreement, for carrying out the due diligence.
- d) Submission of bid(s) by Shortlisted Bidders in accordance with the provisions of the I&B Code, Liquidation Process Regulations and Bid Terms Document.
- e) Declaration of successful bidder (“**Successful Bidder**”) in accordance with the provisions of the I&B Code and Liquidation Process Regulations.
- f) Signing of agreements/contracts with Successful Bidder for purchase of Corporate Debtor or its business as a going concern.

B. Scheme of Compromise or Arrangement under Section 230 of Companies Act, 2013

Any Scheme of Compromise or Arrangement submitted by any Shortlisted Bidder shall be considered in accordance with the provisions of applicable laws and Regulation 2B of the Liquidation Process Regulations.

SECTION 3: QUALIFYING CRITERIA FOR BIDDERS:

A. Qualifications in case of sole bidder:

- a) Any private limited company or public limited company registered under Companies Act 1956 or 2013, Limited Liability Partnership (“LLP”) or SEBI registered Alternative Investment Fund (“AIF”) or a company incorporated outside India, which is eligible to invest in India under the laws of India (subject to such parties obtaining all statutory approvals from the GoI/DIPP/RBI etc. by themselves).
- b) The Prospective Bidder must be eligible to bid for the Corporate Debtor under the provisions of the I&B Code and must be ‘fit and proper’ person, i.e. not under any legal disability to be purchaser of Corporate Debtor under the applicable laws.
- c) The Prospective Bidder shall have a positive net worth as on 31 March 2020 or any latest available subsequent date as certified by Statutory Auditor of the Prospective Bidder.

B. Qualifications in case of consortium bidder:

- a) Consortium of Prospective Bidders (“Consortium”) may participate in the Transaction provided the members of Consortium are a private limited company or public limited company registered under Companies Act 1956 or 2013, LLP or AIF or a company incorporated outside India, which is eligible to invest in India under the laws of India (subject to such parties obtaining all statutory approvals from the GoI/DIPP/RBI etc. by themselves).
- b) The Consortium shall not have more than one (1) lead member (“Lead Member”). The Lead Member of the Consortium should have minimum equity contribution of 51% and the minimum equity contribution by other members to qualify as a member

of the Consortium should be at least 10%.

- c) Each member of the Consortium must be eligible to participate in the Transaction under the provisions of the I&B Code and must be 'fit and proper' person, i.e. not under any legal disability to be purchaser of Corporate Debtor under the applicable laws.
- d) For Consortium net worth of each members of the Consortium shall be positive as on 31 March 2020 or any latest available subsequent date (to be certified individually for Statutory Auditor of each member).
- e) A Power of Attorney/Board Resolution shall be given by each member of the Consortium authorizing the Lead Member to participate in the Transaction, submission of all required documents, information, contact person for all communications.
- f) If after the Consortium is shortlisted as a Shortlisted Prospective Bidder, a Consortium Bidder desires a change in the consortium by inclusion/exclusion of members or if a non-consortium Bidder desires to form a consortium by inducting new member(s), it shall have to apply for such change to the Liquidator. After holding consultation/s with the Stakeholders Constitution Committee and/or obtaining approval from the NCLT, as may required, the Liquidator shall qualify/disqualify such a Consortium subject to fulfilling the eligibility criteria and subject to the following terms:
 - a. The change shall be permitted only once per consortium.
 - b. No change in Lead Member shall be allowed.
 - c. Jumping from one consortium to another shall not be permitted.
 - d. Request for such modification/ withdrawal/ substitution shall be entertained only before the bids are received by the Liquidator. However, the last date for such request shall be specified later.

- g) All members of Consortium shall be required to sign the Non-Disclosure Agreement.

- h) In case a Consortium is shortlisted as Shortlisted Prospective Bidder and subsequently selected as the Successful Bidder, it shall be required to incorporate a company ("**Investment Vehicle**") that shall enter into definitive agreements for completion of the transaction.

SECTION 4: INSTRUCTIONS FOR SUBMISSION OF EOI:

1. The EOI should be submitted in the format attached as **Annexure 'A'** accompanied with the documents/information as stated therein.
2. Prospective Bidders/Lead Member shall submit the EOI accompanied with originally signed documents information mentioned in **Annexure 'C'** and **Annexure 'D'** respectively together with demand draft/banker's cheque or proof of electronic transfer of INR 50,000/- towards non-refundable process participation fees in a sealed Envelope.

The Envelope should be super scribed as "Private and Confidential-Expression of Interest for Kquality Limited (In Liquidation)" and should shall clearly indicate the name, address and details of contact person of the Prospective Bidder/Lead Member.

3. Envelope shall be submitted physically by the Prospective Bidders/Lead Member on or before **26 February 2021 (at 18.00 hours IST) ("EOI Due Date")** at the address mentioned below.

