

DEED OF SALE

THIS DEED OF SALE (“Deed”) is entered on this _____ day of the month of _____ in the year 2019:

BETWEEN

CONCAST STEEL AND POWER LIMITED (In Liquidation), a company incorporated under the Companies Act, 1956, and having its registered office at 21, Hemant Basu Sarani, Kolkata – 700001, acting through its Liquidator Mr. Kshitiz Chhawchharia (IBBI Reg. No: IBBI/IPA-001/IPP00358/2017-2018/10616), having his office at 8A & 8B Satyam Towers, 3 Alipore Road, Kolkata, 700027 (hereinafter referred to as the “**Owner**”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns) of the **ONE PART**;

AND

[•], a [company incorporated under the Companies Act, 2013/ an existing company under the Companies Act, 2013/ a limited liability partnership firm incorporated under the Limited Liability Partnership Act, 2008] and having its registered office at [•] (hereinafter referred to as the “**Purchaser**”, which expression shall unless repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns) of the **OTHER PART**.

The Owner (represented by the Liquidator) and the Purchaser are hereinafter collectively referred to as the “**Parties**” and individually as a “**Party**”.

WHEREAS

- A. Corporate insolvency resolution process against Concast Steel and Power Limited (In Liquidation) was initiated on November 7, 2017 and Mr. Kshitiz Chhawchharia was appointed as the Resolution Professional by the Committee of Creditors.
- B. Subsequently, upon an application made by the Resolution Professional, the Adjudicating Authority had passed an order on September 26, 2018 allowing Concast Steel and Power Limited (In Liquidation) to be liquidated in the manner specified in the Insolvency and Bankruptcy Code, 2016 (“**IBC**”) read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (“**Liquidation Process Regulations**”). Vide the same order, the Resolution Professional was confirmed as Liquidator.
- C. In accordance with the Liquidation Process Regulations, the Liquidator had issued an asset sale process memorandum on 30th May 2019, in relation to the sale of the asset lots located at the manufacturing unit of the Owner at Bankura, West Bengal (“**Asset Sale Process Memorandum**”), subsequently amended from time to time, *inter alia*, specifying the mode of sale, terms and conditions of sale, including reserve price and the earnest money deposit.
- D. The public announcement of the proposed auction of asset lot located at the manufacturing unit of the Owner at Bankura, West Bengal was made in the All India edition of **The Economics Times** and all West Bengal edition of **Aaj Kal** and the website of the company in liquidation in accordance with Regulation 12 (3) of the Liquidation Process Regulations.

- E. The Adjudicating Authority, vide its order dated 16th May 2019, had allowed the Liquidator to undertake the e-auction, pending receipt of relinquishment of security interest from two (2) out of the 23 (twenty-three) secured creditors of the Owner as on the date of such direction.
- F. The e-auction was conducted on July 15, 2019 and the Purchaser was declared as the highest bidder at the price of INR _____ (“**Sale Consideration**”) for the Schedules Asset(s) (as defined herein after) pursuant to which a Letter of Interest was issued by the Liquidator in favour of the Purchaser on [date to be inserted] and was executed by Purchaser on [date to be inserted].
- G. In compliance with the terms and conditions stipulated in the Asset Sale Process Memorandum, the Purchaser has as on the date of this Deed paid the entire Sale Consideration and applicable GST on the entire Sale Consideration by way of [specify the mode of payment] and the Owner (represented by the Liquidator) agrees to execute these presents.

NOW THEREFORE, in consideration of the mutual covenants, terms and conditions and understandings set forth in this Deed, the Parties, with the intent to be legally bound hereby, covenant and agree as follows:

1. The interpretation of the terms of this Deed shall be governed by following rules of interpretation:
 - (a) references to “include” or “including” are to be construed without limitation;
 - (b) unless the context otherwise requires, words in the singular include the plural and vice versa and a reference to any gender includes all other genders;
 - (c) references to Clauses and Schedule are to clauses of, and schedule to, this Deed;
 - (d) Schedules to this Deed form part of this Deed;
 - (e) references to any statute or statutory provision includes a reference to that statute or statutory provision as amended, consolidated or replaced from time to time (whether before or after the date of this Deed) and includes any subordinate legislation made under the relevant statute or statutory provision; and
 - (f) the calculation period for any time period referred to in this Deed shall: (i) include the date from which it is stated to commence; (ii) be determined by reference to calendar days (unless this Deed specifically refers to business days); and (iii) end at 23.59 hours Indian Standard Time on the last such date in such time period as determined in accordance with sub-paragraphs (i) and (ii) above.
2. In consideration of the Purchaser having paid the entire Sale Consideration of INR _____ (Indian Rupees _____ only) in the following manner:

| Sl. No. | Demand Draft/ Pay Order/ RTGS/ UTR No. | Date | Amount (INR) | Drawn on (Name of the Bank) |
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the receipt and sufficiency of which has been duly acknowledged by the Owner, the Owner, DOES HEREBY GRANT, CONVEY, TRANSFER, SELL AND ASSIGN unto and in favour of the Purchaser, without any guarantee or warranty whatsoever and on an “*as is where is*” “*as is what is*”, “*whatever there is*” and “*no recourse*” basis there in the assets specified in the Schedule hereto (“**Schedule Asset(s)**”) and every part thereof together with all rights (including all benefits of any actual or potential, or rights to make a claim against any person including warranty claims (such as manufacturer warranty and suppliers warranty) to the extent the Owner is entitled to and all the privileges, easements, profits, advantages, rights, and appurtenances whatsoever in law, equity or contract or otherwise of the Owner into or upon or otherwise in relation thereto in any manner whatsoever.

