

## SAMTEL COLOR LIMITED

### **BIDDING PROCESS DURING CORPORATE INSOLVENCY RESOLUTION PROCESS:**

#### **A. BIDDING PROCESS**

(i) **Approval of Committee of Creditors**

Eligibility Criteria, Bidding Process, an agreement containing terms and conditions of bidding, Bid Evaluation Matrix, Form-G, time for which the Expression of Interest would remain open for submission of Expression of Interest has been approved by Committee of Creditors as constituted for Corporate Insolvency Resolution Process of the Corporate Debtor.

(ii) **Access to Bidding Process and relevant documents**

Expression of Interest in Form-G as prescribed under The IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 will be released by way of uploading on the website of IBBI and also on the website of the Corporate Debtor, in case available and functional. All the documents as mentioned in para (i) above would also be uploaded for information of prospective resolution applicants on the website of Insolvency Professional Entity to which the Resolution Professional is a partner namely [www.insolvencyandbankruptcy.in](http://www.insolvencyandbankruptcy.in) and website of Corporate Debtor i.e. [www.samtelgroup.com](http://www.samtelgroup.com). The information of release of Expression of Interest would also be published in the newspaper by the resolution professional providing link to the website and last date of submission of Expression of Interest.

(iii) **Eligibility Criteria**

Section 25(2)(h) was amended and provides that the resolution professional shall invite prospective resolution applicants, who fulfil such criteria as may be laid down by him with the approval of committee of creditors, having regard to the complexity and scale of operations of the business of the corporate debtor and such other conditions as may be approved by Committee of Creditors, to submit a resolution plan.

The eligibility criteria as approved by the Committee of Creditors is as under: -

- The resolution applicant should have a net worth of at least Rs. 10 Crores. In case of joint applicants, the combined net worth of all the joint applicants should be at least Rs. 10 Crores. In case of a group of companies / businesses, the group net worth should be at least Rs. 10 Crores.
- No other eligibility criteria were stipulated by Committee of Creditors.

The Resolution Professional will verify the net worth of the applicant and may ask for relevant documents for such verification and such documents may include audited financial statements, net worth certificate from a Chartered Accountant, copies of income tax returns, other documents relating to net worth of the applicant as he deem necessary.

- (iv) The Resolution Applicants would be required to provide all details required for ascertaining their eligibility as per section 29A of IBC, 2016. The details required for such verification would include the business profile, associate concerns, debt profile of resolution applicant and associate concern, family tree, PAN of all related parties and connected persons and such other information and detail as may be required for this purpose. The Resolution Applicant may obtain a report from any other professional who can obtain this information, verification of the information and providing a report thereon. It may be clarified that such report from a professional may or may not be accepted by the resolution professional as he is under prime obligation to verify the eligibility of the Resolution Applicant. The Committee of Creditors is also under obligation to verify the eligibility of the Resolution Applicant under section 29A of The Insolvency and Bankruptcy Code, 2016

(v) **Earnest Money Deposit**

The Committee of Creditors has approved an Earnest Money Deposit (EMD) of Rs. 5 Crore to be deposited with Resolution Professional in the form a Demand Draft made in favour of the Corporate Debtor i.e. SAMTEL COLOR LIMITED. The Resolution Professional has all rights to deposit the Demand Draft to the bank account of the Corporate Debtor. The Resolution Professional will not accept any resolution application without EMD and will reject all the resolution plans in case the EMD is not provided or is less than the prescribed amount or the financial instrument is not appropriate.

- (vi) Bidder without Earnest Money or inadequate earnest money shall be summarily rejected, and no interest would be paid on the amount of earnest money deposit. The EMD will be refunded to the bidders who do not qualify to the next level. However, the earnest money deposit stands forfeited if the bidder provides false information or becomes ineligible under any provision of the Insolvency and Bankruptcy Code, 2016.