Mr. Shailendra Ajmera

Liquidator for Kquality Limited (In Liquidation)

Registration No.: IBBI/IPA-001/IP-P00304/2017-18/10568

Ernst & Young LLP, 3rd Floor, Worldmark 1,

Aerocity Hospitality, New Delhi - 110037

4. Soft copy of the EOI, accompanying documents/information and proof of payment is also required to be submitted on or before EOI Due Date by e-mail to liquidator.kquality@in.ey.com.
5. Non-refundable participation fee of INR 50,000/- shall be paid by way of demand draft/banker's cheque or electronic transfer as per the following details:

- (a) **Beneficiary:** Kquality Limited (In Liquidation)
 - (b) **Name and address of the Bank:** Bank of India, New Delhi Large Corporate Branch, New Delhi 110001
 - (c) **Bank Account No.:** 605920110000297
 - (d) **IFSC Code:** BKID0006059
6. EOIs are liable to be rejected by the Liquidator if Prospective Bidders or any member of Consortium fail to meet the eligibility criteria as specified in Section 3 above or fail to submit Facilitation Fee as provided in Section 2 above.
 7. The Prospective Bidders shall provide all the information sought in this Invitation for EOI in the prescribed format. The Liquidator will evaluate only those EOIs that are received in the required formats and complete in all respects.
 8. The EOI shall be typed and each page shall be signed in indelible blue ink by the authorized signatory of the Prospective Bidder/Lead Member.
 9. The EOI and all related correspondence and documents in relation to the EOI shall be in English language.
 10. All the alterations, omissions, additions or any other amendments made to the EOI shall be initialed by the person(s) signing the EOI.
 11. If the envelope is not sealed and marked as instructed above, the Liquidator assumes no responsibility for the misplacement/loss of the documents submitted and consequent losses, if any, suffered by the Prospective Bidder.
 12. EOIs submitted by fax or telex shall not be entertained and shall be summarily rejected.

13. All enquiries related to Stage-I of the Transaction should be addressed to the Liquidator at the email id of the Liquidator at "liquidator.kwality@in.ey.com". However, the Liquidator and/or its advisors/ officers/employees are not obligated to give response/reply to any or all such queries posted by the Prospective Bidders.
14. The Prospective Bidders are required to satisfy themselves before Bidding for the Corporate Debtor and Liquidator and his advisors/employees bear no responsibility for any loss that may be incurred by the Prospective Bidder for bidding for the Corporate Debtor.
15. The Liquidator shall bear no responsibility for non-receipt of EOIs/any other correspondence sent by e-mail or any other mode as provided in this Process Document.

SECTION 5: LAST DATE OF SUBMISSION OF EOI

The last date for submission of EOI is **26 February 2021 (at 18.00 hours IST)**. In case the designated day happens to be a holiday; the next working day will be deemed as the last date for submission of EOI. The Liquidator reserves the right to extend the timeline for submission of EOI at his sole discretion,

All the EOIs received will be reviewed by the Liquidator. The Liquidator shall be entitled to engage such advisors/consultants as may be deemed appropriate and fit for review of the EOIs.

SECTION 6: DISCLOSURE AND OTHER NOTICES

1. The Prospective Bidder acknowledges that the purchase of the Corporate Debtor or its business as a going concern shall be made by the Prospective Bidder on an “as in, where is” and “whatever there” basis and the Liquidator will not be providing any representations or warranties for the Corporate Debtor.
2. The EOI submitted by the Prospective Bidder shall be unconditional and cannot be withdrawn after its submission for any such reasons whatsoever.
3. Liquidator shall have the right to withdraw the invitation for EOI and change or vary any part thereof at any stage or cancel or modify the process without assigning any reason and without any liability.
4. This is not an offer document and has been issued with no commitment. The Prospective Bidders should regularly visit the website of the Corporate Debtor at www.kwality.com to keep themselves updated regarding clarifications/amendments/ time-extensions, if any.
5. The EOI submitted pursuant to this Invitation for EOI shall not be assignable or transferrable. Each Prospective Bidder shall bear all its costs associated with or relating to the preparation and submission of any documents including the EOI, including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Liquidator and any other costs incurred in connection with or relating to its EOI.
6. No oral conversations or agreements with the Liquidator or any advisor, official, agent or employee of the Liquidator/ Corporate Debtor shall affect or modify any terms of this invitation for EOI.

