
E-AUCTION PROCESS MEMORANDUM (EAPM)

Dated 23rd April 2022

In the Matter of

Duckbill Drugs Private Limited (In Liquidation)

Case Ref. CP(IB) No. 972/KB/2018

Invitation for Bids for E-Auction of Assets

On Portal: <https://right2vote.in>

Issued by:

CA Santanu Brahma, Liquidator

IBBI Regn. No: IBBI/IPA-001/IP-P01482/2018-19/12251

Address for Correspondence: AH-276, Salt Lake, Sector-II, Kolkata - 700091

Email: liq.duckbilldrugs@gmail.com

Notes:

1. This E-Auction Information Document is issued only for the Interested Bidders.
2. Terms and Conditions, procedures and deadlines, etc. for participating in the proposed E-Auction are provided in the E-Auction Process Memorandum (EAPM). Since there is no functional website of Corporate Debtor M/s. Duckbill Drugs Pvt. Ltd. (In Liquidation), the timelines, notifications, updates and other details for the E-Auction Process can be sought by emailing on: liq.duckbilldrugs@gmail.com or may be downloaded from the website: www.right2vote.in .
3. Bidders desirous to submit their Bids have to submit their bids on E-auction Portal on Portal: <https://right2vote.in> after the deposit of EMD and submission of required documents.
4. Prospective Bidders are expected to carefully examine the terms, condition, disclosures and all other matters of this EAPM as it has significant impact in the bidding process and also after the bidding process.

Table of Contents

1. Disclaimer	3
2. Information Must Be Read Before Bid Process	7
3. Key Definitions	11
4. Eligibility Criteria of a Prospective Bidder / Applicant.....	13
5. Background Information.....	14
6. Overview of the Corporate Debtor	16
7. Details of Assets comprising of ‘Sale of CD as Going Concern’	18
8. Documents required to be submitted	23
9. Timelines	25
10. Earnest Money Deposit	27
11. Physical Verification / Site Visit and Due Diligence.....	29
12. E-Auction Details.....	31
13. Declaration of Successful Bidder.....	32
14. Fraudulent and Corrupt Practices	34
15. Cost, Expenses and Tax Implications.....	36
16. Governing Law and Jurisdiction.....	37
17. Other Terms and Conditions of the E-Auction	38

Annexures

- i. Annexure I - Format for Affidavit and Undertaking confirming eligibility under Section 29 A and Section 35(1)(f) of IBC, 2016 (to be filled in and signed and stamped and notarised by the Bidder)
- ii. Annexure II - Bid Application Form (to be filled in and signed and stamped by the Bidder)
- iii. Annexure III - Declaration by the Bidder(s) (duly filled in and signed and stamped by the Bidder)
- iv. Annexure IV - Technical Terms and Conditions of E-Auction Sale (duly filled in and signed and stamped by the Bidder)
- v. Annexure V - Letter of Intent
- vi. Annexure VII - Confidentiality Agreement (to be filled in and signed and stamped and notarised by the Bidder)

1. Disclaimer

- a) This Document is personal and specific to each E - Auction Participant/ Bidder.
- b) This “E-Auction Process Memorandum (EAPM)” is issued by CA Santanu Brahma, the Liquidator appointed by Hon’ble NCLT, Kolkata Bench, in the matter of **Duckbill Drugs Pvt. Ltd. (In Liquidation)** for general information purposes only without regard to specific objectives, suitability, financial situations, and the requirements of any particular person.
- c) The purpose of this document is to lay out the process for submitting the E-Auction Bids for the Assets (as specified and described hereinafter) of **Duckbill Drugs Pvt. Ltd. (in Liquidation)** (the “Company” or “DDPL”) in accordance with the Insolvency and Bankruptcy Code, 2016 (‘IBC’).
- d) This document has not been approved or registered with any regulatory or statutory authority of the Government of India or any State Government. Nothing herein or in materials relating to the E-Auction Process Document should be construed as legal, financial, accounting, regulatory, tax or any other advice by the Liquidator.
- e) Neither this Document nor anything contained herein shall form the basis of, or be relied upon in connection with any contract, agreement, undertaking, understanding or any commitment whatsoever. This Document does not solicit any action based on the material contained herein.
- f) The information in this Document, is collected from many sources including the Corporate Debtor and has not been independently verified by the Liquidator. It is to be noted that no information is provided in this EAPM, claims to be comprehensive, independent due diligence of the intended user of this document or the bidder is highly recommended.
- g) While the information in this document has been prepared in good faith, no representation or warranty, expressed or implied, is or will be made and no responsibility or liability is or will be accepted by the Liquidator, the Company or by any of its officers, employees or agents in relation to the accuracy, fairness, authenticity or completeness of this Document or any other written or oral information made available to any interested party or its advisers and any such liability is expressly disclaimed.
- h) Neither the Liquidator nor his team, Associates, consultants etc. shall be liable for any damages, whether direct or indirect, including loss of revenue or profits that may arise from or in connection with the use of this EAPM, including for the E-Auction Participant

- not being selected as a Successful Auction Participant or on account of any decision taken by the Liquidator.
- i) In so far as the information contained in this Document includes current or historical information, the accuracy, adequacy, authenticity, correctness, fairness, and completeness of such information is not guaranteed by the Liquidator. By acceptance of this Document, the E-Auction Participant(s) shall be deemed to have acknowledged that it has not relied upon any representation and warranty made by the Liquidator.
 - j) This document has not been filed, registered, reviewed, or approved by any statutory or regulatory authority in India or by any stock exchange in India or any other jurisdiction. This Document has not been approved, reviewed, or recommended by SEBI or any statutory agency etc.
 - k) Neither the Liquidator, nor his professional advisors, legal associates, affiliates, directors, employees, agents, representatives or managers or managers of the process shall be liable for any damages, whether direct or indirect, express or implied, incidental, special or consequential including loss of revenue or profits that may arise from or in connection with the use of this Document, including for the E-Auction Participant(s)/ Bidder not being selected as Successful Bidder(s) or on account of any decision taken by the Liquidator.
 - l) This Document and information contained herein or disclosed pursuant to the terms of this Document or any part of it does not constitute or purport to constitute any advice or information in publicly accessible media and should not be printed, reproduced, transmitted, sold, distributed, or published by the recipient without prior written approval from the Liquidator. Distributing or taking/ sending/ dispatching/ transmitting this Document in certain foreign jurisdictions may be restricted by law, and Persons into whose possession this Document comes should inform themselves about, and observe, any such restrictions.
 - m) The Liquidator and/ or the Corporate Debtor give no undertaking to provide the recipient with access to any additional information or to update this Document or any additional information, or to correct any inaccuracies in it which may become apparent, and they reserve the right, without giving reasons, at any time and in any respect, to amend or terminate the procedures set herein or to terminate negotiations with any auction process applicant.
 - n) The issue of this Document shall not be deemed to be any form of commitment on the part of the Liquidator or the Corporate Debtor to proceed with any transaction(s).

- o) In addition to the provisions set out in this Document, the E-Auction Process applicant(s) shall be responsible for fully satisfying the requirements as mentioned in the Insolvency and Bankruptcy Code, 2016 and applicable Regulations and notifications as well as the related laws, and all laws in force that are or may be applicable to the applicant or the sale process and for obtaining requisite regulatory or other approvals, if any, that are or may be required under applicable law and nothing contained in this document shall be deemed to relieve, wholly or partially, directly or indirectly, the auction process applicant from compliance with the IBC and related Regulations as well as any other law in force, and/ or any instrument having the force of law as may be applicable and nothing in this Document shall be construed as, or operate either, wholly or in part, as exempting the E-Auction Process Applicant(s) from complying with all such laws, as are or may be applicable.
- p) By procuring a copy of this document, the recipient accepts the terms of this disclaimer notice, which forms an integral part of this Document and all other terms and conditions of this Document. Further, no Person, including the E-Auction Participant(s) shall be entitled under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise to claim for any loss, damage, cost or expense which may arise from or be incurred or suffered on account of anything contained in this Document or otherwise, including the accuracy, adequacy, authenticity, correctness, completeness or reliability of the information or opinions contained in this Document and any assessment, assumption, statement or information contained therein or deemed to form part of this Document, and the Liquidator, Company and their advisors, affiliates, directors, employees, agents, representatives or managers do not have any responsibility or liability for any such information or opinions and therefore, any liability or responsibility is hereby expressly disclaimed.
- q) In no circumstances shall the E-Auction Participant(s) or its officers, employees, agents, and professional advisers make any contact, direct or indirect, by any mode whatsoever, with the management, employees, customers, agents, or suppliers of the Company until the Liquidator gives permission to do so in writing.
- r) This E-Auction Process Information Document is neither an agreement nor an offer by the Liquidator to the Prospective Bidders or any other person. The objective of this E-Auction Process Memorandum is to provide interested parties with information that may be useful to them in making their bids. It may be noted that the assumptions, assessments, statements, and information contained in the E-Auction Process Information Document may not be complete, accurate, adequate, or correct. Each

Bidder, is therefore, advised to conduct its own due-diligence, investigations and analysis and should also check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements, and information contained in this EAPM and may get independent advice from appropriate sources.

- s) **M/s Duckbill Drugs Private Ltd. (In Liquidation)** is proposed to sell its business as a 'Going Concern' on "As is where is basis", "As is what is basis", "Whatever there is basis" and "No recourse basis". The sale of Corporate Debtor or its business as a going concern located at Kolkata, West Bengal does not entail the transfer of any better title except the title which the Corporate Debtor had on its assets as on the date of transfer. The Liquidator does not take or assume any responsibility for any shortfall or defect or shortcoming in the moveable / immoveable or any other assets of the Company.
- t) This EAPM and information contained herein or disclosed should not be printed, reproduced, transmitted, sold, distributed, or published by the recipient, without prior written approval from the Liquidator.
- u) The E-Auction Participant shall bear all its costs and charges associated with or relating to the preparation and submission of its bid including but not limited to Physical and Electronic preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Liquidator or any other costs incurred in connection with or relating to its bid.

2. Information Must Be Read Before Bid Process

- a) Basic Description of Assets and Properties for sale along with Reserve Price, EMD and Incremental Bid Amount:

Description of Assets	Reserve Price (INR)	EMD (10% of Reserve Price) (INR)	Bid Increase Amount (INR)
<p>Corporate Debtor as a ‘Going Concern’ comprising of Leasehold Property Rights; Trademarks; Plant & Machinery; Laboratory & Office Equipments; Honda Motor Car (WB-02V-6363) and other assets, where-ever applicable and available and which are specifically excluded in this EAPM.</p> <p><i>Refer to paragraph “Details of Assets comprising of Sale of CD as Going Concern” below for more information.</i></p>	<p>5,00,00,000 (Indian Rupees Five Crores Only)</p>	<p>50,00,000 (Indian Rupees Fifty Lacs Only)</p>	<p>5,00,000 (Indian Rupees Five Lacs Only)</p>

- b) This e-Auction Process Information Document has been issued to carry out an electronic auction (e-Auction) of assets of **Duckbill Drugs Private Limited (In Liquidation)** (the “Company” or “Corporate Debtor”) under the provisions of the Insolvency and Bankruptcy Code, 2016 (“the Code”) and the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (Liquidation Process Regulations).
- c) The applicant / prospective bidder needs to adhere to all procedural requirements and terms and conditions, covenants as set-out in this EAPM and the provisions of the laws of the land. Under contrary circumstances, the EMD amount shall be forfeited by the Liquidator.
- d) The applicant / prospective bidder needs to adhere to the timelines specified hereunder. Any arbitrary requests not in conformity with the dates mentioned in the ‘Timeline’ section (hereunder) shall not be entertained by the Liquidator.
- e) The information provided in this e-Auction Process Information Document should be read together with the provisions of the Code and the Liquidation Process Regulations. In the event of a conflict between this e-Auction Process Information Document and the Code or the Liquidation Process Regulations, the provisions of the Code or the Liquidation Process Regulations, as the case may be, shall always prevail.
- f) The information contained in this e-Auction Process Information Document or subsequently provided to Bidder(s), whether verbally or in documentary or any other form by or on behalf of the Liquidator, is provided to Bidder(s) on the terms and

conditions as set out in this e-Auction Process Information Document.