**(vii) Process of Participation**

The enquiries will be received on the official mail ID (specifically created for this process) as published in newspaper and as provided in Form – G and the resolution professional will interact with all leads to assess their eligibility to participate in the resolution process of the corporate debtor.

- (viii) The resolution professional will ask for necessary documents related to KYC of the applicant along with necessary financial statements to assess eligibility criteria, capacity and capability of the Prospective resolution applicants. The applicants will be accepted as potential resolution applicant by sending them a mail and asking them to submit an undertaking as required under section 29(2) of IBC, 2016 and regulation 36(4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- (ix) The Fees to be paid by Resolution Applicant to participate in the process for submission of EOI in the prescribed format would be Rs. 10,000/-.
- (x) The information memorandum as prepared under section 29 of IBC 2016 read with regulation 36 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 will be shared with potential resolution applicant along with any other information asked by them.
- (xi) The Resolution professional will assist the applicants in their due diligence process, inspections and verification of documents and records. The resolution professional will also maintain a data room for the corporate debtor for due diligence of Prospective resolution applicants. All relevant data about assets, liabilities, technology, marketing, intellectual properties, trained human resources, etc. would be available for due diligence of the prospective resolution applicants. The resolution professional will make them understand the entire process of price exploration and bidding.

(xi) **Submission of Resolution Plan**

The resolution applicants would submit earnest money deposit along with an agreement duly executed with the Resolution Professional and the Resolution Applicant in support is his agreement to the terms and conditions of the bidding process including the clauses regarding forfeiture of EMD. The applicant who would deposit EMD and will execute the said agreement would be eligible to appear before Committee of Creditors for submission of Resolution Plan.

- (xii) All the eligible resolution applicants will appear before resolution professional in the presence of COC members and will submit their resolution plan along with closed and sealed financial bid. The financial bid will include resources offered to Committee of Creditors for allocation to Corporate Insolvency Resolution Process Cost, liquidation value due to dissenting financial creditors and liquidation value due to operational creditors and for allocation to other stakeholders. Operational Creditors are defined as debt of creditors who have supplied goods or services, dues of workmen and employees, dues of State Government and Central Government.

(xiii) **Evaluation of Resolution Plans / Bids**

Before the financial bids are opened in the presence of Committee of Creditors, qualitative scores would be allocated to each Resolution Applicant based on the Bid Evaluation Matrix already declared and based on the documents submitted by the Resolution Applicants. The Committee of Creditors will reserve its right to announce in open the qualitative score of each Resolution Applicant.

- (xiv) The financial bids would be submitted in sealed envelope before the Resolution Professional in the presence of Committee of Creditors and after verification of all eligibility criteria and other relevant facts, the bids would be opened in public view and figures would be inserted in the Bid Evaluation Matrix to ascertain the score of each bidder. The quantitative and qualitative scores would be added up for each Resolution Applicant and would be announced in public. The Resolution Applicant with highest score would be declared as H1 bidder & H2 Bidder (In case of more than one resolution applicant).
- (xv) The open bidding process will be conducted between H1 & H2 Bidder in the presence of Committee of Creditors.

- (xvi) The Earnest Money Deposit of H1 and H2 bidder would be retained by Resolution Professional and all other EMD would be returned to bidders. The Earnest Money Deposit of H2 bidder would be retained till the resolution plan of H1 bidder is approved by Committee of Creditors. In case, the Resolution Plan of H1 bidder is rejected or he become ineligible for any reasons or he withdraw his Resolution Plan, then the Resolution Plan of H2 bidder would be considered for approval. The EMD of H2 bidder would be returned immediately after the Resolution Plan of H1 bidder is approved by Committee of Creditors.
- (xvii) The Earnest Money Deposit would be forfeited by Resolution Professional in case the Resolution Plan or the bid is withdrawn by Resolution Applicant at any stage of the bidding process. In case, H1 bidder does not provide documents or information as may be required by Committee of Creditors to get necessary approval from their sanctioning authorities, the Resolution Professional will give a notice in writing to the Resolution Applicant and provide him an opportunity of reasonable time depending upon the time available under Corporate Insolvency Resolution Process to provide all the information and documents. In case the Resolution Applicant does not provide the documents and information even after the notice in writing, the Resolution Professional will forfeit the Earnest Money Deposit.
- (xviii) **Authority of the Bidder & KYC documents:**

Person(s) submitting the Resolution Plan and signing the agreement and other documents shall state in what capacity he or they are signing the documents. The following documents must be submitted along with the bid documents.