7. It may be noted that the eligibility criteria have been evolved in accordance with the provisions of the I&B Code and the Liquidation Process Regulations. EOIs of only those who meet the eligibility and other criteria specified herein shall be considered. Liquidator reserve the right to reject the EOI of any Prospective Bidder and not shortlist in case:
- (a) The Prospective Bidder does not meet the eligibility criteria set out herein;
 - (b) If the EOI submitted by the Prospective Bidder is incomplete or the Prospective Bidder does not submit the documents as required under this Invitation for EOI or does not submit such further documents or information as requested by the Liquidator for conducting due diligence of Prospective Bidder;
 - (c) If any information/record provided is false, incorrect, inaccurate or misleading;
 - (d) If in the opinion of the Liquidator, the Prospective Bidder or Shortlisted Bidder is undesirable or not credible or if the Prospective Bidder or Shortlisted Bidder fails to provide information, if requested, to establish its credibility, eligibility or ability to purchase the Corporate Debtor or its business as a going concern.
8. No oral conversations or agreements with the Liquidator or any agent, representative or advisor of the Liquidator or any official, agent or employee of the Corporate Debtor shall affect or modify any terms of this Invitation for EOI.
9. Neither the Prospective Bidder nor any of representatives of the Prospective Bidder or Shortlisted Bidder shall have any claims whatsoever against the Liquidator or its representative or advisors arising out of or relating to this Invitation for EOI.
10. By submitting its EOI, each Prospective Bidder shall be deemed to acknowledge that it has carefully read the entire Process Document and has fully informed itself as to all

existing conditions and limitations. Ignorance of law/s will not be treated as any excuse.

11. By submitting the EOI, the Prospective Bidder represents to the Liquidator that it has obtained all the requisite corporate authorizations and regulatory approvals required for submission of the EOI.
12. By submitting the EOI, the Prospective Bidder represents that the submission of EOI by the Prospective Bidder is in compliance with the requirements of the Applicable Laws including the I&B Code and regulations made thereunder.
13. The Prospective Bidder shall make other disclosures required to establish and assess the eligibility of the Bidder under the Code and including under Section 29A of the Code along with any supporting documents confirming the same, as and when required by the Liquidator. Notwithstanding anything contained to the contrary herein, the Liquidator may request any other information from the Bidder as may be required.
14. All the EOIs received will be reviewed by the Liquidator in consultation with its advisors and the Stakeholders Committee and the name of Shortlisted Bidder shall be shared in accordance with the Code and the Liquidation Process Regulations.
15. Any cost, expenses or charges pertaining to submission of EOI along with all required documents and proofs and the costs of due diligence and site visit, if any, shall be borne by the Prospective Bidder and in no case the Liquidator or the Corporate Debtor be liable to reimburse or pay such costs, expenses or charges whether the Prospective Bidder is shortlisted for submission of bids or not.
16. The Prospective Bidder acknowledges that the Liquidator and his advisors is neither providing any representation, indemnity or warranty express or implied regarding the

status of business, the business prospects or assets the Corporate Debtor nor do they have any obligation to give such representation, indemnity or warranty in relation to the Corporate Debtor and the Liquidator / his advisors assume no liability whatsoever in this respect.

17. The Liquidator, his advisors and their representatives shall not accept any responsibility or liability whatsoever in respect of any statements or omissions herein, or of the accuracy, correctness, completeness or reliability of information in the EOI/Invitation for EOI or incur any liability under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment, equity or otherwise, even if any loss or damage is caused to any of the Prospective Bidders by any act or omission on their part.
18. The Prospective Bidder acknowledges that no guarantee or warranty is provided on the time period for completion of the Transaction and/or Liquidation Process Period.
19. The Prospective Bidder shall indemnify and hold harmless the Liquidator and his representatives and advisors, unconditionally and irrevocably in the event of any losses, claims or actions, costs or expenses which may arise against the Liquidator or his advisors for reasons attributable to the Prospective Bidder in relation to EOI.
20. The Prospective Bidder shall not (unless required by any law for the time being in force) publish any article or statement, deliver any lecture or broadcast or make any communication to the press, including magazine publication relating to the Corporate Debtor's assets or to any matter with which the Corporate Debtor may be concerned, unless have previously applied to and obtained the written permission from the Liquidator.
21. The Prospective Bidder shall make itself or its representative available as and when required by Liquidator to explain any query or provide any clarification about the information submitted by it.

22. The Prospective Bidder shall not accept or offer any present, commission or any sort of gratification in cash or kind from/ to any person having dealing with the Corporate Debtor/Liquidator and if it is offered any, it shall immediately report the same to the Liquidator.
23. The Bidding process may undergo changes if any Scheme of Compromise or Arrangement submitted by any Shortlisted Bidder is required to be considered in accordance with the provisions of applicable laws and Regulation 2B of the Liquidation Process Regulations.
24. In no circumstances the Prospective Bidder or their officers, employees, agents and professional advisers should make contact with the employees, customers, agents or suppliers of the Corporate Debtor until permission to do so is given in writing by the Liquidator.
25. By submitting EOI, the Bidder shall be deemed to have read and accepted the terms of this Invitation for EOI and shall be deemed to be bound by it.

ANNEXURE - A

FORMAT FOR EXPRESSION OF INTEREST FOR PURCHASE OF KQUALITY LIMITED (IN LIQUIDATION)

(to be executed on the letter head of the company)

Date:

To,

Mr. Shailendra Ajmera, Liquidator

(Appointed by the NCLT, Bench III, New Delhi for Kquality Limited (In
Liquidation)

Subject: Expression of Interest (“EoI”) by prospective bidder (“Bidder”) for Kquality Limited (“Kquality”) under Liquidation in terms of Insolvency and Bankruptcy Code, 2016 and Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016.