- g) This document is neither an agreement nor an offer by the Liquidator to the prospective Bidder(s) or any other person. The purpose of this document is to provide interested parties with information that may be useful to them in making their bids pursuant to issue of this document. The assumptions, assessments, statements, and information contained in this document may not be complete, accurate, adequate, or correct. Each Bidder(s) should conduct their own due diligence, analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements, and information contained herein.
- h) The information provided in this document to the Bidder(s) has been collated from several sources. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as complete. The Liquidator accepts no responsibility for the accuracy or otherwise of any statement contained herein.
- i) The Liquidator may in his absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment, or assumptions contained in this EAPM.
- j) The Liquidator, makes no representation or warranty and shall have no liability to any person, including any Bidder(s) under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this document or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the document and any assessment, assumption, statement or information contained therein or deemed to form part of this document or arising in any way from participation in the E-Auction process.
- k) The issuance of this EAPM does not imply that the Liquidator is bound to select a Bidder or to appoint the Preferred Bidder as Successful Bidder for the assets of the company and the Liquidator reserves the right to reject all or any of the Bidders or bids without assigning any reason whatsoever.
- l) The Liquidator accepts no liability of any nature howsoever caused arising from reliance of any Bidder(s) upon the statements contained in this document.
- m) Each Bidder(s) shall bear all its costs and charges associated with or relating to the preparation and submission of its bid and/ or participation in the E-Auction, including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Liquidator, or

any other costs incurred in connection with or relating to its bid.

- n) **Right2vote Infotech Private Limited**, B406, Hill Side, Raheja Vihar, Chandivali, Mumbai - 400072 (e-Auction Service Provider”) has been appointed as the e-Auction Service Provider. The sale of the Assets and Properties of the Company shall be undertaken by the e-Auction Service Provider for and on behalf of the Seller through an e-Auction platform provided on the website portal of the e-Auction Service Provider (“Platform”). Other details concerning the e-Auction are as follows:

Type of Bid	E-Auction
Seller	CA Santanu Brahma (Liquidator of Duckbill Drugs Pvt. Ltd.)
Website of E - Auction service provider	https://right2vote.in
Service Provider	Right2vote Infotech Private Limited, B406, Hill Side, Raheja Vihar, Chandivali, Mumbai - 400072 Contact Person: Mr. Neeraj Gutgutia Email ID: contact@Right2vote.in Mobile No.: 9920591306
Annexures and Formats	(i) Annexure I - Format for Affidavit and Undertaking confirming eligibility under Section 29 A and Section 35(1)(f) of IBC, 2016; (ii) Annexure II - Bid Application Form (to be filled in and signed and stamped by the Bidder); (iii) Annexure III - Declaration by the Bidder(s) (duly filled in and signed and stamped by the Bidder) (iv) Annexure IV - Technical Terms and Conditions of E-Auction Sale (duly filled in and signed and stamped by the Bidder) (v) Annexure V - Letter of Intent (vi) Annexure VI - Confidentiality Agreement
Special Instructions	Please note that this bidding is a serious matter and last-minute bidding may lead to unnecessary lapses. Neither the E-Auction Service Provider nor the Liquidator will be responsible for any lapses on part of the Bidder(s) for any delay, network issue, punching the bid or any other nature of lapse etc.

- o) All terms and conditions concerning the sale of the assets and properties of the company shall be governed by the directions of the Liquidator, NCLT, and in accordance with the provisions of applicable laws. As mandated by the NCLT, the Liquidator shall exercise all rights concerning the sale of the Assets and Properties and it would be open to the Liquidator to appoint such experts, professionals or other persons, as the Liquidator

might think necessary, in consultation with NCLT, to enable the sale of the assets.

- p) The Annexures to this EAPM shall form an integral part hereof and this e-Auction Process Information Document shall always be read in conjunction with the Annexures appended hereto.
- q) The title document relating to the assets shall be available on request to be made to the Liquidator at liq.duckbilldrugs@gmail.com
- r) This Document is neither transferable nor assignable.

3. Key Definitions

- a) **“Adjudicating Authority”** or **“NCLT”** shall mean the Hon’ble Kolkata Bench of the National Company Law Tribunal and appellant authority;
- b) **“Applicable Laws”** shall mean, all the applicable laws, codes, regulations, rules, guidelines, circulars, re-enactments, revisions, applications and adaptations thereto, judgments, decrees, injunctions, writs and orders of any court, arbitrator or governmental agency or authority, rules, regulations, orders and interpretations of any governmental authority, court or statutory or other body applicable for such transactions or for any activities occurring as a result of such transaction including but not limited to the IBC, Liquidation Regulations, Companies Act, 1956 / 2013 (as applicable), Competition Act, 2002, Transfer of Property Act, 1882, Sale of Goods Act, 1930, Foreign Exchange Management Act, 1999, whether in effect as of the date of this e-Auction Process Information Document or thereafter and each as amended from time to time;
- c) **“Asset”** shall mean the assets of the Corporate Debtor M/s Duckbill Drugs Private Ltd. (DDPL) as specified in this EAPM;
- d) **“Bid”** means, any bid submitted by the Bidders as required in terms of this e-Auction Process Information Document and in accordance with the provisions of IBC read together with the Liquidation Process Regulations and the Applicable Laws;
- e) **“CIRP”** shall mean Corporate Insolvency Resolution Process as per the Insolvency and Bankruptcy Code, 2016;
- f) **“Control”** shall mean a person holding more than 26% (twenty-six percent) of the voting share capital in a company or the ability to appoint the majority of the directors on the board of another company or the ability of a company to direct or cause the direction of the management and policies of another company, whether by operation of law or by contract or otherwise;
- g) **“E-Auction Process Participant”** or **“Bidder”** means, Person or Persons who submitted a bid as per the e-Auction Process Information Document; and shall include a Qualified Bidder or the Successful Bidder, as the case may be, and as the context requires;
- h) **“E-Auction Process Memorandum”** or **“EAPM”** or **“E-Auction Process Information Document”** means this document including all the appendices hereto, for the purposes of setting out the process for submission of a bid and selection of Successful Bid in accordance with the provisions of the IBC, provisions of the Liquidation Process Regulations and shall include all supplements, modifications, amendments, alterations

or clarifications thereto issued in accordance with the terms hereof. Any reference of “E-Auction Process Information Document” in this document shall construed to have the same meaning of “E-Auction Process Memorandum.”

- i) **“Eligible Bidder”** shall mean Bidder(s) who are eligible in terms of this EAPM, provisions of IBC and provisions of the Liquidation Process Regulations;
- j) **“EOI”** or **“Expression of Interest”** shall mean an intimation from the Bidder(s) to the Liquidator specifying their interest to be a part of the E-Auction process;
- k) **“IBC”** shall mean Insolvency and Bankruptcy Code, 2016 and the related rules and regulations and regulations issued thereunder, as amended from time to time;
- l) **“Liquidation Process Regulations”** means, the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016 as amended from time to time;
- m) **“Liquidator”** means an insolvency professional appointed as a liquidator in accordance with section 34 of the IBC;
- n) **“Person”** shall mean an individual, a partnership firm, an association, a corporation, a limited company, a trust, a body corporate, bank or financial institution or any other body, whether incorporated or not;
- o) **“Qualified Bidder(s)”** shall mean a Bidder who fulfills the eligibility criteria as listed in the EAPM and who furnishes Earnest Money Deposit in the manner stated in this EAPM;
- p) **“DDPL”** or **“The Company”** or **“Corporate Debtor”** M/s Duckbill Drugs Private Ltd. - In Liquidation acting through the Liquidator;
- q) **“Seller”** shall mean M/s Duckbill Drugs Private Ltd - In Liquidation acting through the Liquidator;
- r) **“Successful Bidder”** or **“Successful e-Auction Process Participant”** means the Qualified Bidder whose bid is approved and who is declared successful by the Liquidator;
- s) **“Schedule I”** refers to the Schedule I under the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016;
- t) **“transfer”** includes sale, purchase, exchange, mortgage, pledge, gift, loan, or any other form of transfer of right, title, possession or lien;
- u) **“transfer of property”** means transfer of any property and includes a transfer of any interest in the property and creation of any charge upon such property.

Capitalized terms used herein but not defined otherwise shall have meaning assigned to them under the provisions of the IBC and the rules and regulations framed thereunder.

4. Eligibility Criteria of a Prospective Bidder / Applicant

- a) Only those Bidder(s) who meet the eligibility criteria specified below may be considered / shortlisted by the Liquidator to participate in the E-Auction Process. Bidder(s) which do not meet the said eligibility criteria would be liable to be rejected by the Liquidator, without providing any reason or incurring any liability. The liquidator reserves the right to revise eligibility criteria at any time.
- b) The eligibility criteria have been determined by the Liquidator in consultation with the Stakeholder Consultation Committee (SCC) in the meeting held on 22.04.2022 in accordance with the Regulations 31A(1)(b); 32; and 32A(3) of IBBI (Liquidation Process) Regulations, 2016.
- c) **Criteria**
 - i) The applicant shall not be an insolvent Company / Individual/ Entity having a net-worth of INR 3 (three) Crores and is engaged in Pharmaceuticals Business.
 - ii) Applicant shall **not be a person ineligible** to be a Resolution Applicant in terms of the **IBC including Section 29A** of the IBC Code.
 - iii) Applicant shall **make payment of the Earnest Money Deposit (EMD)**, as specified hereunder, within the mentioned due date (i.e. 04.05.2022). Delay in the deposition of EMD may cause ineligibility at the option of the Liquidator.

5. Background Information

- a) In pursuance of the application filed under Section 7 of the Insolvency and Bankruptcy Code 2016 (hereinafter referred to as “the Code”) by a financial creditor Bell Finvest (India) Limited (hereinafter referred to as “BFIL”), against the Corporate Debtor M/s. Duckbill Drugs Pvt. Ltd., (hereinafter referred to as Corporate Debtor and/or Company), the Hon’ble National Company Law Tribunal, Kolkata was pleased to admit the insolvency application and initiate the Corporate Insolvency Resolution Process (CIRP) of M/s Duckbill Drugs Pvt. Ltd. (hereinafter referred to as “Corporate Debtor”) and appointed Mr. Bhupendra Singh Narayan Singh Rajput Interim Resolution Professional vide its Order dated 17.12.2019. Mr. Bhupendra Singh Narayan Singh Rajput continued to perform the duties of the Resolution Professional (RP).
- b) The Committee of Creditors (CoC), in its meeting held on 17.12. 2020 passed a resolution recommending for liquidation of Corporate Debtor with 100% voting share. Accordingly, an application was filed by RP before NCLT under Section 33(2) of the Code and an order dated 13.04.2021 was passed by Hon’ble NCLT, Kolkata for Liquidation of the Corporate Debtor and CA Santanu Braham was appointed to act as Liquidator of the company.
- c) The Liquidator was able to take possession of the factory premises along with the assets of the CD on 12.02.2022.
- d) The Hon’ble Tribunal, Kolkata vide its order dated 18.04.2022 excluded the liquidation period of 305 days (i.e. 13.04.2021 to 12.02.2022) thereby enabling the Liquidator to initiate ‘Sale of Corporate Debtor as a Going Concern,’ after consultation of Stakeholders Consultation Committee (SCC) on 22.04.2022, in terms of Regulations 32 and 32A(3) & 32(4) of the IBBI (Liquidation Process) Regulations, 2016.
- e) It is the endeavor of the Liquidator to sell the assets and properties comprising the liquidation estate of the Company in the manner specified under Regulation 32 of the Liquidation Process Regulations, any other rules, regulations, orders, circulars, directions or notifications or the like, issued pursuant to or under the IBC or the Liquidation Process Regulations, as the case may be, and as per directions, if any, of the NCLT in respect of the liquidation process of the Company and in the manner specified in this e-Auction Process Information Document.
- f) The e-Auction would be conducted in the manner specified in the Schedule I, as provided under Regulation 33 of the Liquidation Process Regulations, any other rules, regulations, orders, circulars, directions or notifications or the like, issued pursuant to or under the IBC or the Liquidation Process Regulations, as the case may be, and as per directions if

any, of the NCLT in respect of the liquidation process of the Company and in the manner specified in this EAPM.

- g) The E-Auction Participants are encouraged to make themselves acquainted with the provisions of the IBC and the Liquidation Process Regulations and any other rules, regulations, orders, circulars, directions or notifications or the like, issued pursuant to or under the IBC or the Liquidation Process Regulations, as the case may be.

