

DETAILED INVITATION FOR EXPRESSIONS OF INTEREST (“EOI”) FOR SUBMISSION OF A SCHEME OF COMPROMISE OR ARRANGEMENT (“SCHEME”) FOR BHARATI DEFENCE AND INFRASTRUCTURE LIMITED (IN LIQUIDATION) (“BDIL”) AS PER SECTION 230 OF THE COMPANIES ACT, 2013 AS ON JANUARY 13, 2020.

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1. BACKGROUND

- BDIL was incorporated in June, 1976 and has been engaged in design, construction and repair of ships and rigs for defence and commercial entities.
- BDIL went into stress due to global and domestic slowdown in the shipbuilding industry leading to cancellation of contracts which resulted in building of unsustainable debt/financing costs.
- Edelweiss Asset Reconstruction Company ("**EARC**"), a Financial Creditor under Section 7 of Insolvency and Bankruptcy Code, 2016 ("**Code**") filed an application for initiating Corporate Insolvency Resolution Process against the BDIL before the Hon'ble National Company Law Tribunal, Mumbai Bench ("**NCLT**").
- The application was admitted by NCLT vide its order dated June 6, 2017 and Mr. Dhinal Shah {IBBI Reg. No. : IBBI/IPA-001/IP-P00073/2017-18/10190, Address: Ernst & Young LLP, 2nd Floor, Shivalik Ishan, Near C. N. Vidhyalaya, Ambawadi, Ahmedabad - 380015} was appointed as an Interim Resolution Professional by NCLT and was confirmed as Resolution Professional in the 1st meeting of the Committee of Creditors.
- The Hon'ble NCLT rejected the resolution plan submitted by EARC and initiated liquidation proceedings as per the provisions of Regulation 32(b) & (e) of the IBBI (Liquidation Process) Regulations, 2016 against BDIL vide its order dated January 14, 2019 and appointed Mr. Vijaykumar V. Iyer as the official liquidator for BDIL ("**Liquidator**") with a direction to endeavor to sell BDIL as a going concern. ("**NCLT Order**").
- With reference to the appeal preferred against the NCLT Order in the matter of *Superna Dhawan & Anr. vs Bharati Defence and Infrastructure Limited & Ors.*, the Hon'ble National Company Law Appellate Tribunal ("**NCLAT**") has passed an order on May 14, 2019 ("**NCLAT Order**") directing the Liquidator to take steps as per Section 230 of the Companies Act, 2013. The relevant paragraph of the NCLAT Order is produced below:

"... In view of the aforesaid position and as more than 270 days have passed, the Adjudicating Authority having passed order of liquidation, we find no ground to interfere with the impugned order dated 14th January, 2019. The Adjudicating Authority directed that the liquidator to ensure that the company remains a going concern and in to follow the decision and direction of this Appellate Tribunal in "Y. Shivram Prasad Vs. S. Dhanapal & Ors. – Company Appeal (AT) (Insolvency) No. 224 of 2018. Thus On May 14, 2019, the Hon'ble NCLAT upheld the order of liquidation and directed the Liquidator to take steps under Section 230 of the Companies, Act, 2013".
- On January 2, 2020, the Hon'ble NCLT has called upon the Liquidator to go for fresh Expressions of Interest and make his best efforts to approach all the possible known clients in the market, and with liberty to seek the help of the Hon'ble Bench, to achieve the object at the earliest. The Hon'ble NCLT has listed the matter on March 4, 2020 for further consideration.