Dear Sir,

In response to your public advertisement in [*Insert the names of the newspaper and/or website*] on [*Insert date of the advertisement*] inviting EOI for purchase of Kquality as going concern or its business as going concern, we hereby submit our EOI together with documents mentioned in *Annexure C* of Invitation for EOI.

[Note: In the event the Prospective Bidder is a Consortium, please add the following:]

The information/documents mentioned in *Annexure B* of Invitation for EOI are also enclosed.

An affidavit confirming eligibility to submit the scheme of arrangement or compromise or plan for purchase of Corporate Debtor as going concern in the form annexed as *Annexure E* is enclosed.

We have attached necessary information requested in the format for EOI published on the website of Kquality at www.kquality.com. The information furnished by us in this EOI is true, correct and accurate to the best of our knowledge.

We understand that, Mr. Shailendra Ajmera as the Liquidator of Kquality reserves his right to decide whether or not to qualify our bid without disclosing the reason whatsoever and that bids submitted for Kquality shall be subject to approval/consultation of NCLT/ Stakeholder's Consultation Committee, in terms of the relevant provisions of the Insolvency and Bankruptcy Code, 2016 and Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016.

Sincerely yours,

On behalf of (Insert name of the entity submitting the EOI)

Signature:

Name of signatory:

Designation:

Company stamp

ANNEXURE-B

DETAILS OF THE BIDDER/LEAD MEMBER OF THE CONSORTIUM

1.1 Name and details of the Bidder

Name:

Address:

Telephone No:

Fax:

Email:

1.2 Date of incorporation/establishment of Bidder:

1.3 Core area of expertise of the Bidder:

1.4 Contact Person:

Name:

Designation:

Mob. /Tel. No:

Email:

1.5 PAN No.:

1.6 GST No.:

ANNEXURE - C

LIST OF SUPPORTING DOCUMENTS TO BE ATTACHED WITH EOI

- (a) Profile of the Bidder/Lead Member containing experience of the Bidder in the relevant sector.
- (b) Legal Documents: Copies of certificate of incorporation/registration and constitutional documents of the Bidder.
- (c) For Net Worth: Statutory Auditor's Certificate declaring net worth of the Bidder/each member of consortium as on _____.
- (d) Balance Sheets (Standalone and/or Consolidated, wherever applicable) for last 3 Financial Years.
- (e) Board Resolution/Power of Attorney authorising the signing and submission of EOI and related documents (in favour of Lead Member by each member in case of Consortium).
- (f) A notarized affidavit from authorised signatory of the Bidder/each member of the Consortium stating that it:
 - is eligible to bid for the Corporate Debtor under the provisions of the Insolvency and Bankruptcy Code, 2016.
 - is a 'fit and proper' person and not under any legal disability to be purchaser of Corporate Debtor under the applicable laws.

- has not been declared as a “wilful defaulter’, non-cooperative borrower’, ‘non-impaired asset’ or ‘non- performing asset’.

(g) Proof of payment of non-refundable process participation fees.

ANNEXURE - D

NON-DISCLOSURE AGREEMENT

(To be executed on non-judicial stamp paper of appropriate stamp duty value relevant to the place of execution)

This Confidentiality Agreement is dated [•] 2021 between:

[•], a company/LLP incorporated under the laws of [•] and having its registered office at [•] (hereinafter referred to as “**Receiving Party**”, which expression shall, unless it be repugnant to the context or meaning thereof, shall mean and include its successors and permitted assigns);

AND

Kwality Limited (In Liquidation), a company incorporated under the laws of India and having its registered office at KDIL House, F-82, Shivaji Place, Rajouri Garden, New Delhi West, Delhi - 110027, India, through the Liquidator (hereinafter referred to as “**Disclosing Party**”, which expression shall, unless it be repugnant to the context or meaning thereof, shall mean and include its successors and permitted assigns);

WHEREAS the Disclosing Party intends to disclose certain information to the Receiving Party regarding **Kwality Limited (In Liquidation) for the purpose of conducting a Due diligence on the Disclosing Party;**

AND WHEREAS the Receiving Party has agreed to keep the information confidential on the terms of this Agreement;

NOW THEREFORE in consideration of the foregoing and the mutual agreements contained in this Agreement (the receipt and adequacy of which are acknowledged), the Parties agree as set forth below.

a. **Defined Terms.**

As used in this Agreement, the following terms have the meanings set forth below.

"**Affiliate**" means, in respect of a Party, any Person (other than a natural person) which (a) is controlled directly or indirectly by such Party, or (b) is directly or indirectly controlled by a Person which directly or indirectly controls such Party.

"Control" means the right to appoint majority of directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholder's agreements or voting agreements or in any other manner.

"**Applicable Laws**" shall mean all applicable laws, regulations, rules, guidelines, circulars, re-enactments, revisions, applications and adaptations thereto made from time to time and in force and effect, 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 I&B Code, Liquidation Regulations, Companies Act, 1956 / 2013 (as applicable), Competition Act, 2002, Foreign Exchange Management Act, 1999, regulations and rules prescribed by the Securities and Exchange Board of India ("**SEBI**"), each as amended from time to time.

"**Agreement**" means this confidentiality agreement, as amended, modified, restated, replaced or supplemented from time to time.

"**Bidder**" shall mean person(s) interested in the purchase of the Corporate Debtor or its business on a going concern basis.

"**Business Day**" means any day of the year, other than a Saturday, Sunday or any

days on which major banks are closed for business in India.

"Confidential Information" means all information relating to Disclosing Party's business, operations, assets, liabilities, plans, prospects and affairs, which has been or is disclosed to or acquired by the Receiving Party regardless of whether such information is in oral, visual, electronic, written or other form and whether or not it is identified as "confidential".

"Corporate Debtor" shall mean Kwality Limited.

"Definitive Agreements" shall mean the binding agreement(s), to be entered into by the Successful Applicant for the purposes of implementing the Approved Resolution Plan.

"Law" means any applicable law, statute, code, constitution, treaty, ordinance, order, decree, directive, rule, published policy, regulation or decision of any competent judicial, legislative, administrative, ministerial, departmental or regulatory body or authority or by the rules, policies or other requirements of any relevant stock exchange.

"Notice" has the meaning specified in Clause 9 hereof.

"Party" means either **Receiving Party** and **Disclosing Party** and any other Person who may become a party to this Agreement. These parties may be referred to individually as "Party" or collectively as "Parties". Reference to a Party includes such Party's Representatives and affiliates and their Representatives.

"Person" means a natural person, partnership, limited partnership, limited liability partnership, and corporation, limited liability Corporation, unlimited liability company, joint stock company, trust, unincorporated association, joint venture or other entity or a governmental or other regulatory entity, and pronouns have a

similarly extended meaning.

"Process Document" shall mean this document including all the annexures hereto, on behalf of the Liquidator, for the purposes of advising / assisting the Liquidator in selecting the Successful Bidder and shall include all supplements, modifications, amendments, alterations or clarifications thereto.

"Representative" means any director, officer, employee, agent, or advisor of that Party, including accountants, counsel, lenders, consultants and financial advisors.

"Required Approvals" shall mean the approvals, consents, no-objections and sanctions required to be obtained by the Bidder(s) under Applicable laws.

"Successful Bidder" shall mean the bidder whose bid is shortlisted and declared as successful/ highest.

"Work Papers" means all notes, analyses, compilations, forecasts, data, studies, interpretations, or other documents prepared by, on behalf of or for the benefit of, the Receiving Party that contain, reflect, summarize, analyze, discuss or review any Confidential Information.

b. Interpretation

In this Agreement, the words "including", "includes" and "include" mean "including (or includes or include) without limitation". The expression "Clause" or other subdivision followed by a number mean and refer to the specified Clause or other subdivision of this Agreement. Words referencing the singular include a reference to the plural and *vice versa*.

c. Non-Disclosure of Confidential Information.

- i. The Receiving Party will keep strictly confidential all Confidential Information and Work Papers and will not, and will cause its Representatives not to, disclose or use such Confidential Information or Work Papers except as permitted by this Agreement.
- ii. The restrictions set out in Clause 3(a) do not apply to Confidential Information or any part of it that:
 1. is or becomes generally available to the public other than as a result of disclosure directly or indirectly by the Receiving Party;
 2. is or becomes available to the Receiving Party on a non-confidential basis from a source other than the Disclosing Party;
 3. is or was independently acquired or developed by the Receiving Party, its affiliates or their respective Representatives without violating its obligations under this Agreement or any other obligation of confidentiality it may have to the Disclosing Party;
 4. is required to be disclosed by Law, unless such Law permits the Receiving Party, its affiliates or their respective Representatives to refrain from making such disclosure for confidentiality or other reasons; or
 5. the Disclosing Party has expressly permitted in writing that the particular Confidential Information may be disclosed.
- iii. The Receiving Party may disclose Confidential Information and its Work Papers to its Representatives but only to the extent that its Representatives need to know the Confidential Information or Work Papers for purposes of

evaluating such Confidential Information or Work Papers and have been informed of the confidential nature of the Confidential Information and Work Papers and agree to be bound by and act in accordance with the confidentiality provisions of this Agreement.