6. Overview of the Corporate Debtor

- a) M/s. Duckbill Drugs Pvt. Ltd. was promoted by Mr. Swapan Mukherjee and Mr. Arjun Mukherjee during 1994 having CIN: U24232WB1994PTC063258. As per the data available on the MCA website, the company has a registered office located at D/660, Lake Gardens Kolkata - 700045, West Bengal. However, on verification the Liquidator observed that no such office of the Corporate Debtor presently exists at such address.
- b) The said company (i.e Duckbill Drugs Pvt. Ltd. or DDPL) is a private company limited by shares and is engaged in manufacturing and selling of pharmaceutical products.
- c) The Corporate Debtor or its business as a going concern is now proposed for E-Auction in terms of this document (i.e., EAPM).
- d) The Authorized Share Capital of DDPL is INR 1,00,00,000 and the paid-up capital is INR 87,00,200. As per MCA data, the Directors of the company were Mr. Swapan Mukherjee and Mr. Arjun Mukherjee.
- e) The factory premises of the Company is situated at Behala Industrial Estate, Building No. 1 & 2, 620 Diamond Harbour Road, Kolkata - 700034, West Bengal. The operations at the factory continued under the possession of the erstwhile management until January, 2022. The possession of the factory premises was provided to the Liquidator on 12.02.2022.
- f) The factory premises of the Corporate Debtor comprises of 4 (four) units which are on lease from West Bengal Small Industries Development Limited (WBSIDCL) (the Leasor). Out of the 4(four) units, the lease tenure for 3 (three) units have already expired and lease of 1 (one) unit is falling due for expiry soon. For further details on the matter, refer section named as 'Details of Assets comprising of Sale of CD as Going Concern.'
- g) The original copy of the Drug License bearing no. DL No. 811MB & 1589M of the CD is not in the possession of the Liquidator. However for a receipt issued by the Drug Control, Government of West Bengal it appears that the said licenses have already expired on 15.01.2022.
- h) From the information retrieved from the website of Controller General of Patents Design & Trade Marks, Department of Industrial Policy & Promotion, Ministry of Commerce & Industry, Government of India it transpires that there are 14 (fourteen) nos. Trademarks registered in the name of CD. The validity of such Trademarks can be verified from the website maintained by such authority. For further details on the matter, refer section named as 'Details of Assets comprising of Sale of CD as Going Concern.'

- i) From the Audited Balance Sheet and information retrieved from GST authorities, the turnover of the Corporate Debtor stands as follows -

Amount in Lacs

Particulars	FY 2021-22 (Unaudited)	FY 2020-21 (Unaudited)	FY 2019-20 (Audited)	FY 2018-19 (Audited)	FY 2017-18 (Audited)	FY 2016-17 (Audited)
Revenue from operation	622.87	705.54	623.83	633.41	638.43	506.71

- j) The 2 (Two) nos. Trade Union organizations associated with the CD are as follows -
- (i) Federation of Medical and Sales Representatives' Association of India (FMRAI) bearing Registration no. 4580 under Indian Trade Union Act in which 50 (fifty) nos. sales promotion employees /workmen of Duckbill Drugs Pvt. Ltd. are associated with;
- (ii) Duckbill Drugs Pvt. Ltd. Permanent Employees Union bearing Registration no. 26919 under Indian Trade Union Act in which 16 (sixteen) nos. employees / workmen are registered who worked in the factory of the Corporate Debtor.
- k) The Corporate Debtor is registered under the Employees' Provident Fund Organisation, India (EPFO). As per the Electronic Challan cum Return (ECR) for the month of Dec'21, there are 57 (fifty-seven) nos. employees. The information may be viewed at <https://unifiedportal-epfo.epfindia.gov.in/publicPortal/no-auth/misReport/home/loadEstSearchHome> after giving the name of the establishment as 'Duckbill Drugs.'
- l) The factory of the CD draws supply of electricity from CESC Limited. The details of such electric connection are - Consumer No. 85146004000; Consumer Type: Industrial; Customer ID: 85000020233. Presently the electricity have been disconnected. As per bill issued by CESC Ltd. bearing no. 8514600400002222 dtd. 05.03.2022, an total amount of INR 26,318.53 was due for payment within 05.03.2022.
- Also to mention in this context that, as the the mentioned bill, the CD has maintained a Security Deposit amount with CESC Ltd. to the tune of INR 1,21,288.00.

7. Details of Assets comprising of ‘Sale of CD as Going Concern’

- a) The assets of the Corporate Debtor (Duckbill Drugs Private Ltd- In Liquidation) is now offered for E-Auction. The assets of the corporate Debtor are proposed to be sold along with available licenses, permits, approvals and registrations to the extent they are transferable under the applicable law on “As is where is basis”, “As is what is basis”, “Whatever there is basis”, and “No recourse basis”.
- b) Asset Description, Reserve Price, EMD and Incremental Bid Amount:

Description of Assets	Reserve Price (INR)	EMD (10% of Reserve Price) (INR)	Bid Increase Amount (INR)
Corporate Debtor as a ‘Going Concern’ comprising of Leasehold Property Rights; Trademarks; Plant & Machinery; Laboratory & Office Equipments; Honda Motor Car (WB-02V-6363) and other assets, where-ever applicable and available and which are specifically <u>excluded</u> hereunder.	5,00,00,000 (Indian Rupees Five Crores Only)	50,00,000 (Indian Rupees Fifty Lacs Only)	5,00,000 (Indian Rupees Five Lacs Only)

The proposed E-Auction sale of assets of the CD does not entail transfer of any other title except the title which the Corporate Debtor had on its assets as on date of transfer.

(i) Leasehold Property:

- Property 1: Piece and parcel of the Building No. I, Ground Floor (North Part), Behala Industrial Estate, 620 Diamond Harbor Road, Kolkata 700034 measuring 2729 sq. ft., having lease tenure of 15 (fifteen) years from 07.11.2007 to 06.11.2022 (Lease Deed No. 10421/2008 dated 03.10.2008);
- Property 2: Piece and parcel of the Building No. II Gr. Flr (Southern Part) A, Behala Industrial Estate, 620 Diamond Harbor Road, Kolkata 700034 measuring 1383.90 sq. ft., having lease tenure of 15 (fifteen) years from 07.01.2005 to 06.01.2020 (Lease Deed No. 02056/2006 dated 15.02.2006);
- Property 3: Piece and parcel of the Building no. II (Southern Part) A, 1st Floor, Behala Industrial Estate, 620 Diamond Harbor Road, Kolkata 700034 measuring 3322 sq. ft., having lease tenure of 15 (fifteen) years from 07.01.2005 to 06.01.2020 (Lease Deed No. 02059/2006 dated 15.02.2006);
- Property 4: Piece and parcel of the Building No. II (Southern Part) 2nd Floor, Behala Industrial Estate, 620 Diamond Harbor Road, Kolkata 700034 measuring 1517 sq. ft., having lease tenure of 15 (fifteen) years from 07.01.2005 to 06.01.2020 (Lease Deed No. 02051/2006 dated 15.02.2006).

The abovementioned properties have been obtained under lease from West Bengal Small Industries Development Corporation Limited (WBSIDC). It transpires from the scrutiny of the Lease Deeds that three out of the four Lease Terms have already expired (since 06.01.2020) and one will be expiring on 06.11.2022. The Liquidator is also being informed that there have been instances of non-payment of lease rentals by the erstwhile management of the Corporate Debtor and there are pending litigations on the matter. In the background of such prevailing circumstances, the extendability of the renewal clause in the lease agreements is doubtful as the payment commitment of lease rentals has not been honored by the erstwhile management of the Corporate Debtor.

When the Liquidator approached WBSIDC on transferability / extendability of the lease tenure, WBSIDC responded via letter bearing reference SB1/0046/1/22-23 dtd. 06.04.2022 which is as under -

	<i>By Speed Post / Regd. Post</i>	Phones :	Chairman 2237-3046 Managing Director 2221-6390 Executive Director 2236-7241 Estate Manager 2225-2926 Executive Engineer 2225-7291 Infro Divn. & A/c.'s 2237-3895 Fax : 2234-6057
THE WEST BENGAL SMALL INDUSTRIES DEVELOPMENT CORPN. LTD. (A GOVERNMENT OF WEST BENGAL UNDERTAKING)			
CIN U74140WB19618GG02603,			Regd. Office : SILPA BHAVAN 31, Black Burn Lane, 2nd Floor Kolkata-700 012
No. <i>SB1/0046/1/22-23</i>			Date <i>06/04/2022</i>
To Sri Santanu Brahma The Liquidator AH-276, Salt Lake Sector - II, Kolkata - 700091			SPEED POST
Sub: M/s Duckbill Drugs Pvt. Ltd Ref: 1. Ground Floor (North Part), Building No.- I at Behala Industrial Estate / Park 2. Your mail dated 19.02.2022			
Sir,			
The WBSIDCL had allotted Ground Floor (North Part), Building No.- I in favour of M/s Duckbill Drugs Pvt. Ltd. on 15 years lease. Lease Deed was executed and registered on 15.02.2006 between WBSIDCL and M/s Duckbill Drugs Pvt. Ltd. for lease tenure of 15 years (07.01.2005 – 06.01.2020) at the monthly rent payable within 07 th day of each month.			
M/s Duckbill Drugs Pvt. Ltd. failed to pay the monthly rent resulting which the tenancy of the unit was terminated by the Prescribed Authority on 29.04.2014 under the West Bengal Government Premises (Tenancy Regulation) Act, 1976 on the ground of default in making payment of rent. Being aggrieved with the decision, M/s Duckbill Drugs Pvt. Ltd. had filed a Writ Petition before the Hon'ble Court against the order of eviction being WP No.- 28727(W) of 2014.			
M/s Duckbill Drugs Pvt. Ltd. was directed to go on paying the regular rent without any default along with arrears.			
The Legal Division of the WBSIDCL is of the opinion that the liquidator had no authority to take physical possession of the subject property on 20.02.2022 as the leasehold right was already expired on 06.01.2020 with the efflux of time. The unit never took any NOC from this corporation before taking any loan. Hence, there is no question to refund the security deposit as huge amount is due to this corporation and as per order of the Hon'ble High Court, the unit is to pay the amount of arrears month by month. There is no question of third party interest without evicting the existing unit. There is also no question of transfer of lease in favour of third party as the lease hold right already expired.			
This is for your information.			
Copy to: Legal Retainer, The WBSIDC Ltd.			With regards  Estate Manager
			Estate Manager

(ii) Trademarks

The Liquidator have identified 14 (fourteen) Trademarks from the website (<https://ipindiaonline.gov.in/>) of Controller General of Patents Design & Trade Marks, Department of Industrial Policy & Promotion, Ministry of Commerce & Industry, Government of India, which are registered in the name of the CD. The details of such trademarks registered in the name of M/s. Duckbill Drugs Pvt. Ltd. are as follows-

Sl. No.	Trade Mark No.	Class	Proprietor Name	Valid upto/ Renewed upto
1	1600905	5	RALIX	12.09.2017 (expired)
2	1588713	5	C R A L G E L	09.08.2017 (expired)
3	1104073	5	LAXITOSE	13.05.2022
4	1004330	5	HEALZYME	19.04.2031
5	1004328	5	LAXSURE	19.04.2021 (expired)
6	1004327	5	CALYFER-KIT	19.04.2021 (expired)
7	699957	5	P R O T O R I D F O R T E	28.02.2016 (expired)
8	478572	5	LAXIT	17.09.2028
9	977156	5	LAXIT LAXATIVE ORAL EMULSION	14.12.2030
10	2622565	5	Brofentol PLUS (LABEL)	01.11.2023
11	2636634	5	CYAPTIN (device of curved lines)	03.12.2023
12	2622566	5	Laxit PLUS (LABEL)	01.11.2023
13	1803930	5	CATALYD	08.04.2029
14	1810475	5	ANIRVANA	23.04.2019 (expired)

(iii) Plant & Machinery, Electrical Installations, Office Equipment

Major Machineries comprises of Bottle Washing Machine; Bottle Filling Machine; Bottle Sealing Machine; Bottle Labeling Machine; Bottle Packaging Machine (with Conveyor); SS Vat; Vat; Dryer Machine; Mixture Machine; Blender Machine; Multi Mill Machine; Tablet Punching Machine; Colour Coating Machine; Colour Spray Machine; Blistering Machine (1 Not in use); Air Compressor; Weighing Machine; DM Plant; Double Cone Mixture 200 LTS, Laboratory Apparatus; Electrical Panels and others.

(iv) Motor Vehicle

Registration No.: WB-02V-6363; Make / Model: Honda City; Year of Registration: 2006 (extended upto March, 2026); Number of Keys available: 1 (one) nos.; Insurance Policy valid upto 06.07.2022.