2. SUBMISSION OF EOI and Scheme:

a. EOI along with the Scheme shall be submitted by email (@ inbharatidefip@deloitte.com) in soft copy on a password protected pen drive, along with hardcopy (3 sets) in a sealed envelope superscripted as <Expression of Interest and Scheme of Compromise/Arrangement for BDIL>, in the format as set out in "Annexure A" hereto at the date and time mentioned in this invitation.

b. Any person(s) submitting an EOI along with the Scheme ("**Sponsor**") should meet the eligibility criteria as set out in "Annexure B".

c. Sponsors shall submit the EOI and Scheme along with the supporting documents set out as "Annexure C, E & F" and shall provide the details of the Sponsors as set out in "Annexure D"

d. Sponsors shall submit the aforementioned sealed envelope containing a completed set of the Scheme and EOI in soft and hard copy along with the Annexures as stated above to the following address by post or deliver in person:

Mr. Vijaykumar V. Iyer,
Liquidator of Bharati Defence and Infrastructure Limited
Insolvency Professional - Regn.No: IBBI/IPA-001/IP-P00261 /2017-18/10490
Deloitte Touche Tohmatsu India LLP
Indiabulls Finance Centre, Tower 3, 27th Floor, Senapati Bapat Marg, Elphinstone Road (West), Mumbai 400 013. India.

viyer@deloitte.com

Please email your responses to inbharatidefip@deloitte.com

3. LAST DATE OF SUBMISSION OF EOI:

In view of the Hon'ble NCLT listing the matter on March 4, 2020 for further consideration, the last date for submission of EOI and the Scheme is proposed as February 26, 2020 up to 6 PM (IST). In case the said day happens to be a banking holiday; the next working day will be deemed as the last date for submission of EOI and Scheme. It is clarified that Schemes submitted post February 26, 2020 may not be eligible for consideration given that the matter related to the liquidation proceedings of the Corporate Debtor has been listed for March 4, 2020 before the Hon'ble NCLT.

4. Notes

1. The Liquidator reserves the right to cancel or modify any aspect of the process for submission of the EOI or the Scheme without assigning any reason and without any liability. This is not an offer document and is issued with no commitment or assurances. Sponsors should regularly visit the website of BDIL i.e. <https://bdil.co.in/home/disclosures-under-liquidation/> to keep themselves updated regarding clarifications/amendments/time-extensions, if any.
2. The Liquidator reserves the right to call for any further information required to complete the evaluation of the EOI/ Scheme from the Sponsor.
3. The Liquidator reserves the right to withdraw this invitation or change or vary any part thereof at any stage and also reserves the right to disqualify any Sponsor, should it be so necessary at any stage.

4. No oral communication with the Liquidator or any official, agent or representative of the Liquidator, any creditor or any class of creditors, any member or class of members of BDIL shall affect or modify any terms of the invitation. Any modifications to this invitation shall be binding only if such modification/ amendment has been expressly published as a modification and made available to all by its publication on the website of the Corporate Debtor.
5. By submitting a Scheme, each Sponsor shall be deemed to acknowledge that it has carefully read this entire invitation and has informed itself as to all existing conditions and limitations. Ignorance of law/s will not be treated as any excuse.
6. Criteria for qualification – Only those EOIs and Schemes submitted by persons eligible as per the terms of the NCLAT Order dated May 14, 2019; and any other persons meeting the eligibility criteria as provided herein, as the case may be, will be considered. EOIs and Schemes which do not meet the aforementioned criteria shall be rejected at the discretion of the Liquidator, without providing any reason or incurring any liability.
7. All Schemes must have an undertaking to pay the liquidation process cost and CIRP cost that are outstanding within 30 days of the approval of the Scheme by the Hon'ble NCLT.
8. Additionally, simultaneous with the submission of an EOI, Sponsors will have to provide proof of deposit of an amount of INR 5,00,000 (Indian Rupees Five Lakh only) into the following account, for the purpose of accessing information in relation to the Corporate Debtor for the purpose of undertaking diligence for submission of a Scheme. Such deposit will be refunded within 30 (Thirty) days from the last date for submission of Scheme for the Corporate Debtor. However, in the event of any breach of the terms of this invitation or any other bid documents by the Sponsor or any of its nominees, agents, advisors, employees, affiliates and/or representatives, then the said deposit shall stand forfeited.

Name of the Beneficiary: Bharati Defence and Infrastructure Ltd.

Bank Name : RBL Bank

Branch Name : Lower Parel, Mumbai

Address : One Indiabulls Centre, Tower 2B, 3rd Floor, 841, Senapati Bapat Marg, Lower Parel, Mumbai – 400013

Account Number : 409001007559

IFS code : RATN0000088

Account type : Business Current Account

9. The Sponsors shall note that, all the powers of the Board of Directors and Key Managerial Personnel of the Corporate Debtor have ceased to have effect and have been vested in with the Liquidator.
10. Neither the Sponsors nor any of representatives of the Sponsors shall have any claims whatsoever against the Liquidator or his advisors/ representatives or any of their officials, agents or employees arising out of or relating to this invitation.
11. By submitting its EOI, each Sponsor shall be deemed to acknowledge that it has carefully read the entire invitation and has fully informed itself as to all existing conditions and limitations.
12. The Sponsors acknowledges that acquisition of BDIL pursuant to the Scheme is undertaken on an "as is, where is" and "as is, what is" basis and the Liquidator is not providing any representations or warranties for BDIL.

13. For any clarifications on the process of submission of EOI and Scheme with the objective of ensuring compliance of their schemes with the NCLAT Order, Sponsors may contact the Liquidator at inbharatidefip@deloitte.com. The Sponsors however acknowledge that the Liquidator has no obligation to respond to the same and that the Liquidator shall incur no liability in case no response is provided.

Issued by:

Mr. Vijaykumar V. Iyer,
Liquidator of Bharati Defence and Infrastructure Limited
Insolvency Professional - Regn.No: IBBI/IPA-001/IP-P00261 /2017-18/10490
Deloitte Touche Tohmatsu India LLP
Indiabulls Finance Centre, Tower 3, 27th Floor, Senapati Bapat Marg, Elphinstone Road (West), Mumbai 400 013. India.

ANNEXURE – A: FORMAT FOR EXPRESSION OF INTEREST

Date: _____

To,

Mr. Vijaykumar V. Iyer,
Liquidator of Bharati Defence and Infrastructure Limited
Insolvency Professional - Regn.No: IBBI/IPA-001/IP-P00261 /2017-18/10490
Deloitte Touche Tohmatsu India LLP
Indiabulls Finance Centre, Tower 3, 27th Floor, Senapati Bapat Marg, Elphinstone Road (West), Mumbai 400 013. India.

Please email your responses to inbharatidefip@deloitte.com

Subject: Expression of Interest (“EOI”) for proposing a Scheme of compromise or arrangement with creditors or class of creditors or members or class of members of Bharati Defence and Infrastructure Limited (in liquidation) (“BDIL”) in compliance with Section 230 of the Companies Act, 2013 and rules prescribed thereunder (“Scheme”), the order of National Company Law Appellate Tribunal dated May 14, 2019, and the order of the National Company Law Tribunal order dated January 2, 2020.

Dear Sir/Madam,

In response to your public advertisement in [*Insert the names of the newspaper and/or website*] on [*Insert date of the advertisement*] inviting EOIs and Scheme for BDIL, we, [*Name of the Company*], having registration number [], at [*Registered Address*] hereby submit our EOI for proposing a Scheme of Compromise and Arrangement for BDIL, along with the Scheme and proof of deposit of an amount of INR 5,00,000 for the purpose of accessing information in relation to BDIL for the purpose of undertaking diligence for submission of a Scheme.

We have attached necessary information requested in the format for EOI published on the website of BDIL at <https://bdil.co.in/home/disclosures-under-liquidation/>. The information furnished by us in this EOI is true, correct and accurate to the best of our knowledge. Based on this information we understand that the Liquidator would be able to evaluate our EOI and Scheme as per the provisions of Section 230 of the Companies Act, 2013 and the order of National Company Law Appellate Tribunal dated May 14, 2019, and the National Company Law Tribunal order dated January 2, 2020.

We hereby acknowledge that we have reviewed the entire invitation and documents contained therein and aware of the terms and conditions contained therein and accept the same. We agree and acknowledge that the Liquidator and/or BDIL or any of its stakeholders do not provide any representation, warranty in relation to the Corporate Debtor and the EOI and the Scheme proposed to be submitted is based on our own independent verification and diligence.

We however, understand that Mr. Vijaykumar V Iyer, Liquidator reserves complete rights to decide whether or not to pre-qualify our EOI without disclosing any reason whatsoever and without any liability, and that if any Scheme of compromise or arrangement is submitted by us, the same shall be subject to approval of the Hon’ble National Company Law Tribunal, in terms of the Insolvency and Bankruptcy Code, 2016 and the Companies Act, 2013.

Sincerely yours,

On behalf of the firm/company/organization:

Signature: _____

Name of authorised signatory:

Designation:

Company Seal/stamp

Enclosures: (Annexures)

[The authorised signatory shall be duly authorised by Board resolution and/or duly executed power of attorney and the expression of interest shall be accompanied with the said resolution/power of attorney authorising the signatory to execute and submit the expression of interest]

ANNEXURE – B: ELIGIBILITY CRITERIA FOR QUALIFICATION

1. ELIGIBILITY CRITERIA

EOIs and thereafter the Scheme of only those Sponsors who meet the criteria specified below in either (I) or (II) of this Annexure B will be considered. EOIs which do not meet these criteria shall be rejected.

Please note that any person submitting a Scheme of compromise or arrangement for BDIL shall not be a person ineligible in terms of S. 29A of the Code. An affidavit confirming eligibility to submit the Scheme shall be required to be submitted at the time of submission of the Scheme in the format as provided in annexure 'F'.

I. Sponsors as per NCLAT Order

The Hon'ble NCLAT, in the NCLAT Order has directed that the following persons ("**BDIL Sponsors**") may submit a Scheme to the Liquidator:

- a. members of BDIL;
- b. any class of members of BDIL;
- c. creditors of BDIL; or
- d. any class of creditors of BDIL

Members or public shareholders holding 10% of the shareholding of BDIL or creditors bearing 5% of outstanding debt of BDIL would also be considered as a separate class.

For the BDIL Sponsors to propose a Scheme to the Liquidator, more than 50% of the members, creditors or any classes thereof by value should propose such Scheme and evidence of the same should be attached along with the expression of interest.

II. Third Party Sponsors

In addition to the BDIL Sponsors, the persons who fulfil the following parameters may submit an EOI ("**Third Party Sponsors**"):

- a. Business Capacity;
- b. Financial Capacity

a. Business Capacity Evaluation Criteria:

The Third Party Sponsor is required to have business experience either in field of ship building, large scale manufacturing, financing or activities in connection, incidental or in relation thereto for minimum period of 10 years.

The matter of ability to execute the proposed Scheme, infuse capital and raise funds, in relation to appease the requirement of the proposed Scheme will be evaluated basis the "Turnover" and "Net worth" of the company upon submission of such Scheme.

Note:

1. Turnover shall mean either gross income or gross revenue. While providing the information and numbers for the turnover criteria, standalone turnover (i.e. gross income or gross revenue) of the Third Party Sponsor may be provided based on audited financial statements of preceding 3 (three) financial years of the Third Party Sponsor and such entities.

2. Net Worth shall be computed as aggregate value of paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, and does not include capital reserves including reserves created out of revaluation of assets, write back of depreciation and amalgamation.

b. Financial Capacity Evaluation Criteria:

1. Profit after tax (PAT): The Third Party Sponsor must have after tax profit in the immediately preceding 3 financial year as per the last available audited financial statements.

III. **Submission of Bank Guarantee:** All Sponsors shall furnish earnest money deposit ("**EMD**") in form of bank guarantee of INR 25,00,00,000 (Rupees Twenty Five Crore Only) as given at <https://bdil.co.in/home/disclosures-under-liquidation/> at the time of submission of Scheme to the Liquidator (post evaluation of the EOI of the relevant Sponsor), which EMD has to be valid from the date of submission of the Scheme until the final identification of a Scheme by the Hon'ble NCLT (in consultation with the Liquidator, evaluator, committee of creditors and such other persons as the case may be), with an additional 30 day period for making claims, and shall be subject to re-issuance or extension by the Sponsor as may be required by the Hon'ble NCLT/ Liquidator. It is hereby clarified that in accordance with the terms of the order of the NCLT dated 02 January 2020, for Government of India Public Sector Undertakings, the EMD requirement will be determined basis representations made by such Government of India Public Sector Undertakings in their respective EOI/ Schemes. It is further clarified that the abovementioned provision is not applicable to any private entity/ organisation.

It is hereby clarified that non-submission of the EMD by the Sponsor along with the submission of the Scheme shall lead to rendering of that particular Scheme as non-responsive, and accordingly the Liquidator shall have the right to reject such Scheme.

The Liquidator shall have the right to invoke the EMD by issuance of a written request to the bank in case: (i) any of the conditions under the invitation for EOI are breached by the relevant Sponsor or in case Sponsor is found to have made any misrepresentation; or (ii) the Sponsor is found to be ineligible to submit the EOI under Section 29 A of the Insolvency and Bankruptcy Code, 2016 ("**Code**") or the Sponsor is found to have made a false or misleading declaration of eligibility under Section 29A of the Code; or (iii) any non-compliance with the liquidation process laid down herein, or any modifications/ additions made to the same by the Liquidator, or (iv) any unilateral change by the Sponsor to the Scheme submitted by it; or (v) the Sponsor fails to renew/extend the EMD at least 30 days prior to the date of its expiry.

Exchange Rate

For the purpose of evaluation of the Scheme, the exchange rate to be used for conversion into INR (Indian Rupees) shall be RBI Reference rate on the date of public announcement i.e. January 13, 2020.

ANNEXURE – C: SUPPORTING DOCUMENTS TO BE ATTACHED WITH EOI

- a. Profile of the Sponsor
- b. Legal Documents: Copies of Certificate of Registration and Constitutional Documents of the Sponsor
- c. Preceding 3 (three) years audited financial results of the Sponsor
- d. Demonstration of fund availability (applicable for Third Party Sponsors): Bank certificate substantiating funds availability of the Sponsor
- e. Confidentiality Undertaking As given in Annexure E.
- f. Affidavit under section 29A - As given in Annexure F.
- g. Board Resolution / Power of Attorney authorizing the submission of EOI and authorizing a person to act on behalf of the Sponsors.
- h. Statement giving details if the Sponsors or any of its related parties has failed to implement or contributed to the failure of implementation of any resolution plan approved by the Adjudicating Authority at any time in the past.

ANNEXURE – D: DETAILS OF THE SPONSOR

- a. Name and address:

Name of the Sponsor:

Address:

Telephone No:

Fax:

Email:

- b. Date of establishment/birth of Sponsor:

- c. Core area of expertise of the Sponsor:

- d. Contact Person:

Name:

Designation:

Telephone No:

Email:

- e. PAN No. or equivalent details of Sponsor

ANNEXURE – E: Confidentiality Undertaking

To,

Vijaykumar V. Iyer (“Liquidator”)
Indiabulls Finance Centre, Tower 3, 27th Floor,
Senapati Bapat Marg, Elphinstone Road (West)
Mumbai – 400013

Sub: Confidentiality Undertaking with respect to Expression of Interest (“EOI”) for proposing a Scheme of compromise or arrangement with creditors of the Bharati Defence and Infrastructure Limited (in liquidation) (“Corporate Debtor”) or any class of them or members of the Corporate Debtor or any class of them in compliance with section 230 of the Companies Act, 2013 and rules prescribed thereunder, and the order of National Company Law Appellate Tribunal dated May 14, 2019, and the National Company Law Tribunal order dated January 2, 2020. (“Scheme”).

Dear Sir,

1. This acknowledgement and undertaking (“**Undertaking**”) is being furnished by _____ (“**Recipient**”, which term where relevant includes all directors, employees and consultants, successors and assigns of the Recipient), in respect of the Confidential Information (*as defined herein*) provided / to be provided to us in relation to Bharati Defence and Infrastructure Limited, a company having its registered office at Oberoi Chambers II 646, New Link Road, Andheri (West) Mumbai - 400053 (the “**Corporate Debtor**” or the “**Company**”) and is further to the confidentiality obligations of the Liquidator under the provisions of the Insolvency and Bankruptcy Code, 2016 (“**Code**” which term includes all rules and regulations made thereunder).
2. I/We understand, acknowledge and agree that any and all information supplied, whether by you, the Corporate Debtor or anyone else on your or the Corporate Debtor’s behalf, to us or to any other person on our behalf, including any third parties (“**Secondary Recipient**”) in relation to submission of an Expression of Interest and/ or a Scheme of Compromise or Arrangement for the Corporate Debtor, or any information provided pursuant to any request made by us and in each case information whether in written form, electronically or orally shall constitute “**Confidential Information**” for the purposes of this Undertaking.

Confidential Information shall also include information or documents generated or derived by the recipients of Confidential Information that contains, reflects or is derived from any Confidential Information.

However, Confidential Information shall not include:

- (i) information which, at the time of disclosure to the Recipient or Secondary Recipient(s), is in the public domain through no violation of the provisions of the Code or a breach of this Undertaking or any similar undertakings executed by the other Stakeholders (which term shall have the meaning in the Liquidation Regulations) of the Corporate Debtor and their respective advisors; or
- (ii) information which, after disclosure to the Recipient or Secondary Recipient(s), becomes publicly available and accessible through no violation of the provisions of the Code or a breach of this Undertaking or any similar undertakings executed the other Stakeholders (which term shall have the meaning in the Liquidation Regulations) of the Corporate Debtor and their respective advisors; or
- (iii) information which was, lawfully and without any breach of this Undertaking or any similar undertakings executed the other Stakeholders (which term shall have the meaning in the Liquidation Regulations) of the Corporate Debtor and their respective advisors, known to, or in the possession of, the Recipient or Secondary Recipient(s) prior to its disclosure, as evidenced by the records of the Recipient or Secondary Recipients; or
- (iv) information which is permitted by you or your authorized nominees/ persons to be disclosed solely for legal or regulatory requirements, provided that the obligation upon the Recipient to maintain confidentiality of such information permitted to be disclosed shall continue for all other purposes under this Undertaking;