- iv. The Receiving Party acknowledges that it and its Representatives are bound by all applicable privacy law with respect to any personal information disclosed under this Agreement.
- v. The Receiving Party hereby acknowledges that it is aware, and that the Receiving Party will advise its Representatives who are informed as to the matters that are the subject of this Agreement, that applicable securities laws prohibit any person who has material, non- public information concerning the matters which are the subject of this Agreement from purchasing or selling securities of the Disclosing Party, including an affiliate, or from communicating such information to any other person under circumstances in which it is reasonably foreseeable that such person is likely to purchase or sell such securities.
- vi. The Receiving Party is responsible for any breach by its Representatives of any of the provisions of this Agreement whether or not they have agreed in writing to be bound by such provisions. The Receiving Party will, at its sole expense, take all reasonable measures to ensure that its Representatives do not breach any of the provisions of this Agreement.
- vii. If the Receiving Party is required to make disclosure of any or all of the Confidential Information and/or its Work Papers pursuant to Law it will (unless otherwise prohibited by Law and to the extent possible), after consultation with the Disclosing Party:
 - 1. give the Disclosing Party Immediate Notice of the requirement and the proposed content of any disclosure;

2. at the costs of the Disclosing Party, co-operate with the Disclosing Party in limiting the extent of the disclosure and in obtaining an appropriate protective order or pursuing such legal action, remedy or assurance as the Disclosing Party deems necessary to preserve the confidentiality of the Confidential Information; and
3. disclose only that portion of the Confidential Information and its Work Papers that it is, in the written opinion of the Receiving Party's counsel, legally compelled to disclose.

d. Handling and Return of Confidential Information.

- i. The Receiving Party will keep a written record of the subject and location of all Confidential Information disclosed to it and a list of Representatives to whom Confidential Information has been disclosed and will provide a copy of the record and list immediately to the Disclosing Party upon request.
- ii. Confidential Information shall be only for review by the Receiving Party and its Representatives. The Receiving Party may not remove any proprietary, copyright, trade secret or other legend from any of the Confidential Information.
- iii. After the completion of liquidation process under the IBC, the Receiving Party will and will cause its Representatives to, within 7 Business Days of the Notice:
 1. Return to the Disclosing Party or destroy all Confidential Information without retaining any copies;
 2. destroy all copies of Work Papers in its possession; and certify to the Disclosing Party in writing that this Clause 4(c) has been complied

with by the Receiving Party.

- iv. Notwithstanding the foregoing, neither the Receiving Party or its Representatives are required to return or destroy the Confidential Information to the extent that it is obliged by any law, court of competent jurisdiction, competent regulatory agency or authority, applicable compliance procedures or the rules of any stock exchange to keep them;
- v. Notwithstanding the return or destruction of Confidential Information and Work Papers, the Receiving Party and its Representatives will continue to be bound by their obligations of confidentiality and other obligations here under.

e. No Representation or Warranty.

- i. The Disclosing Party and the Receiving Party makes no representation or warranty, expressed or implied, as to the accuracy or completeness of the Confidential Information provided by it or with respect to the infringement of patents, trade-marks, copyrights, or other intellectual property rights respecting such Confidential Information, or of the rights of any other Person.
- ii. The Disclosing Party is not liable to the Receiving Party or to any other Person for any losses, liabilities, damages, claims, demands, fines, penalties or expenses resulting from, connected with or arising out of the Receiving Party's use of the Confidential Information. This Agreement does not benefit or create any right or cause of action in, or in favour of, any Person other than the Receiving Party or its Representative and shall exclude any rights under legislative provisions conferring rights under a contract to persons not a party to that contract. Only the Parties are entitled to rely on its provisions in any action, suit, proceeding, hearing or other forum subject to clause5(d)

- iii. To the extent that any Confidential Information is owned by the Disclosing Party, it will remain the exclusive property of the Disclosing Party. Nothing in this Agreement or in the disclosure of any Confidential Information confers any interest in the Confidential Information on the Receiving Party.
- iv. The Receiving Party shall not be held liable for any damages/ liabilities arising out of the use of confidential information or the accuracy of the confidential information.

f. Remedies.

- i. In the event of a breach of a Party's obligations under this Agreement, that Party must, immediately following discovery of the breach, give Notice to the other Party of the nature of the breach. The breaching Party must, upon consultation with the other Party, take all reasonable measures to limit the extent of the breach.
- ii. The Receiving Party acknowledges that the Disclosing Party shall be irreparably injured by breach of this Agreement which could not be adequately compensated by damages. The Disclosing Party shall be entitled to equitable relief, including injunctive relief and specific performance, in the event of any breach of the provisions of this Agreement. Such remedies shall not be exclusive remedies but shall be in addition to all other remedies available in law or in equity including damages.
- iii. The rights and remedies provided in this Agreement are cumulative and are in addition to, and not in substitution for, any other rights and remedies available at law or in equity. All such rights and remedies may be exercised from time to time, and as often and in such order as the applicable Party deems appropriate.
- iv. Each Party shall have a duty to use all reasonable endeavor to mitigate its loss and damage arising on account of the breach or default by the other

Party.

- v. Except as may be otherwise provided in this Agreement, or breach by either party will result in the other party being responsible to reimburse the non-defaulting party for all costs incurred directly as a result of the breach of this Agreement, and shall be subject to such damages as may be allowed by law including all attorneys' fees and costs of enforcing this Agreement. However, the provision of clause 7(e) shall survive the termination of the agreement.
- vi. Subject to the foregoing provisions of this Clause 6, if the Receiving Party or any of its Representatives is in default or breach of its obligations under this Agreement, the Receiving Party shall indemnify the Disclosing Party from and against any direct cost, loss, expense, liability, claim or damage which the Disclosing Party incurs or suffers as a result of any such default or breach. Notwithstanding the foregoing, in no event, shall the Receiving Party be liable for any consequential, punitive, special, exemplary or other similar damages.

g. Other Covenants and Agreements.

- i. The Parties irrevocably undertake not to circumvent, avoid, bypass or obviate each other, directly or indirectly and agree on customer and partner protection for all mutual named customers and partners. By signing this agreement, the parties commit to each other not to contact the partners and customers of the other party or to start any business activity, directly or via third parties, without previous written consent.
- ii. The Parties shall not disclose any contact revealed by either Party to any third Parties, and shall not enter into direct and/or indirect offers, negotiations and/or transaction with such contacts revealed by the other Party who made the contact(s) available.
- iii. In the event of circumvention by any of the undersigned Parties, whether

direct and/or indirect, the circumvented Party shall be entitled to a legal monetary compensation equal to the maximum service it should realize from such a transaction, plus any and all expenses, including any and all legal fees incurred in lieu of the recovery of such compensation

- iv. Nothing in this Agreement nor the disclosure of Confidential Information to the Receiving Party creates any agency, partnership, joint venture, and representative or employment relationship between the Parties.
- v. The obligations of the Parties under this Agreement shall continue and shall be binding for 3 years from the dissolution of the Corporate Debtor.

h. Acknowledgements of Receiving Party.

Each Party acknowledges and agrees that, notwithstanding any other provisions of this Agreement, all contacts by one Party and its Representatives with the other Party regarding the Confidential Information shall be made through each Party's authorized representative, and one Party and its Representatives shall not contact any other employee of the other Party unless expressly authorized.

i. Miscellaneous.

- i. Any notice, consent, direction or other communication (each a "**Notice**") given regarding the matters contemplated by this Agreement must be express and in writing, sent by personal delivery, courier or facsimile (but not by electronic mail) and addressed to:

Receiving Party Name:

Address:

Attention:

Designation:

Telephone/Mobile No:

Email Id:

Disclosing Party Name:

Kwality Limited (In Liquidation)

Address: KDIL House, F-82, Shivaji Place, Rajouri Garden, New
Delhi West, Delhi - 110027, India.

Attention: Mr. Shailendra Ajmera

Designation: Liquidator, Kwality Limited (In Liquidation)

Email Id: liquidator.kwality@in.ey.com

A Notice is deemed to be delivered and received (1) if sent by personal delivery or service courier, on the date of delivery, or (2) if sent by facsimile, on the day following the date of confirmation of transmission by the originating facsimile, or (3) if sent by e-mail, on the day the e mail was sent.

- ii. Except as otherwise expressly provided in this Agreement, each Party will pay for its own fees, costs and expenses incurred in connection with this Agreement. The fees, costs and expenses referred to in this are those that are incurred in connection with the negotiation, preparation, execution and performance of this Agreement, including the fees, costs and expenses of counsel, financial advisors, bankers, lenders and accountants.
- iii. No waiver of any provision of this Agreement constitutes a waiver of any other provision (whether or not similar). No waiver is binding unless executed in writing by the Party to be bound by the waiver. A Party's failure or delay in exercising any right under this Agreement is not a waiver of that right. A single or partial exercise of any right does not preclude a Party from any other or further exercise of that right or the exercise of any other right it may have.
- iv. This Agreement constitutes the entire agreement between the Parties relating to its subject matter and supersedes all prior agreements, understandings, negotiations and discussions between the Parties, whether oral or written.

- v. This Agreement may only be amended, supplemented, or otherwise modified by express written agreement signed by the Parties.
- vi. Neither this Agreement, nor any of the rights or obligations under this Agreement, are assignable or transferable by a Party without the express prior written consent of the other Party.
- vii. If any provision of this Agreement is determined to be illegal, invalid or unenforceable by an arbitrator or any court of competent jurisdiction from which no appeal exists or is taken, that provision will be severed from this Agreement and the remaining provisions will remain in full force and effect. This clause has no effect if the severance alters the basic nature of this Agreement.
- viii. This Agreement and any dispute, controversy or claim arising out of, relating to, or in any way connected with this Agreement (including, without limitation, the existence, validity, performance, breach or termination thereof) shall be governed by the laws of India. Any such dispute, controversy or claim shall be fully and finally resolved by the Hon'ble NCLT.
- ix. This Agreement may be executed in two counterparts and all counterparts taken together constitute one and the same instrument. Receipt of an originally executed counterpart signature page by an electronic reproduction of an originally executed counterpart signature page by electronic mail is effective execution and delivery of this Agreement. Any Party sending a counterpart by electronic mail will also deliver the original signed counterpart to the other Party; however, failure to do so will not invalidate this Agreement.