(v) Other Assets

Other assets comprise residual assets wherever applicable and available and which are **not specifically excluded** hereunder in this EAPM.

(vi) Supply of Electricity

The factory of the CD draws supply of electricity from CESC Limited. The details of such electric connection are - Consumer No. 85146004000; Consumer Type: Industrial; Customer ID: 85000020233. Presently the electricity have been disconnected. As per bill issued by CESC Ltd. bearing no. 8514600400002222 dtd. 05.03.2022, an total amount of INR 26,318.53 was due for payment within 05.03.2022.

Also to mention in this context that, as the the mentioned bill, the CD has maintained a Security Deposit amount with CESC Ltd. to the tune of INR 1,21,288.00.

Without prejudice, to the actual physical condition of the machines and its workability, the Liquidator attempts to provide a broad perspective to the prospective buyer / applicant in a bonafide manner. The Liquidator obtains no liability in respect of the above representation of the assets and strongly recommends the prospective buyer / applicant to apply their own due-diligence during the physical visit.

c) **ASSETS NOT FORMING PART OF THIS E-AUCTION AND ARE SPECIFICALLY "EXCLUDED" FROM THE LIST OF ASSETS PROPOSED TO BE SOLD**

- i) Cash in Hand and at Bank of the CD: Amount realized and deposited in the designated account of the Liquidation;
- ii) Assets, including Cash in Hand and/or at Bank, to be recovered under the direction / order of Hon'ble Tribunal and/or any Appellant Authority in course of PUFEE and/or avoidance transactions and/or non-compliance of provisions of IBC, 2016 read along with the regulation and / or any other statute;
- iii) Motor Vehicle bearing Maruti Wagon-R Car bearing registration no. WB-06J-0681 of 2011 which is presently not under the possession of the Liquidation as the same has been retained by the Promoters and ex-Directors on medical grounds. The Liquidator is in the process of seeking appropriate direction on the matter from the Hon'ble Tribunal.

Notes:

1. The Bidder cannot place a bid for the E-Auction at a value below the Reserve price.

2. The Bidder can bid provided that the required Earnest Money Deposit (EMD) specified has been deposited.
3. Further, the Bidders can increase their Bid by a minimum incremental amount as indicated in above table.
4. Cognizance should be taken of the fact that the Liquidator does not give any assurance or warranty of the physical condition of assets and their suitability for any sort of operation that the bidder envisages.

8. Documents required to be submitted

- a) The E-Auction Process Applicant(s) or the Bidder(s) would need to submit the following forms, documents, authorizations by the Bidder(s):
1. Ownership Structure and Composition of the E-Auction Applicant(s)/ Bidder(s), Proof of Identification, Current Address Proof, PAN card, Valid Email ID, Landline and Mobile Phone Number, Certificate of Incorporation in case of company/ LLP. The document submitted should be attested by the Bidder / Applicant.
 2. Authorization to the Signatory, in case the Bidder(s) is the legal entity. In case the bidder is a Company, the authorized signatory should be supported by a Board Resolution. In case of any other legal entity (i.e. Partnership Firm, AOP etc), the authorized signatory should be supported by a Stakeholder Resolution specifying the legal status of the entity with PAN and any other identification no.(if any) and signed by majority of the stakeholders of the entity.
 3. Self-attested copy of Trade License in the name of Applicant / prospective Bidder evidencing engagement in Pharmaceuticals business.
 4. Certificate from a Chartered Accountant certifying applicant's / prospective bidder's networth of INR 3 (three) Crores, in original.
 5. Self-attested copy evidencing proof of payment of the EMD amount.
 6. Affidavit and Undertaking by the E-Auction Process Applicant(s) (through Authorized Signatory in case the Bidder(s) is the legal entity). The format of Affidavit and Undertaking is attached herewith as "Annexure I."
 7. An Eligible Bidder(s) will need to submit the duly filled, signed, and stamped Bid Application Form attached vide "Annexure II" and duly filled, signed, and stamped.
 8. Stamped and signed Declaration by Bidder as attached vide "Annexure III."
 9. Confidentiality Agreement signed by the E-Auction Process Applicant(s) (through Authorized Signatory in case the Bidder(s) is the legal entity). The format of Confidentiality Agreement is attached vide "Annexure VI."
- b) The above documents (dully signed, stamped, notarized wherever applicable) are required to be scanned and emailed to Liquidator at liq.duckbilldrugs@gmail.com before 5:00 PM on 4th May 2022, Wednesday. The subject line of the email shall be - "E-AUCTION OF DUCKBILL DRUGS PVT. LTD. ON 09.05.2022 : BIDDER -<name of applicant / prospective bidder>....>"

- c) The **physical / hard copy of the documents** (as sent through email in the above manner) is required to be delivered in **sealed envelop before 5:00 PM on 5th May 2022, Thursday at AH 276 Salt Lake, Sector II, Kolkata 700091.**

Please note that the documents received in physical mode without receipt of the email, in the manner stated above, shall be rejected.

- d) Upon verification of the eligibility of the E-Auction Process Applicant(s), the eligible applicant shall be informed to proceed further with due diligence/ site visit/ physical verification as per the terms of the E-Auction Process Document.

Please note that only the Eligible bidders will gain access to documentation, additional information required for due diligence, after due submission of the bid form and declaration form.

- e) Interested Applicants can submit the eligibility documents immediately upon receipt of E-Auction Process Memorandum.
- f) Further, it should be noted that at any stage of the E-Auction process, the Liquidator may request the prospective Bidder(s) to submit additional documents to evaluate their eligibility. The bidders shall bring to the notice of the Liquidator about any ineligibility which they may discover during the process of this E-Auction.
- g) After verification of the eligible applicants, a pre bid meeting may be called by the Liquidator at its office to brief them about the corporate debtor. The applicants will be informed by email and they may attend or depute the officials with the authorized letters on scheduled time, date, and venue.

9. Timelines

a) Given below is the Timeline for the E-Auction Sale Process:

Sl. No.	Event	Timeline (Due Dates)
1.	Public Announcement of E-Auction	Saturday, 23 rd April 2022
2.	Opening of Auction Portal	Monday, 9 th May 2022
3.	Last date for submission of Documents including Bid Form, KYC, Eligibility criteria documents, EMD etc	Wednesday, 4 th May 2022 (through email) Submission of Physical copy sent through email to be delivered within 5:00 PM on 5 th May, 2022 at AH 276 Salt Lake, Sector II, Kolkata 700091.
4.	Physical Verification / Site Visit	5 th May 2022, Thursday to 8 th May 2022, Sunday <i>Provided the email requesting for such visit is made to the Liquidator before 6th May 2022, Friday</i>
5.	E-Auction Date and Time	Monday, 9th May 2022 from 02:00 PM to 05:00 PM (In case, a bid is placed in the last 5 minutes of the closing time of the E-auction, the closing time will automatically get extended for another 5 minutes).
6.	Announcement of Successful Bidder	Tuesday, 10th May 2022 Only Successful Bidder will be informed through email given in their Bid Form.
7.	Issuance of Email/Letter of Intent (LOI) to be issued to the Successful Bidder	Within 3 days (excluding Holidays if any) following the end of the E-Auction Date.
8.	Unconditional acceptance of LOI by the Successful Bidder	Within 2 days from the issuance of the LOI by the Liquidator.
9.	Payment of Sale consideration by Successful Bidder(s)	The Successful Bidder(s) shall deposit the entire sale consideration within 30 (thirty) days from the E-Auction Date; OR Within 90 (ninety) days from the E-Auction Date along with Interest @12% p.a. The sale shall be cancelled if full payment is not received within 90 (ninety) days along with interest, as may apply.
10.	Return of EMD for Unsuccessful Bidder(s) / Ineligible applicants	Within 7 days from the declaration of successful bidder

- b) The Liquidator reserves the right to amend the key terms of the EAPM including reserve price, earnest money deposit, bid increment amounts and timelines at his sole discretion, to the extent permissible under the applicable laws and regulations.
- c) Any information about amendments / extension of any of the timelines will be available on the E-Auction website and communicated to Eligible Bidder(s). If at any stage, during / after the process of Liquidation, for whatever reasons, any orders / instructions / guidance is passed by Hon'ble NCLT/ NCLAT to intervene the Liquidation process, the same shall be binding on all the bidders without having any claim of damages whatsoever.

10. Earnest Money Deposit

- a) All E-Auction Participant(s)/ bidder(s), along with or prior to the submission of their Bids, shall deposit Interest free Earnest Money Deposit (EMD), in full.

EARNEST MONEY INTEREST FREE DEPOSIT

Description of Assets	Earnest Money Deposit (EMD) (INR)
Corporate Debtor as a 'Going Concern' as described above	50,00,000 (Indian Rupees Fifty Lacs Only)

- b) No interest will be paid to the E-Auction Participant(s)/ bidder(s) in relation to the amount deposited as EMD.
- c) The Earnest Money Deposit must be paid in totality / full. Part payment of EMD shall be construed to be **non-payment of EMD.**
- d) The Earnest Money shall be paid by way of RTGS / NEFT / Bank Transfer in the bank account, as mentioned below by **05:00 PM on 4th May 2022, Wednesday.**
- e) Earnest Money may also be provided by the E-Auction Participant(s) by way of direct bank transfer (RTGS / NEFT) to the bank account specified below. In this regard, the following must be noted:

Name of the Company	:	Duckbill Drugs Pvt. Ltd. - In Liquidation
Bank Name	:	ICICI Bank
Branch Name	:	R N Mukherjee Road, Kolkata
IFSC Code	:	I C I C 0 0 0 0 0 6
Account Number	:	000605035656

- f) The details of any remittances in this regard shall be entered in the Bid Form submitted by the Bidder(s). The entire Earnest Money amount shall be remitted by the Bidder(s) from **bank account owned by the Bidder(s) and not from third party's account.**
- g) The refunds of Earnest Money Deposit, as applicable, shall be refunded only in the account of the bidder from where the money was remitted/ transferred.
- h) Bidder(s) shall preserve the remittance document and shall produce the same in front of the Liquidator as and when demanded.
- i) All payment made by the Bidder(s) under the e-auction shall be intimated to the Liquidator, along with proof of payment, at liq.duckbilldrugs@gmail.com .
- j) Receipt of Earnest Money Deposit(EMD) does not entitle the EMD Depositor to qualify as eligible bidder unless all the required documents are submitted to the Liquidator with

due timeline, as specified hereinabove and are found to be in order in terms of the procedure elaborated in this EAPM and comply with the provisions of the law.

k) **Forfeiture of Earnest Money Deposit from the E-Auction Applicant/ Bidder**

It is be noted that the Entire Amount paid by the bidder including the Earnest Money Deposit may be forfeited at any time, upon the occurrence of any of the following events:

- If any of the conditions under this Document are breached by the E-Auction Participant(s) or in case the E-Auction Participant(s) is / are found to have made any misrepresentation; or
- If the E-Auction Participant(s) is / are found to be ineligible to submit the bid under Section 29 and Section 35(1) (f) of the IBC (as amended from time to time) and have made false or misleading declaration relating to eligibility under Section 29A and Section 35(1)(f) of the IBC (as amended from time to time); or
- If the E-Auction Participant(s) is / are identified as the Successful Bidder(s) on the basis of 'highest bid' offer but fails / declines to issue the Lol within stipulated timeline;
- If the E-Auction Participant(s) is / are identified as the Successful Bidder(s) and it fails to pay balance sale consideration as per terms of the sale within stipulated timeline;
- If the E-Auction Participant(s) is found to have adopted any fraudulent or corrupt practices or is a party to any activities with malafide intention to jeopardize the E-Auction proceedings or act in such manner with vitiates the goal of IBC relating to 'value maximization' to the stakeholders.

The Liquidator urges all the E-Auction Participants to adopt fair practices during the course of this E-Auction process and act in true and fair manner. The Liquidator is determined to follow 'ZERO TOLERANCE' in case of occurrence of any of the events enumerated above.

- l) **Default by Successful Bidder and its Results:** In the event of the successful Bidder withdrawing his/ her E-Auction Application, the Liquidator shall have the right to encash and forfeit Earnest Money Deposited by the Successful Bidder.
- m) **Set Off of Earnest Money of the Successful Bidder:** The Earnest Money shall be allowed to be set-off against or used as part of the consideration that the successful bidder proposes to pay in the final payment only.