- (v) information which was independently developed by any party (including the Recipient and the Secondary Recipient) without breach of this Undertaking, and not on the basis of Confidential Information that is required to be disclosed on account of an order of a court or due to any requirement of law, regulation or any competent judicial, supervisory, regulatory or administrative authority/ body including the directions of any regulatory authority applicable to, or having jurisdiction over, the Recipient and the Secondary Recipient, or in any other legal proceedings (including the National Company Law Tribunal, Insolvency and Bankruptcy Board of India, any other court, tribunal or government authority) or pursuant to the guidelines of regulatory/administrative authority or stock exchange. The Recipient shall disclose such information only with prior intimation to the Liquidator or the Corporate Debtor or any person authorised on their behalf.
3. The Recipient hereby acknowledges, agrees and undertakes that:
- (i) the Confidential Information provided by the Liquidator (which term shall have the meaning in the Code) in relation to the liquidation process ("**Liquidation**") of the Corporate Debtor has been accepted by the Recipient and shall be utilized only in accordance with the Code;
 - (ii) the Confidential Information shall be kept secret and confidential by the Recipient and shall be used solely as allowed under the Code;
 - (iii) the Recipient shall not use Confidential Information to cause an undue gain or undue loss to itself or any other person;
 - (iv) the Recipient shall comply with the provisions of law from time to time in force relating to confidentiality and insider trading;
 - (v) the Confidential Information may only be disclosed to and shared with third parties (the "**Secondary Recipients**"), in accordance with applicable laws, including in relation to confidentiality and insider trading, and terms of this Undertaking on a strict need-to-know basis and only to the extent necessary for and in relation to the Liquidation of the Corporate Debtor, provided that the Recipient shall ensure that such Secondary Recipients shall strictly be bound by obligations that are at least as restrictive as those stated in this Undertaking. The Recipient shall be liable for any breach of this Undertaking due to any action or omission of any Secondary Recipient and in this regard this Undertaking would be read as if the Secondary Recipient were a party hereto with all references to Recipient being a reference to Secondary Recipient;
 - (vi) it shall immediately disclose to the Liquidator, if so required by the Liquidator, the names and details of any and all Secondary Recipients;
 - (vii) it shall ensure that all Confidential Information is kept safe and secured at all times and is properly protected against theft, damage, loss or unauthorised access, hacking, etc.;
 - (viii) by virtue of this Undertaking, it has not acquired, does not and shall not acquire at any time hereafter any right, title or interest of any nature whatsoever in the Confidential Information including any intellectual property;
 - (ix) the Recipient shall protect any intellectual property of the Corporate Debtor it may have access to;
 - (x) no representation or warranty has been provided in relation to the authenticity or adequacy of the information provided, including Confidential Information, for the purposes for which the same has been received /sought by the Recipient and the Recipient shall not have any claim against the Corporate Debtor or the Liquidator in relation to any information provided. Further the Recipient merely because of receipt of any information or execution of this Undertaking shall not have any rights or entitlement against the Liquidator for undertaking any action/transaction in connection with the Liquidation of the Corporate Debtor.
4. Recipient acknowledges and agrees that in the event of breach or threatened breach of the terms of this Undertaking, the Corporate Debtor shall suffer irreparable damages, for which monetary compensation may be an inadequate remedy. Accordingly, it is agreed that in addition to any other remedy to which they jointly or severally may be entitled to at law or in equity, the Liquidator and the Corporate Debtor jointly or severally shall be entitled to seek an injunction to prevent a breach or threatened breach of this Undertaking and/ or specific performance of the terms of this Undertaking and/or any other remedies available at law.
5. This Undertaking and any dispute, claim or obligation arising out of or in connection with it shall be governed by and construed in accordance with Indian law and the courts and tribunals at

Mumbai shall have exclusive jurisdiction over matters arising out of or relating to this undertaking.

IN WITNESS WHEREOF I/We have set our hands hereunder on this _____ day of Month, 2020 at _____.

SIGNED AND DELIVERED BY:

For and on behalf of _____

WITNESS:
(Signature)

(Signature)

(Name)
(Address)

(Name)
(Address)

ANNEXURE – F: AFFIDAVIT

[To be submitted by each Sponsor and in case the Sponsor is a consortium, then to be submitted by each member of such consortium]

[To be stamped with adequate value under the Stamp Act applicable to the particular state and duly attested by Notary Public]

AFFIDAVIT

I, [name of the chairman/managing director/director/authorized person of Sponsor], son of [____], aged about [____] years, currently residing at [Address to be inserted] and having Aadhaar / Passport number [____], on behalf of [name of the Sponsor] having registered office at [____] ("**Sponsor**") pursuant to authorization of the Sponsor dated [____] (as enclosed herewith), do solemnly affirm and state to the Liquidator of Bharati Defence and Infrastructure Limited ("**Corporate Debtor**") ("**Liquidator**") as follows:

1. That I am duly authorized and competent to make and affirm the instant affidavit for and on behalf of the Sponsor.
2. That the (i) Sponsor or (ii) any person acting jointly or in concert with the Sponsor or (iii) any person who is a connected person (as defined under the provisions of the Insolvency and Bankruptcy Code, 2016) of (a) the Sponsor or (b) any person acting jointly or in concert with the Sponsor:
 - (a) is not an undischarged insolvent;
 - (b) is not a wilful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949;
 - (c) is not a person, who at the time of submission of the Scheme, has an account, or who is in management or control or is the promoter of a corporate debtor that has an account, which has been classified as non-performing asset in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 or the guidelines of a financial sector regulator issued under any other law for the time being in force and a period of one year has lapsed from the date of such classification till the date of commencement of the corporate insolvency resolution process of the Corporate Debtor and has failed to make the payment of all overdue amounts with interest thereon and charges relating to such non-performing asset before submission of the Scheme.