Receiving Party

By:

Disclosing Party

By:

ANNEXURE -E

AFFIDAVIT BY THE APPLICANT

(To be executed on non-judicial stamp paper of appropriate stamp duty value relevant to the place of execution)

I, [name of the chairman/ managing director/ director/ authorized person of applicant, authorised by the Board of the Applicant for giving such affidavit], son of [•], aged about [•] years, currently residing at [Address to be inserted] and having Aadhaar/ Passport number [•], on behalf of [name of the Applicant] having registered office at [•] ("Applicant"), do solemnly affirm and state to Mr. Shailendra Ajmera, the Liquidator of Kquality Limited (In Liquidation) as follows:

1. That I am duly authorised and competent to make and affirm the instant affidavit for and on behalf of the Applicant in terms of the [resolution of its board of directors/ power of attorney to provide other necessary details of such authorization]. The said document is true, valid and genuine to the best of my knowledge, information and belief.
2. That the Applicant is not in-eligible to submit the proposal for purchase of Kquality Limited (In Liquidation) or its business as a 'Going Concern' basis, including by way of a Scheme for Compromise or Arrangement under Section 230 of the Companies Act, 2013, under the Insolvency & Bankruptcy Code, 2016 ("Code") read with the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016 under Section 29 A of the Code.
3. That none of the Applicant or any person acting jointly or in concert with the Applicant:
 - (a) is an undischarged insolvent;
 - (b) is a wilful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949;

- (c) at the time of submission of the said proposal 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.

[Note: If the aforesaid disqualification is not applicable to you under any proviso to Section 29A (c), please explain why]

- (d) has been convicted for any offence punishable with imprisonment –
- (i) for two years or more under any Act specified under the Twelfth Schedule of the Code; or
 - (ii) for seven years or more under any law for the time being in force:

[Note: If the aforesaid disqualification is not applicable to you under any proviso to Section 29A (d), please explain why]

- (e) Is disqualified to act as a director under Companies Act, 2013;

[Note: If the aforesaid disqualification is not applicable to you under any proviso to Section 29A (e), please explain why]

- (f) Is prohibited by the Securities Exchange Board of India from trading in securities or accessing the securities market;

- (g) Has been a promoter or in the management or control of a Company in which a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been

made by the Adjudicating Authority under the Code;

[Note: If the aforesaid disqualification is not applicable to you under any proviso to Section 29A (g), please explain why]

- (h) has executed a guarantee in favour of a creditor in respect of a corporate debtor against which an application for insolvency resolution made by such creditor has been admitted under this Code and such guarantee has been invoked by the creditor and remains unpaid in full or part;
- (i) is subject to any disability, corresponding to clauses (a) to (h), under any law in a jurisdiction outside India; or
- (j) has a connected person not eligible under clauses (a) to (i), where 'connected person' means
 - (i) any person who is the promoter or in the management or control of the Applicant; or
 - (ii) any person who shall be the promoter or in management or control of the business of the Corporate Debtor during the implementation of the resolution plan; or
 - (iii) the holding company, subsidiary company, associate company or related party of a person referred to in clauses (i) and (ii). [Note: In case this provision does not apply to you, please explain why]

3. That the Applicant unconditionally and irrevocably represents, and confirms that it is eligible under the terms and provisions of the Code (read with the relevant regulations framed there under) to submit a proposal and it shall provide all documents, representations and information as may be required by the Liquidator to substantiate that the Applicant is eligible under the Code to submit a proposal for purchase of Kwality Limited (In Liquidation) or its business as a 'Going Concern" basis, including by way of a Scheme for Compromise or Arrangement under Section 230 of the Companies Act, 2013, under the Code read with the Insolvency & Bankruptcy Board of India (Liquidation

Process) Regulations, 2016.

4. That the Applicant unconditionally and irrevocably undertakes that it shall provide all data documents and information as may be required to verify the statements made under this affidavit.
5. That the Applicant understands that the Liquidator and their advisors may evaluate the proposal to be submitted by the Applicant or any other person acting jointly with it and such evaluation shall be on the basis of the confirmations, representations and warranties provided by the Applicant under this affidavit.
6. If, at any time after the submission of this affidavit and before the approval of the Applicant's proposal by the Adjudicating Authority under the Code, the Applicant becomes ineligible to be an Applicant as per the provisions of the Code (and in particular Section 29A of the Code), the fact of such ineligibility shall be forthwith brought to the attention of the Liquidator.

Solemnly affirmed at [•] on the [•] day of [•] 2021,

Before me,

Notary/Oath Commissioner

DEPONENT

VERIFICATION:

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

Verified at [•], on this the [•] day of [•] 2021

DEPONENT