11. Physical Verification / Site Visit and Due Diligence

Physical Verification / Site Visit

- a) Eligible Bidder(s) may request (through email at liq.duckbilldrugs@gmail.com) the Liquidator to arrange for physical verification and site visit of the CD at Behala Industrial Estate, Building No. 1 & 2, 620 Diamond Harbour Road, Kolkata - 700034, West Bengal. Liquidator shall entertain email requests for physical verification made **on or before 6th May, 2022 Friday**. Requests made other than email shall not be entertained by Liquidator.
- b) Upon receipt of written request from Eligible Bidder(s), the Liquidator shall coordinate to facilitate the inspection / physical verification and site visit of the CD at the abovementioned address of the factory preferably during the period from 5th May 2022 to 8th May 2022. The costs, travelling arrangement etc. of making any such inspection/ physical verification/ site visit shall be borne made/ borne by the eligible bidder and Liquidator shall not be responsible for any such costs/ travelling arrangement etc.
- c) The Liquidator reserves the right to call for a discussion meeting, at his option, either physically or through video conference as per his convenience. Liquidator is not liable to entertain any individual preference / availability of the applicant / bidders regarding such discussion meeting.
- d) Each Eligible bidder may visit the site along with his team, comprising of not more 3 persons on such date and time as fixed / informed by the Liquidator. Applicant / prospective bidder shall provide prior intimation to the Liquidator about the persons accompanying the applicant / prospective bidder during such physical verification and site visit.
- e) Maximum number of visits permissible to each applicant / prospective bidder is 1 (one).
- f) The applicant / prospective bidder shall carry the print-out of the email from the Liquidator at the time of visiting the factory premises.

Due Diligence

- g) The Liquidator shall endeavor to provide necessary assistance for conduct of due diligence by eligible bidders, to the extent of information available with him. The information and documents shall be provided by the Liquidator in good faith and in confidential mode.
- h) Scan version of the necessary documents shall be provided by the Liquidator through

email upon request from the applicant / prospective bidder. Access to such information shall only be provided by the Liquidator upon signing of the Confidentiality Agreement and only for the eligible bidders who submit their documents and are found eligible as per the criteria mentioned in this document. **The Bidder(s) may note that the Liquidator does not guarantee the correctness of any of the information, data or documents shared and shall not be responsible or liable, whatsoever, in any circumstances, in respect of any statements or omissions contained in such document / data.**

- i) The intending bidders, prior to submitting their bid, should make their independent inquiries regarding the title of the property, zone of the land, dues of local taxes, electricity and water charges, development charges, maintenance charges, if any, and other applicable approvals / renewals etc. and inspect the property at their own expenses and satisfy themselves fully before making the bid.
- j) For any assistance in carrying out the due diligence, the Liquidator CA Santanu Brahma (+91-9830072700) (Email: liq.duckbilldrugs@gmail.com) may be contacted.

12. E-Auction Details

- a) E-Auction dates:
Monday, 9th May 2022 from 2.00 PM to 05.00 PM
In case, a bid is placed in the last 5 minutes of the closing time of the E-auction, the closing time will automatically get extended for another 5 minutes.
- b) Last date for submission of BID documents, Eligibility Documents and EMD:
- Before 5:00 PM of 04.05.2022, Wed : To be email at liq.duckbilldrugs@gmail.com
 - Before 5:00 PM of 05.05.2022, Wed : Submission of physical copy which has been emailed on 04.05.2022
- c) For any technical support in bidding process please contact Mr. Neeraj Gutgutia, Email: neeraj@right2vote.in, Ph. No.: +91 9920591306 with intimation to the Liquidator at liq.duckbilldrugs@gmail.com.
- d) Description of the Properties, Reserve Price and EMD etc.: Refer paragraph 7, above.
- e) The bids can be increased by the bidder in multiples of the 'Bid Increase Amount' as mentioned hereinabove or as given in the 'E-Auction Sale Notice' published in the newspaper.
- f) No complaint on the time factor for bidding or paucity of time for bidding will be entertained by the Liquidator.
- g) All prospective bidders / applicants are advised to:
- Comply with all the prevailing laws of land, regulations, and rules, as applicable for the purchase of property in India.
 - Inspect the Properties and satisfy themselves before taking part in the e-auction and submit the documents well in advance of the due dates.
 - Make their own independent inquiries regarding the encumbrances, the title of Property (ies) put on auction and claims/rights/dues, etc., in respect of the Property (ies), prior to submitting their EMD/ bid on the e-auction platform.
 - Carefully read the terms and conditions of sale before submitting their bids.
 - Make the bid and all communications in relation to or concerning the E-Auction Process Document and the bid, in the English language.
 - Bear all of their own costs associated with the preparation of their bids and their participation in the e-auction process.

13. Declaration of Successful Bidder

- a) The Liquidator shall determine and at his sole discretion (which discretion shall not be used arbitrarily), declare at the end of the E-Auction, the Successful Bidder(s) for asset(s). Determination of the Successful Bidder(s) shall be done on the basis of highest bid (not below the reserve price) received via the E-Auction, unless the Liquidator determines, (with reasons to be recorded) acting reasonably, that the highest bidder shall not be identified as the Successful Bidder.
- b) **Where the Earnest Money has been provided by means of a remittance to the designated bank account or by Demand Draft, such funds will be retained by the Liquidator as part payment of the consideration that the Successful Bidder has agreed to pay for his bid.**
- c) The Liquidator is not bound to accept the highest offer and has the absolute right to accept or reject any or all offer(s) or adjourn/ postpone/ cancel the e-Auction or withdraw any asset or portion thereof from the E-Auction proceedings at any stage without assigning any reason there for.
- d) **Return of Earnest Money Deposit of unsuccessful bidders** - The Earnest Money Deposit of unsuccessful bidders will be returned within 7 days from the date of declaration of the Successful Bidder by way demand draft or RTGS transfer of the unsuccessful bidders. Similarly, if the bid is cancelled for any reason which includes the event where the Bidder declines to bid, the EMD shall be refunded within 7 days from the close of the E-Auction date or date of declaration of the Successful Bidder, whichever is applicable. The EMD will be refunded to the same account from which the amount was received.
- e) **Issuance of Letter of Intent** - The Liquidator shall, as soon as reasonably possible following the end of the E-Auction, but not more than 3 days (excluding Holidays if any) from the end of E-Auction, issue to the Successful Bidder a Letter of Intent ("Lol"/ "Letter of Intent"), inviting the Successful Bidder to provide balance sale consideration (plus any applicable GST, if any, on 100% of the bid sum) within 90 (ninety) days of the date of issuance of the Lol. This Lol per se does not confirm sale in favor of the Successful Bidder. Confirmation of sale is subject to the fulfilment of terms and conditions of E-Auction Sale and approval of the Liquidator.
- f) The Successful Bidder shall, within a period of 2 (Two) days from the date of issuance of the Lol, unconditionally accept the Lol, and record such acceptance by providing the Liquidator with 1 (one) copy of the Lol with an endorsement stating that such Lol is,

- “Accepted Unconditionally”, under the signature of the Bidder or Authorized Director / Authorized Signatory of the Successful Bidder.
- g) **Failure to accept the Lol within the time period specified may result in the disqualification of the Successful Bidder along with cancellation of the Lol and forfeiture of the Earnest Money.**
- h) **Payment of Sale Consideration:** It is recommended that the Successful Bidder deposits the balance sale consideration within 30 (thirty) days. However, the Successful Bidder also have the option of depositing the balance sale consideration within 90 (ninety) days from the date of such demand, along with interest @12% p.a. In event where the Successful Bidder fails to deposit the balance sale consideration within 90 (ninety) days from the date of such demand, along with interest @12% p.a, the sale shall be cancelled and the EMD will be forfeited.
- i) **Completion of Sale:** On payment of the full amount of sale consideration and any applicable GST (if any), the sale shall stand completed, and the Liquidator shall execute ‘Certificate of sale’ or ‘Sale Deed’ and the proceeding for transfer of the corporate debtor shall be completed to the Successful Bidder. The ‘Certificate of Sale’ will be issued and /or transaction / sale documents will be executed in the name of the Successful Bidder only and will not be issued in any other name(s). It is expressly stipulated that there are no implied obligations on the part of the Liquidator to do all acts, things, and deeds whatsoever for the completion of the sale. Necessary and appropriate legal documentation on the matter in consultation with the Liquidator and/or his legal counsel needs to be facilitated by the Successful Bidder.
- j) Default in payment of the balance sale consideration and any applicable GST, if any, on 100% of the bid sum by the Successful Bidder will result in disqualification of the Successful Bidder including forfeiture of EMD. The bid option may be put to re-auction or sold to the next highest Qualified Bidder and the defaulting Successful Bidder shall have no claim/right in respect of such bid option.

14. Fraudulent and Corrupt Practices

The Liquidator reserves the right of considering all and every practice, whether mentioned hereunder or in any part of this EAPM, as 'Fraudulent and Corrupt Practices' if the same is found to carry any essence of malafide intention to jeopardize the E-Auction proceedings or to vitiate the goal of IBC relating to 'value maximization' to the stakeholders. The occasions / event / practices as mentioned hereunder are indicative and not exhaustive.

- a) The E-Auction Participant(s) shall observe the highest standard of ethics during the E-Auction Process and subsequently during the closure of the E-Auction Process and declaration of Successful Bidder(s). Notwithstanding anything to the contrary, contained in this Document, or in the Letter of Intent, the Liquidator shall reject an auction bid, revoke the Letter of Intent, as the case may be, without being liable in any manner whatsoever to the E-Auction Participant(s), if the Liquidator, at his discretion, determines that the E-Auction Participant(s) has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the E-Auction Process or has, undertaken any action in respect of such process which results in the breach of any Applicable Law including the Prevention of Corruption Act, 1988. In such an event, the Liquidator may invoke/ Forfeit the Earnest Money, without prejudice to any other right or remedy that may be available under this Document or Applicable Law.
- b) For the purposes of this Clause the following terms shall have the meaning hereinafter respectively assigned to them:
 - (i) **“Coercive practice”** shall mean impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person's participation or action in the auction Process;
 - (ii) **“Corrupt practice”** shall mean (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the auction Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Liquidator or the Company, who is or has been associated or dealt in any manner, directly or indirectly with the auction Process or arising there from, before or after the execution thereof, at any time prior to the expiry of 1 (one) year from the date such official resigns or retires from or otherwise ceases to be in the service of the Liquidator or the Company, shall be deemed to constitute influencing

the actions of a person connected with the auction Process); or (ii) engaging in any manner whatsoever, during the auction Process or thereafter, any person in respect of any matter relating to the Company, who at any time has been or is a legal, financial or technical adviser of the Liquidator or the Company, in relation to any matter concerning the auction process;

(iii) **“Fraudulent practice”** shall mean a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the auction Process;

(iv) **“Restrictive practice”** shall mean forming a cartel or arriving at any understanding or arrangement among the E-Auction Participant(s) with the objective of restricting or manipulating a full and fair competition in the auction Process; and

(v) **“Undesirable practice”** shall mean (i) establishing contact with any person connected with or employed or engaged by the liquidator with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the auction Process; or (ii) having a Conflict of Interest.

c) The Bidder(s) shall not involve himself or any of his representatives in price manipulation of any kind directly or indirectly by communicating with other Bidder(s). The Bidder(s) shall not divulge either his bid or any other details provided to him by the Liquidator or during the due diligence process in respect of the asset to any other party. Prior to conduct of due diligence / site visits, the Liquidator may require the Bidder(s) to execute confidentiality agreement with the Company/ Liquidator.