Provided that, the disqualification mentioned under this sub-paragraph 2(c) shall not apply in case:

- (1) the Sponsor is a financial entity and is not a related party to the Corporate Debtor; or
- (2) the Sponsor has an account, or is in management or control or is the promoter of a corporate debtor that has an account, classified as non-performing asset and such account was acquired pursuant to a prior resolution plan approved under the Insolvency and Bankruptcy Code, 2016, and a period of three years has not elapsed since from the date of approval of such resolution plan by the Hon'ble National Company Law Tribunal (or its appellate tribunal / court);

(d) is not disqualified to act as a director under Companies Act, 2013;

Provided that this clause shall not apply in relation to a connected person referred to in clause (iii) of Explanation I of Section 29A of the Code.

(e) has not been convicted of any offence punishable with imprisonment:

- (i) for two years or more under any Act specified under the Twelfth Schedule of the Insolvency and Bankruptcy Code, 2016 or
- (ii) for seven years or more under any law for the time being in force;

and if such Sponsor has been convicted for the purposes of this sub-paragraph 2(e), a period of two years has lapsed from the date of his release from imprisonment;

Provided that this clause shall not apply in relation to a connected person referred to in clause (iii) of Explanation I of Section 29A of the Code.

(f) is not prohibited by Securities and Exchange Board of India from trading in securities or accessing the securities markets;

(g) has not been a promoter or in the management or control of a corporate debtor in which a preferential transaction or undervalued transaction or extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been made by the Hon'ble National Company Law Tribunal under the Insolvency and Bankruptcy Code, 2016, Provided that this Clause 2(g) shall not be applicable in case preferential transactions, undervalued transactions, extortionate credit transactions

or fraudulent transactions have taken place prior to the acquisition of the corporate debtor by such person pursuant to a resolution plan approved under the Insolvency and Bankruptcy Code, 2016 or pursuant to a Scheme or plan approved by a financial sector regulator or a court, and such person has not otherwise contributed to the preferential transactions, undervalued transactions, extortionate credit transactions or fraudulent transactions;

- (h) has not executed a guarantee in favour of a creditor, in respect of a corporate debtor against which an application for insolvency resolution made by such creditor has been admitted under the Insolvency and Bankruptcy Code, 2016 where such guarantee has been invoked by the creditor and remains unpaid in full or part; and
- (i) is not subject to any of the aforesaid conditions under any law in a jurisdiction outside India.

3. That the Sponsor unconditionally and irrevocably represents, warrants and confirms that it is eligible under the terms and provisions of the Insolvency and Bankruptcy Code, 2016 and the rules and regulations thereunder to submit a Scheme and that it shall provide all documents, representations and information as may be required by the Liquidator to substantiate to the satisfaction of the Liquidator that the Scheme is eligible under the Insolvency and Bankruptcy Code, 2016 and the rules and regulations thereunder to submit a Scheme in respect of the Corporate Debtor.
4. That the Sponsor unconditionally and irrevocably undertakes that it shall provide all data, documents and information as may be required to verify the statements made under this affidavit.
5. That the Sponsor understands that the Liquidator may evaluate the Scheme to be submitted by the Sponsor or any other person acting jointly with it and such evaluation shall be on the basis of the confirmations, representations and warranties provided by the Sponsor under this affidavit.

SOLEMNLY AFFIRMED AT _____

ON THIS THE [_____] DAY OF [_____] 2020.

DEPONENT

VERIFICATION:

I, [*name of the chairman/managing director/director/authorized person of Sponsor, authorised by the Board of the Sponsor (in case of a company) for giving such affidavit*], the deponent above named, on behalf of [*name of the Sponsor*], having registered office at [____], do hereby verify and state that the contents of the above affidavit are true to the best of my knowledge and nothing material has been concealed therein.

Verified at _____, on this the [____] day of [____] 2020.

DEPONENT