- a) Documents regarding constitution of the organization such as memorandum and articles of association, LLP Agreement, Partnership Deed, Trust Deed, etc.
- b) Documents regarding registration of the organisation such as certificate of incorporation, registration of partnership, registration with any other government department, PAN, etc.
- c) List of Shareholders, Directors, Managing Director, Partners, Trustees, Key Managerial personnel, as may be applicable.
- d) Authority of the person to participate in the bid on behalf of the organization such as board resolution or authority letter.

- e) Copies of the audited financial statements for the last three years with all schedules, notes and qualifications.
- f) All relevant documents for establishing net worth and any other eligibility criteria as declared by Resolution Professional.

(xix) **Corrupt Practices:**

Any bribe, commission or advantage offered or promised by or on behalf of the bidders to any officer or employee of the Resolution Professional or members of Committee of Creditors shall (in addition to any criminal liability which the tenderer may incur) debar his bid from being considered. Canvassing on the part of or on behalf of the bidder will also make his bid liable to rejection.

(xx) **Acceptance of Bid/Resolution Plan:**

The Resolution Applicant and the Committee of Creditors reserves the right to reject any or all the bidders, without assigning any reason thereof and does not bind himself to accept the lowest or any other tender.

(xxi) **Validity of Offer:**

The Bids and the offer would remain valid unless it is rejected by Resolution Professional or Committee of Creditors or by adjudicating authority. In case the bid and the offer are withdrawn by the Resolution Applicant for whatsoever reason, the earnest money deposit would be forfeited.

(xxi) **Inspection**

The Bidder/ Resolution Applicant will be entitled to visit the office and other premises of the corporate debtor for due diligence, he will also be entitled to inspect documents and other records of the corporate debtor.

**B. APPROVAL OF RESOLUTION PLAN**

- (i) Indian Bank's Association, in their meeting on 29 January 2018 decided that the members of COC would interact and negotiate with H1 bidder only and they may consider, interact and negotiate with H2 bidder only in case H1 bidder withdraw from the process.
- (ii) It is clarified that the members of COC will negotiate only with H1 bidder. They may decide to interact and negotiate with H2 in case H1 bidder withdraw or is not eligible to become a resolution applicant.
- (iii) The H1 bidder would submit detailed resolution plan compliant to various provisions of IBC, 2016 and regulations made thereunder.
- (iv) The Resolution Professional shall examine resolution plan received by him and would confirm that all the provisions of Section 30(2) and Regulation 39 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 are complied with.
- (v) The resolution professional shall present the resolution plan of H1 bidder before Committee of Creditors for their understanding and approval. The members of COC will obtain their internal approval for the resolution plan.
- (vi) The Resolution Professional will convene another meeting of COC for the approval of resolution plan and will put this resolution for voting.
- (vii) The Resolution Professional thereafter shall submit the resolution plan duly approved by the committee of creditors to Hon'ble NCLT with his own certificate that (a) the contents of the resolution plan meet all requirements of the code and the regulations; and (b) the resolution plan has been approved by the committee.
- (viii) Hon'ble NCLT if satisfied, that the Resolution Plan as approved by the committee of creditors under sub section 4 of section 30 meets the requirements as referred to in sub section 2 of section 30, it shall by order approved the resolution plan which shall be binding on the corporate debtor and its employees, members, creditors, guarantors and other stake holders involved in the resolution plan.

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