15. Cost, Expenses and Tax Implications

- a) The Auction Participant(s) shall be responsible for all the costs incurred by it on account of its participation in the E-Auction Process, including any costs associated with participation in the discussion Meeting (if any), Site Visit, due diligence etc. The Liquidator shall not be responsible in any way for such costs, regardless of the conduct or outcome of the E-Auction Process.
- b) For purpose of abundant clarity, it is hereby clarified that the E-Auction Participant(s) is / are expected to make its own arrangements including accommodation for the discussion Meeting (if organized) or Site Visit and all costs and expenses incurred in that relation shall be borne by the E-Auction Participant(s).
- c) All expenses incurred towards movement / shifting of equipment(s) or any asset of the Company post the E-Auction Sale Process should be borne by the Buyer. The Liquidator shall not be held responsible / liable to pay any expenses towards such movement of any of asset(s) of the corporate debtor.
- d) The E-Auction Participant(s) shall not be entitled to receive re-imburement of any expenses which may have been incurred on account of carrying out due diligence, search of title to the assets and matters incidental thereto or for any purpose in connection with the E-Auction Sale Process plan.
- e) The Successful Bidder shall bear all the necessary expenses like applicable stamp duties / additional stamp duty/ registration charges, transfer charges, sub-division charges, notified area charges, conversion charges, premium, fees, etc. for transfer of property(ies) in name of the Successful Bidder(s).
- f) The Successful Bidder shall bear the cess or other applicable tax i.e., GST, TDS etc. In event where provision of Income Laws applies in respect of Tax Deduction at Source (TDS) then the bid amount shall be considered as amount 'net of TDS' and in such circumstances the Successful Bidder needs to transfer whole of the Bid Amount and bear the incidence of TDS.
- g) The payment of all statutory / non-statutory dues, taxes, rates, assessments, charges, fees, etc. or in respect of the property(ies)/ asset(s) shall be the sole responsibility of the successful bidder.
- h) The E-Auction Participant(s) shall be responsible for fully satisfying the requirements of the IBC and related Regulations as well as all Applicable Laws that relevant for the sale process. The Buyer shall be responsible for obtaining requisite regulatory or statutory

or third-party approvals, no objections, permission, or consents, if any, that are or may be required under Applicable Law for acquiring the corporate debtor/ Asset(s).

16. Governing Law and Jurisdiction

This E-Auction Process Information Memorandum, the E-Auction Process, and the other documents pursuant to the E-Auction Process Information Memorandum shall be governed by the laws of India and any dispute arising out of or in relation to the E-Auction Process Information Memorandum or the E-Auction Process shall be subject to the exclusive jurisdiction of the Adjudicating Authority, Courts and Tribunals at Kolkata, West Bengal India.

17. Other Terms and Conditions of the E-Auction

The sale of the Properties mentioned in this E-Auction Information Process Memorandum and the Notice of Sale dated 23.04.2022 (“Notice of Sale”) published by the Liquidator pursuant to the appointment by Hon’ble NCLT, Kolkata shall be subject to the following terms and the conditions, in addition to that as may be specified hereinabove.

a) Nature and Object of the E-Auction

- The online e-auction sale is with the object of facilitating a free, fair and transparent sale of the Properties and for achieving the best possible recovery of assets of the Corporate Debtor.
- The sale of the Properties will be conducted in terms of and in compliance with the provisions, rules, regulations, and guidelines provided in the Insolvency & Bankruptcy Code and guidelines provided by IBBI.
- All conditions of sale of the Properties shall be governed by the directions of the National Company Law Tribunal and in accordance with applicable provisions of law.

b) Cautions to the Bidders

- The Properties are being sold strictly on an “**As is where is, what is there is and non-recourse**” basis.
- Bidders are advised to go through all the terms and conditions of sale given in this Document and in the Notice of Sale before participating in the online bidding/auction.
- The e-auction shall entitle the Successful Bidder to all the rights of the incumbentholder in respect of the Properties. Details of the Properties as stated in the Notice of Sale and under this Tender Document are as per the details available with the Liquidator and the Liquidator shall, in any way, be responsible for any variation in the extent of the Properties due to any reason.

c) Inspection of the Properties / Buyers Beware

- Bidders are requested to inspect the Properties including the area of the Properties and satisfy themselves regarding the area, physical nature, condition, extent etc., of the Properties prior to submission of their online bids. All costs incurred in connection with such inspection shall be borne by the Bidders. Further, the area of the Properties in the title deeds provided shall prevail over what has been

presented in the Notice of Sale or this Tender Document and the same must be inspected and verified by the Bidders before participating in the e-auction.

- Bidders are advised / cautioned to verify with the sub-registrar's office as well as obtain and analyze the revenue records with respect to the Properties and to satisfy themselves regarding the existence, title, nature, description, condition, existing encumbrances, liens, charges, statutory dues, etc., over the Properties before submitting their bids.
- The Liquidator shall not be responsible for rendering any assistance to the Bidder in connection with its independent inspection of the Properties.
- Bidders are bound by the principle of caveat emptor (Buyer Beware).
- Bidders are requested to submit their bids only after conducting their own independent due diligence exercise with respect to the title to the Properties.

d) Online Bidding

- Bidding will be through the Online Platform - www.right2vote.in .
- Bidders are cautioned to be careful while entering their bid amount.
- The Liquidator shall not have any liability towards Bidders for any interruption or delay in access to the Platform irrespective of the cause, issues relating to the Platform, failure of internet connection, server problems, etc.
- Any dispute arising out of the e-auction sale of the Properties shall be decided by the Liquidator, whose decision shall be final and binding.

e) Stay / Cancellation of the E-Auction

- In case of a stay of further proceedings by the Competent Authority, the e-auction may either be deferred or canceled and persons participating in the sale shall have no right to claim damages, compensation or cost for such postponement or cancellation.
- The Liquidator shall also have the right to postpone / cancel the sale of the Properties, for reasons to be recorded in the proceedings. In case of adjournment of sale for any reason, no fresh notice of sale will be given. However, the new date of sale will be informed through e-mail along with future course of action.

f) Delivery of Title Deeds

- The Successful Bidder, on receipt of sale certificate, shall contact the Liquidator for delivery of title deeds and other documents related to the assets sold through e-auction as available with the Liquidator.

- The Liquidator shall ensure that title deeds and other documents are handed over to the Successful Bidder subject post-issuance of the sale certificate in accordance with the Order and the Subsequent Orders.

g) Delivery of possession

- Delivery of possession of the assets sold shall be facilitated by the Liquidator immediately after confirmation of receipt of the full amount of the sale consideration or as per the directions of the authorities, Codes, Rules, Regulation, as may be applicable.
- After the Liquidator hands over of the possession of the assets all cost relating to the assets are to be borne by the Successful Bidder.
- After obtaining the sale certificate, the Successful Bidder must perform all necessary activities to record the sale as per the law of the land at his own cost within a period of 30 (thirty) days from the date of handing over the possession.
- All expenses and incidental charges thereto shall be borne by the Successful Bidder.

h) Verification of information by the Bidders

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

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

i) Verification by Liquidator and Disqualification of the Bidders

- The Liquidator reserves the right to verify (in accordance with the provisions of this EAPM) all statements, information and documents submitted by the Bidder in response to the EAPM and the Bidder shall, when so required by the Liquidator,

make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification by the Liquidator shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Liquidator thereunder.

- Without prejudice to any other right or remedy that may be available to the Liquidator under this Document, the Liquidator reserves the right to disqualify the Bidder, cancel the sale and to appropriate the entire EMD and other amounts paid, if:
 - (i) at any time, misrepresentation on part of the Bidder is made or uncovered; or
 - (ii) the Bidder does not provide, within the time specified by the Liquidator, the supplemental information/ documentation sought by the Liquidator, or
 - (iii) any act or omission of the Bidder results in violation of or non-compliance with the EAPM and/ or any other document referred herein or issued pursuant thereto or any applicable law relevant for the e-auction process.
- Any person who participated in E-Auction, if found disqualified u/s 29A of Insolvency & Bankruptcy Code, 2016, or regulation thereunder, EMD of such disqualified bidder shall be forfeited.

<<to be executed on INR 100 stamp paper and notarized>>

ANNEXURE - I

**AFFIDAVIT AND UNDERTAKING CONFIRMING ELIGIBILITY UNDER
SECTION 29A AND SECTION 35(1) (f) OF IBC, 2016**

Date: _____

CA Santanu Brahma

Liquidator of M/s. Duckbill Drugs Pvt. Ltd. - In Liquidation

IBBI Reg. No: IBBI/IPA-001/IP-P01482/2018-19/12251

AH - 276, Salt Lake, Sector-II, Kolkata - 700091

Sub: Affidavit and Undertaking by <name of signatory> on the eligibility of <name of bidder> under Section 29A and section 35(1)(f) of the Insolvency and Bankruptcy Code 2016.

Dear Sir,

I, [Insert name of the authorized person of the Bidder Applicant], son of/ daughter of [●], aged about [●] years, currently residing at [Address to be inserted] and having Aadhaar / Passport number [●], an authorized officer of [name of the BIDDER Applicant] having registered office at [_____] (“BIDDER Applicant”), a term which also includes any person acting jointly with the BIDDER Applicant, on behalf of the BIDDER Applicant, do solemnly affirm and state to Mr. Santanu Brahma, the Liquidator of M/s. Duckbill Drugs Pvt. Ltd. - In Liquidation (“Company/ Corporate Debtor”) as follows:

1. That the BIDDER Applicant or any person acting jointly with the BIDDER Applicant or in concert with BIDDER Applicant or any person who is a ‘connected person’ (as defined under the Insolvency and Bankruptcy Code, 2016 (“Code”),
 - a) Is eligible to be a resolution applicant as per its meaning under the Code;
 - b) Is not an un-discharged insolvent;
 - c) Is not a willful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 (10 of 1949);

- d) at the time of submission of the BID, doesn't have an account, or an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, classified as non-performing asset in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act 1949 (10 of 1949) or the guidelines of a financial sector regulator issued under any other law for the time being in force and at least a period of one year has lapsed from the date of such classification till the date of commencement of the liquidation process of the corporate debtor:

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

Provided further that nothing in this clause shall apply to BIDDER Applicant where such applicant is a financial entity and is not a related party to the corporate debtor.

Explanation I. - For the purposes of this proviso, the expression "related party" shall not include a financial entity, regulated by a financial sector regulator, if it is a financial creditor of the corporate debtor and is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares, prior to the insolvency commencement date.

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

- e) Has not been convicted for any offence punishable with imprisonment
- (i) for two years or more under any Act specified under the Twelfth Schedule; or
 - (ii) for seven years or more under any law for the time being in force

Provided that this clause shall not apply to a person after the expiry of a period of two years from the date of his release from imprisonment. Provided further that this clause shall not apply in relation to a connected person referred to in clause (iii) of Explanation I;

- f) Is not disqualified to act as a director under the Companies Act, 2013 (18 of 2013):
Provided that this clause shall not apply in relation to a connected person referred to in clause (iii) of Explanation I;
- g) Is not prohibited by the Securities and Exchange Board of India from trading in securities or accessing the securities markets;
- h) Has not been a promoter or in the management control of a corporate debtor in which a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been made by the Adjudicating Authority under this Code; Provided that this clause shall not apply if a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place prior to the acquisition of the corporate debtor by the resolution applicant pursuant to a resolution plan approved under this Code or pursuant to a scheme or plan approved by a financial sector regulator or a court, and such E-Auction Sale Process Applicant has not otherwise contributed to the preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction;
- i) Has not executed a guarantee in favor of a creditor in respect of a corporate debtor against which an application for insolvency resolution made by such creditor has been admitted under this Code and such guarantee has been invoked by the creditor and remains unpaid in full or part;
- j) subject to any disability, corresponding to clauses (a) to (h), under any law in a jurisdiction outside India; or
- k) does not have a connected person not eligible under clauses (a) to (i)

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

- I. Any person who is the promoter or in the management or control of the E-Auction Sale Process applicant; or
- II. Any person who shall be the promoter or in management or control of the assets of the Company pursuant to sale thereof as part of the liquidation process of the Company; or
- III. The holding company, subsidiary company, associate company, or related party of a person referred to in clauses (i) and (ii)

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

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

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

—

- (a) a scheduled bank;
- (b) any entity regulated by a foreign central bank or a securities market regulator or other financial sector regulator of a jurisdiction outside India which jurisdiction is compliant with the Financial Action Task Force Standards and is a signatory to the International Organization of Securities Commissions Multilateral Memorandum of Understanding;
- (c) any investment vehicle, registered foreign institutional investor, registered foreign portfolio investor or a foreign venture capital investor, where the terms shall have the meaning assigned to the min regulation 2 of the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 made under the Foreign Exchange Management Act, 1999 (42 of 1999);
- (d) an asset reconstruction company register with the Reserve Bank of India under section 3 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);
- (e) an Alternate Investment Fund registered with Securities and Exchange Board of India;
- (f) such categories of persons as may be notified by the Central Government.”

2. That the BIDDER 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.

3. That in the event any of the above statements are found to be untrue, incomplete, or incorrect, then the BIDDER Applicant unconditionally agrees to indemnify and hold harmless the Liquidator against any losses, claims or damages incurred by the Liquidator on account of such ineligibility of the BIDDER Applicant.
4. That the list of the connected persons of the BIDDER Applicant set out in hereto is exhaustive and complete in all respects and the names of all the connected persons of the BIDDER Applicant have been set out thereunder without any omission whatsoever;
5. I declare and undertake that in case [name of BIDDER Applicant or the person acting jointly with it or any of the connected person(s)] becomes ineligible at any stage during the Liquidation Process it would inform the Liquidator forthwith on becoming ineligible;
6. I also undertake that in case the undersigned BIDDER Applicant or the person acting jointly with it or any of the connected person(s) becomes ineligible at any time during the auction/bid process for sale of assets of the Company including after submission of Earnest Money Deposit (“EMD”) towards bid, then the EMD would be forfeited and the same would be deposited in the account of **Duckbill Drugs Pvt. Ltd. - in Liquidation**;
7. I also further confirm and undertake that my bid Amount will remain binding unless rejected by the Liquidator;
8. I also confirm that I shall not withdraw from the bidding process (either before or after allocation of login and password to submit BID on portal) after depositing the required eligibility documents and deposit of EMD for the proposed bid or does not bid in the E-Auction portal and in case, I do so, I confirm and undertake that my EMD deposited in this connection is liable to be forfeited.
9. I Shall submit my bid from the Login and PW to be provided by the Liquidator or E Auction Facilitator and in case I do not bid, my EMD shall be liable for forfeiture without any further recourse.
10. I confirm to abide by the terms and conditions of the Bid, as described in the Bid Document, more particularly for the forfeiture clause of the EMD.
11. I confirm that the said declaration and disclosure is true and correct, and I agree to compensate the Liquidator for any cost incurred in relation to ascertaining the veracity of this declaration.

12. I am duly authorized to submit this declaration by virtue of <reference of the document which is authorizing the person to sign this document>. The said document is true, valid, and genuine to the best of my knowledge, information, and belief.

(DEPONENT)

VERIFICATION

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

(DEPONENT)

<<all pages on letter head of the Bidder>>

to be signed on all pages

ANNEXURE - II
BID APPLICATION FORM

Kolkata, the <date>

CA Santanu Brahma

Liquidator of M/s. Duckbill Drugs Pvt. Ltd. - In Liquidation

IBBI Reg. No: IBBI/IPA-001/IP-P01482/2018-19/12251

AH - 276, Salt Lake, Sector-II, Kolkata - 700091

Dear Sir,

I am desirous in participating in the E-Auction of Corporate Debtor (Duckbill Drugs Pvt. Ltd. - In Liquidation) relating to 'Sale of the CD as a Going Concern' forming part of Liquidation Estate formed by the Liquidator, appointed by the Hon'ble National Company Law Tribunal, Kolkata Bench vide order dated 13th April 2021.

Details of Corporate Debtor:

Name	Duckbill Drugs Private Limited - in Liquidation
Account Number	000605035656
Bank Name	ICICI Bank
Branch	R N Mukherjee Road, Kolkata
IFSC Code	ICIC0000006

Details of Bidder(s)

Name of the Bidder	
Constitution of Bidder	
Contact No. (Mobile & landline)	
Email ID	
PAN No	

Details of Asset: Assets as mentioned in the E-Auction Process Memorandum (EAPM)

Sl. No.	Name of Location	Required Amount (INR) of Earnest Money	Amount (INR) deposited as Earnest Money
1	Corporate Debtor or it's business as a whole & Going Concern	50,00,000	

I/ We/ M/s. _____ also enclose copies of the required KYC documents. We request you to kindly verify the same and arrange with the auction portals for the issue of an ID and password for us to enable us to take part in the E-Auction.

For & On behalf of the
<name of the bidder>

Signature

Name of the Signatory:

Designation:

Name of the

(Seal in case of company / firm)

Terms and Conditions of the E-auction are as under:

In addition to the E-Auction Process Information Memorandum, the following terms and conditions apply:

1. E-Auction will be conducted on “As is where is basis”, “As is what is basis”, “Whatever there is basis”, and “No recourse basis” through approved service provider M/s Right2 Vote Infotech Private Limited. The complete E-Auction Process Memorandum Document containing Terms and Conditions of E-Auction, E-Auction Bid form, Eligibility Criteria, Declaration by Bidders, Description of Assets etc. are available on the website <https://right2vote.in> Contact: Mr. Neeraj Gutgutia, Email: neeraj@right2vote.in, Ph. No.: +91 9920591306. Interested bidders will have to search for the mentioned company using the Company’s name (Duckbill Drugs Private Limited - In Liquidation).
2. The intending bidders are required to deposit Earnest Money Deposit (EMD) amount by Friday, 29th April 2022 through Demand Draft/ NEFT/ RTGS in the Account of “Duckbill Drugs Private Limited - In Liquidation”, Account No. 000605035656, ICICI Bank, Branch: R. N. Mukherjee Road, Kolkata, IFSC Code: ICIC0000006, drawn on any Scheduled Bank. Payment of EMD by Bank DD is required to be deposited by Wednesday, 4th May 2022.

3. The Name of the intending Bidders eligible to participate in E-auction on the portal (<https://right2vote.in>) shall be identified by the Liquidator and the E-auction service provider will provide User ID and password by email to eligible bidders prior to the bidding. In case, they do not receive it, they may contact the liquidator by sending an email promptly.
4. The EMD (Interest-Free) of the Successful Bidder shall be allowed to be set off against or used as part of the sale consideration in the final payment only and the EMD of unsuccessful bidders shall be refunded within 10 (ten) days.
5. In case the bid is cancelled, the earnest deposit of the bidder shall be refunded.
6. The Successful Bidder shall bear the applicable stamp duties/transfer charge, fees, etc. and all the statutory / non- statutory dues, taxes, rates, assessment charges, fees etc. in respect of the property put on auction. The sale certificate/agreement will be issued in the name of the successful bidder only and will not be issued in any other name.
7. The Eligible Bidders, participating in the E-Auction, will have to bid for at least the Reserve Price, and increase their bid by a minimum incremental amount as mentioned in the table above.
8. The Liquidator has the absolute right to accept or reject any or all offer(s) or adjourn/postpone/cancel the E-Auction or withdraw any property or portion thereof from the auction proceeding at any stage without assigning any reason thereof.
9. The sale shall be subject to provisions of Insolvency and Bankruptcy Code, 2016 and Regulations made thereunder and any order, directions passed by Hon'ble NCLT/NCLAT.
10. E-auction date & Time: Monday, 9th May 2022. It will commence at 02.00 PM as per the details mentioned in the EAPM.
11. The Bidders should make their own independent inquiries regarding the encumbrances, title of assets put on auction and claims/ rights/ dues/ affecting the assets and should conduct their own prior to submitting their bid. The E-Auction advertisement does not constitute and will not be deemed to constitute any commitment or any representation of the Liquidator. The details of Assets owned by the corporate debtor under sale is being sold with all the existing and future encumbrances/ claims/ dues/ demands whether known or unknown to the Liquidator. The Liquidator shall not be responsible in any of way for any third-party claims/ rights/dues.

12. It should be the responsibility of the interested bidders to inspect and satisfy themselves about the property before submission of the bid.
13. The Liquidator has the right to demand documents from the bidder for the process and in case the documents are not provided, the liquidator may disqualify the bid.
14. The e-Auction/ bidding of would be conducted exactly on the scheduled Date & Time as mentioned by way of inter-se bidding amongst the bidders. The bidder may improve their offer in multiple of the amount mentioned under the column "Bid Increment Amount" against the bid. In case bid is placed in the last 5 minutes of the closing time of the e-auction, the closing time will automatically get extended for 5 minutes.
15. The decision of the Liquidator on the declaration of successful bidder shall be final and binding on all the Bidders.

For & On behalf of the

<name of the bidder>

Signature

Name of the Signatory:

Designation:

Email:

Mobile:

(Seal in case of company / firm)

Date:

Place:

<<all pages on letter head of the Bidder>>

to be signed on all pages

ANNEXURE - III
DECLARATION BY BIDDERS(S)

Kolkata, the <date>

To,

CA Santanu Brahma

Liquidator of M/s. Duckbill Drugs Pvt. Ltd. - In Liquidation

IBBI Reg. No: IBBI/IPA-001/IP-P01482/2018-19/12251

AH - 276, Salt Lake, Sector-II, Kolkata - 700091

Dear Sir,

1. I / We do hereby state that I/ We have read the entire terms and conditions governing the auction of Assets of Duckbill Drugs Private Limited (In Liquidation), as specified in the E-Auction Process Memorandum dated 23rd April 2022 and have understood them fully. I/We hereby unconditionally agree to confirm with and to be bound by the said terms and conditions and agree to take part in the e-auction process.
2. I / We declare that the Earnest Money and the deposit towards the purchase price have been made by me/ us as against my/ our bid and that the particulars of remittance and all other information given by me/us in the online form is true and correct.
3. I / We further understand and agree that if any of the statement / information revealed by me / us is found to be incorrect and / or untrue, the bid submitted by me/ us is liable to be cancelled and in such case, the Earnest Money and / or any monies paid by me/ us is liable to be forfeited by the Seller and that the Seller will be at liberty to annul the offer made to me/us at any point of time.
4. I / We also agree that after my/ our offer given in my/ our bid for the assets of the Corporate Debtor as a whole and on a going concern basis (comprising all assets) is accepted by the Seller and if, I / We, fail to accept or act upon the terms and conditions of the sale or am/are not able to complete the transaction within the time limit specified for any reason whatsoever and/or fail to fulfill any/all the terms and conditions of the auction and

offer letter, the Earnest Money and other monies paid by me/us along with the online form and thereafter, are liable to be forfeited. The timeline for payment of final sale consideration may be extended by the sole discretion of the Liquidator, to the extent permissible under the applicable laws and regulations. In case final sale consideration is not paid within the stipulated timeline, the liquidator shall forfeit Earnest Money.

5. I / We understand that the Earnest Money of all Bidders shall be retained by the Liquidator and returned only after the conclusion of the auction process as per the timelines mentioned. I / We, state that I / We have fully understood the terms and conditions therein and agree to be bound by the same.
6. I / We confirm that our participation in the e-auction process, submission of bid or acquisition of the company/ Assets pursuant to the provisions of the E-Auction Process Information Document will not conflict with, or result in a breach of, or constitute a default under (i) our constitutional documents; or (ii) any applicable laws; or (iii) any authorization or approval of any government agency or body; or (iv) any judgment, order, injunction, decree, or ruling of any court or governmental authority, domestic or foreign binding on me/ us; or (v) any agreement to which I am / we are a party or by which I am / We are bound.
7. The decision was taken by the Liquidator with respect to the selection of the Successful Bidder and communicated to us shall be binding on me / us.
8. I / We also undertake to abide by the additional conditions if announced during the e-auction including any announcement (s) on correction of and/ or additions or deletions to the time of auction portal and Assets being offered for sale.
9. I / We confirm that the Seller and/or his professional advisors, affiliates, directors, employees, agents, representatives, or managers of the process, shall not be liable and responsible in any manner whatsoever for my/our failure to access and bid on the e-auction portal due to any unforeseen circumstances etc. before or during the auction event.
10. I / We hereby confirm that I/we are eligible to purchase the assets of the Company under Section 29A and Section 35(1) (f) of the Insolvency and Bankruptcy Code, 2016 (as amended from time to time).
11. I / We hereby confirm that I/we, directly or through any of my/our associate entities or relatives, do not have any outstanding payable to the Corporate Debtor. In case if any outstanding debt is proven to be payable to the Corporate Debtor by virtue of previous

business relationship, then I/we unconditionally confirm and undertake to repay such dues / outstanding over and above the bid amount offer by me/us.

For & On behalf of the

<name of the bidder>

Signature

Name of the Signatory:

Designation:

Email:

Mobile:

(Seal in case of company / firm)

Date:

Place:

<<all pages on letter head of the Bidder>>

to be signed on all pages

ANNEXURE - IV

TECHNICAL TERMS & CONDITIONS OF THE E-AUCTION SALE PROCESS

1. Intending bidders shall have a valid e-mail ID, valid PAN Card and KYC document to register with the E-Auction Service Provider.
2. Intending bidders must register with the e-auction service provider.
3. Only upon verification of the Online Form and confirmation of remittance of Earnest Money will the Eligible Bidders be declared and thereafter, permitted to access the Platform for bidding for a particular Property/Asset.
4. The Bidder shall be solely responsible for all consequences arising out of the bid submitted by him (including any wrongful bidding) and no complaint/ representation will be entertained in this regard by the Agency/ the Seller. Hence, Bidders are cautioned to be careful to check the bid amount and alter/ rectify their bid if required before confirming the bid submitted.
5. Bidders should not disclose their User ID as well as password and other material information relating to the bidding to anyone to safeguard its secrecy.
6. Bidders are advised to change the password immediately on receipt thereof.
7. The Affidavit and declaration as per the format set out in Annexure I and Annexure III must be executed in accordance with applicable law and it must be issued in accordance with the constitutional documents of the Bidder, if applicable, after obtaining all corporate approvals as may be required. The extract of constitutional documents and certified copies of the corporate approvals must be enclosed with the declaration. In case of Bidder being an individual, the declaration must be personally signed by the Bidder. In case the Bidder is not an individual, the declaration must be signed by a who is duly authorized to sign the same.
8. All the aforementioned documents are required to be uploaded on the portal and the original physical copies thereof shall be provided by the Successful Bidder to the Seller in accordance with the E-Auction Process Information Document.
9. All bids placed are legally valid bids and are to be considered as bids from the Bidder himself. Once the bid is placed, the Bidder cannot reduce or withdraw the bid for whatever

reason. If done so, the Earnest Money amount shall be forfeited.

10. The highest bid on the auction shall supersede all the previous bids of the respective Bidders. The Bidder with the highest offer/ bid does not get any right to demand for acceptance of his bid.
11. After the conclusion of the e-auction for each Asset, the Successful Bidder shall be informed through a message generated automatically by the portal, of the outcome of the E-Auction. A separate Intimation shall also be sent to the Successful Bidder. The date of sending the e-mail will be considered as the date of receipt of the Intimation i.e., Date of Intimation.
12. Bidders may encounter certain unforeseen problems such as time lag, heavy traffic, and system / power failure at the Bidder's end. To avoid losing out on bidding because of the above-mentioned reasons, it is advised not to wait for the last moment.
13. The conditions of Forfeiture of EMD as defined in the E-Auction Process Information Document shall apply to all the bidders.

INSTRUCTIONS FOR E-AUCTION:

- i. **START AND END TIME:** The eAuction period will begin on **Monday, 9th day of May, 2022 (2:00 PM IST)** and ends on **Monday, 9th day of May, 2022 (5:00 PM IST)**. It would be auto-extended by 5 minutes each time bid is received in last five minutes without any limit.

During this period, the bidders are being provided the platform to bid electronically. The e-auction module shall be disabled by Right2Vote for bidding thereafter.
- ii. **WEBSITE LINK:** The participating bidders should log on to the e-auction website **<https://right2vote.in/login/>** during the auction period.
- iii. **USER ID:** Enter your Email ID. **Your Email ID is your user ID.** Kindly ensure you use the same Email ID as notified to the IRP for eAuction.

You will also receive an INVITE email from Right2Vote on this email ID and the mail will have the link, user ID and other details mentioned. Do not try to log in with mobile number if you have received the invite on the email.
- iv. **PASSWORD:** Press GET OTP. OTP (One Time Password) would be **delivered on your Email.** The OTP is the password. Once you enter the OTP and press Sign In, you would be logged in.

- v. **eAUCTION PAGE:** Once logged in, you would be directed to MY POLL INVITE page. Here you would see the eAuction from ‘Duckbill Drugs Pvt. Ltd.’ listed. Click on the poll and you would be taken to Auction page.
- vi. **BIDDING:** On the Auction page, you will see the details of the item under auction. You will also see a box where you have to enter the bid amount.

Enter only numerical value in the box. Base value / previous highest bid value would be mentioned on the screen. Also, minimum acceptable increment would be mentioned on the screen. In case you bid lower than the previous bid, your bid would be rejected.
- vii. **CONFIRMATION:** After selecting the option, click on “SUBMIT”. You would be asked to reconfirm. Recheck and confirm. Once you confirm, you would receive a “THANK YOU” message on the screen. This is a confirmation that your bid has been recorded.
- viii. **MOBILE APP:** Apart from the website, bidders can also bid using Right2Vote’s mobile app: ‘Right2Vote’, available for android mobiles. (App link: <https://play.google.com/store/apps/details?id=com.right2vote.app&hl=en>)
- ix. **CONTACT US:** In case you have any queries or issues regarding eAuction, write an email to contact@Right2vote.in

I hereby confirm that I have read and understood the “TECHNICAL TERMS & CONDITIONS OF THE E-AUCTION SALE PROCESS” as stated above including the Instruction for E-Auction. I am intending to participate in this E-Auction after acquiring thorough technical knowledge about the process. I shall not hold the Liquidator responsible for any technical glitches faced by me during the E-Auction Process.

For & On behalf of the
 <name of the bidder>

Signed & Stamped
Name of the Signatory:
Designation:
Email:
Mobile:

Date:
Place:

ANNEXURE - V
LETTER OF INTENT

To,

[name to be inserted]

[address to be inserted]

Attn. [_____]

Re: E-Auction sale of Corporate Debtor, M/s. Duckbill Drugs Private Limited or its business as a whole and as a going concern, conducted on, “as is where is”, “as is what is”, “whatever there is” and “no recourse” basis.

Dear Sir/ Ma’am,

1. With reference to the above, a successful bid was submitted by yourself _____ (“Successful Bidder”) in relation to the E-Auction sale of **Duckbill Drugs Private Limited (In Liquidation)** (“Company”) or its business as a going concern auctioned on _____.
2. You are requested to confirm your acceptance of this Letter of Intent (Lol) within 2 (two) days of the date of issuance hereof with an endorsement stating that this Lol is, “Accepted Unconditionally”, under the signature of the authorized director / authorized signatory. Within 90 (ninety) days from the date of issuance of this Lol, you shall pay an aggregate amount of INR _____ as the sale consideration towards the purchase of assets (“Sale Consideration”) plus applicable GST on 100% of the Sale Consideration, demand as set out herein. Provided that the payments after 30 (thirty) days shall attract interest at the rate of 12% p.a. Please note that, failure to accept this Lol within the time period specified may result in your disqualification as the Successful Bidder along with the cancellation of this Lol and forfeiture of the Earnest Money deposited, in relation to the captioned transaction issued by the Liquidator (“E-Auction Process Information Document”).
3. The Liquidator agrees that simultaneously upon full payment of Sale Consideration and the applicable GST, the Liquidator shall execute a deed of sale in your favor for conveyancing on “as is where is”, “as is what is”, “whatever there is” and “no recourse” basis of the specified Asset, without any representations and warranties on the part of the Liquidator for any encumbrances / statutory liabilities etc. in relation to Asset owned by the corporate debtor.

4. This Lol is not a sale confirmation letter and is issued without prejudice to other terms and conditions of the E-Auction Process Information Document. The issuance of this Lol shall not be deemed to be conveying any right, title, or interest in the Company or in any manner granting any right against the Liquidator, or their representatives and advisors, except to the extent any right has been created under this Lol.
5. In the event you are found to have made any misrepresentation, wrongful disclosure, or misleading declaration of eligibility, this Lol may be revoked and on account of such revocation, you shall have no right under this Lol.
6. Any contravention of the terms of this Lol, including non-acceptance of the contents hereof within the stipulated time period, shall lead to cancellation of this Lol, unless otherwise provided in the E-Auction Process Memorandum Document.
7. You shall keep the contents of this Lol confidential, save and except where any disclosure is required under applicable laws or a disclosure is required for securing financing or to your professional advisors and financiers, who are in each case required in the course of their duties to receive and consider the same for the purpose of advising you in relation to the transaction.
8. This Lol shall be governed by, and construed in accordance with, the laws of India and the National Company Law Tribunal, Kolkata Bench shall have exclusive jurisdiction overall disputes arising under, pursuant to and/ or in connection with this Lol.
9. Capitalized terms used but not defined herein shall have the meaning ascribed to them in the E-Auction Process Memorandum Document.

You are requested to unconditionally accept this Lol by countersigning this Lol and returning the same to me.

Yours faithfully

Unconditionally agreed and accepted by:
For

CA Santanu Brahma,
Liquidator

Authorised Signatory

<<to be executed on INR 100 stamp paper and notarized>>

**ANNEXURE VI
CONFIDENTIALITY AGREEMENT**

This Confidentiality Agreement is dated _____, between: _____, a company 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 -

Duckbill Drugs Private Limited, a company incorporated under the laws of India and having its office at Behala Industrial Estate, Building No. 1 & 2, 620 Diamond Harbour Road, Kolkata - 700034, West Bengal (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 **Duckbill Drugs Private Limited for the purpose of conducting 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.

1. 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 shareholders

agreements or voting agreements or in any other manner.

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

"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".

"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 Section 9.

"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.

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

"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.

2. Interpretation

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

3. Non-Disclosure of Confidential Information.

- (a) 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.
- (b) The restrictions set out in Section 3(a) do not apply to Confidential Information or any part of it that:
 - (i) is or becomes generally available to the public other than as a result of disclosure directly or indirectly by the Receiving Party;
 - (ii) is or becomes available to the Receiving Party on a non-confidential basis from a source other than the Disclosing Party;
 - (iii) 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;
 - (iv) 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
 - (v) the Disclosing Party has expressly permitted in writing that the particular Confidential Information may be disclosed.
- (c) 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, 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.

- (d) 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.
- (e) 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.
- (f) 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.
- (g) 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:
 - (i) give the Disclosing Party immediate Notice of the requirement and the proposed content of any disclosure;
 - (ii) 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
 - (iii) 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.

4. Handling and Return of Confidential Information.

- (a) 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.
- (b) 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 legends from any of the Confidential Information.
- (c) After the completion of the resolution process under the IBC,2016, the Receiving Party will and will cause its Representatives to, within 7 Business Days of the Notice:
 - (i) Return to the Disclosing Party or destroy all Confidential Information without retaining any copies;
 - (ii) destroy all copies of Work Papers in its possession; and
 - (iii) certify to the Disclosing Party in writing that this Section 4(c) has been complied with by the Receiving Party.
- (d) 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;
- (e) 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 hereunder.

5. No Representation or Warranty.

- (a) The Disclosing Party and the Resolution Professional make 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.
- (b) The Disclosing Party and the Resolution Professional are 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 favor of, any Person other than the Parties 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 another forum subject to clause 5(d)

- (c) 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.
- (d) The Resolution Professional shall not be held liable for any damages/ liabilities arising out of the use of confidential information or the accuracy of the confidential information.

6. Remedies.

- (a) 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.
- (b) 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.
- (c) 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.
- (d) Each Party shall have a duty to use all reasonable endeavors to mitigate its loss and

damage arising on account of the breach or default by the other Party.

- (e) 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.
- (f) Subject to the foregoing provisions of this Section 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

7. Other Covenants and Agreements.

- (a) 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.
- (b) 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 transactions with such contacts revealed by the other party who made the contact(s) available.
- (c) 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
- (d) 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.

(e) The obligations of the Parties under this Agreement continue and are binding for 3 years.

8. Acknowledgments 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.

9. Miscellaneous.

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

Receiving Party Name :
Address :
Designation :
Telephone/Mobile No :
Email Id :

Disclosing Party Name : Duckbill Drugs Private Limited
Address :
Designation :
Telephone/Mobile No :
Email Id :

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 email was sent.

- (b) 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.
- (c) 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.
- (d) 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.
- (e) This Agreement may only be amended, supplemented, or otherwise modified by express written agreement signed by the Parties.
- (f) 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.
- (g) 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.
- (h) 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 binding arbitration in accordance with the Rules of Arbitration of the Disclosing Party. The seat of such arbitration shall be in Kolkata, India. The language of such arbitration shall be English. The dispute shall be heard by three (3)

arbitrators. Within thirty (30) days of the respondent's receipt of notice of arbitration, the Disclosing Party, on the one hand, and the Receiving Party, on the other hand, shall each select an arbitrator, and within fifteen (15) days of the selection of the second arbitrator, the two arbitrators shall select the third arbitrator, who shall act as the Chair.

Each arbitrator must be independent and disinterested and must not be affiliated in any way with any of the Parties.

- (i) This Agreement may be executed in any number of counterparts and all counterparts taken together constitute one and the same instrument. Receipt of an originally executed counterpart signature page by facsimile or 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 facsimile or electronic mail will also deliver the originally signed counterpart to the other Party; however, failure to do so will not invalidate this Agreement.

Receiving Party

Disclosing Party

By:

By:

IN WITNESS WHEREOF the Parties have executed this Agreement.

Company Name :

Company Name :

Name :

Name :

Designation :

Designation :

Place :

Place :

Date :

Date :

Witness :

Witness :

Name :

Name :

Address :

Address :