3. Without prejudice to the aforesaid provision, it is hereby clarified that, the expression ‘Schedule Assets’ shall include the following within its ambit, where the relevant Asset Lot is being transferred on a *going concern basis*:
 - (a) All of the employees engaged in or in connection with the unit as on the date of the transfer and listed in **Annexure A** hereto;
 - (b) all of the Owner’s rights, to the extent assignable or transferable, to all licenses, permits, approvals, certificates of exemption, franchises, accreditations and registrations and other governmental licenses, permits or approvals issued to the Owner with respect to the Schedule Assets;
 - (c) all of the Owner’s documents, records, and files owned or used by the Owner with respect to the Schedule Assets;
 - (d) all of the Owner’s rights and interest pertaining to any counterclaims, set-offs, third party indemnities or defenses that the Owner may have in relation to the Schedule Assets.
4. With effect from the date of this Deed, the Purchaser shall HOLD, OWN, POSSESS AND ENJOY the Schedule Asset(s), absolutely and forever but subject to the payment of all taxes, assessments, dues and duties now chargeable or payable and hereafter to become chargeable or payable in respect of the Schedule Asset(s) hereby conveyed to the government or local authority or any other public body, with all ownership rights whatsoever. It is hereby clarified that the sale does not entail transfer of any right, title and interest except the right, title and interest which the Owner has on the Schedule Assets as on the date of this Deed. The Owner further clarifies that the Purchaser is assuming any and all liability of any nature whatsoever in relation to the Schedule Asset(s), the cause of action in relation to which arises on or subsequent to September 26, 2018, being the Liquidation Commencement Date, regardless of when such liability arises.
5. Simultaneously with the execution of this Sale Deed, the Purchaser acknowledges the receipt of delivery and possession of the movable assets forming part of the Schedule Asset(s) and other tangible and intangible assets pertaining to the asset lot, comprising the Bankura Unit on a *going*

concern basis and agrees and acknowledges that the Owner transfers the Schedule Asset(s) without any guarantee or warranty whatsoever and on an “*as is where is*” “*as is what is*”, “*whatever there is*” and “*no recourse*” basis and transfers to the Purchaser only whatever rights, interest and title that it has over the Schedule Asset(s).

6. The Owner makes no warranty nor provides any guarantee whatsoever as to the boundaries, technical description or legal condition of the Schedule Asset(s), such as with regard to the existence of any claims, suits or actions involving the same. The Purchaser agrees and acknowledges that it was given the opportunity to undertake due diligence on the Schedule Asset(s) and it has, itself, on or before the date of participation in the auction process, verified the status of the Schedule Asset(s) and shall be deemed to have purchased the Schedule Asset(s) after complete examination and inspection of it / them and waives any right to make any further requisition or raise any objections as to the title, boundaries or consideration and nature of the Schedule Asset(s) or any part thereof. The Purchaser further agrees and acknowledges that, for the purposes of its due diligence, no reliance has been placed on any document or other information provided by the Vendor and / or the Liquidator or his staff or professional advisors whether provided within the virtual data room or by any other means of communication.
7. The Liquidator will act as agent for the Owner and neither he nor his representatives shall incur any personal liability in any circumstance whatever by virtue of this Deed, nor in relation to any related matter or claim nor in respect of any transfer, assignment or other documents made pursuant to this Deed.
8. The Purchaser shall be bound by the regulations of the local/ any other authority, as applicable, in regard to the use of the Schedule Assets. The entire responsibility for completion of all procedures, formalities, compliances, approvals etc. required for completion of the sale shall be that of the Purchaser.
9. Any communication required to be made or delivered by any of the Parties hereto, in furtherance of or in connection with this Deed, shall be sent by courier or by certified or registered mail, or electronic mail and properly addressed as follows:

If to the Purchaser:

Attention:

Address:

E-mail:

If to the Owner:

Attention: The Liquidator

Address:

E-mail:

10. This Deed is governed by and is to be construed in accordance with the laws of India and the courts at Kolkata shall have exclusive jurisdiction with respect to any dispute arising from this Deed, to the extent such dispute does not fall under the jurisdiction of Kolkata Bench of National Company Law Tribunal.

11. This Deed together with the Schedule and Annexure hereto and the documents, agreements mentioned herein constitute the entire agreement between the Parties and supersedes any arrangement, understanding or previous agreements relating to the subject matter of this Deed.
12. If any provision of this Deed is found to be illegal, invalid or unenforceable, then such provision shall be severed from this Deed and the remaining provisions of this Deed shall continue in full force and effect and operate as if the severed provision had not been included.
13. All costs and expenses incurred including expenses towards stamp duty, registration fee and incidental expenses in relation to this Deed shall be borne by the Purchaser.
14. The capitalized term used herein and not defined shall have the meaning ascribed to such term in the IBC.
15. This Deed shall be prepared in counterparts, one of which shall be retained by the Purchaser and the other shall be retained by the Liquidator, on behalf of the Owner.

[Remainder of this page has been intentionally left blank]

SCHEDULE: SCHEDULE ASSET(S)

Annexure A
List of Employees

IN WITNESS WHEREOF, the Parties hereto have executed this Deed as of the day, month and year above first written.

Witnessed by:

Concast Steel & Power Limited (In Liquidation)

By its Liquidator

Signature:

Name:

Designation:

Witnessed by:

[•] [Name of Purchaser to be inserted]

By its Duly Authorized Representative

Signature:

Name:

Designation: