

ANNEXURE-II

Format of Undertaking¹

[To be printed by the bidder on stamp paper of adequate value (not less than INR 600) under the Stamp Act applicable to the particular state. Bidder is required to procure the appropriate stamp paper at its own cost]

I, [name of the authorized person of bidder], son/daughter of [____], aged about [____] years, currently residing at [Address to be inserted] and having Aadhaar / Passport number [____], on behalf of [name of the bidder] having registered office at [____] ("**Bidder**") pursuant to authorization of the Board of the Bidder dated [____] (as enclosed herewith), do solemnly affirm and state to the monitoring committee ("**MC**") of [name of Company] ("**Company**") as follows:

1. That I am duly authorized and competent to make and affirm the instant undertaking for and on behalf of the Bidder in terms of [resolution of its board of directors/ power of attorney dated [____]]. I hereby unconditionally state, submit and confirm that the document is true, valid and genuine.
2. I hereby unconditionally state, submit and confirm that the Bidder does not suffer from any of the ineligibilities or disqualifications as set out under Section 29A of the Insolvency and Bankruptcy Code, 2016 ("**Code**").
3. That the Bidder unconditionally and irrevocably represents, warrants and confirms that it is eligible under the provisions of the applicable laws to submit a bid for the sale of assets of the Company as set out in request for proposal dated [____], and that it shall provide all documents, representations and information as may be required by the MC to substantiate its eligibility to the satisfaction of the MC.
4. That the Bidder unconditionally and irrevocably undertakes that it shall provide all data, documents and information as may be required to verify the statements made under this undertaking.
5. That the Bidder understands that the MC may evaluate the bid to be submitted by the Bidder and such evaluation shall be on the basis of the confirmations, representations and warranties provided by the Bidder under this undertaking.
6. That in the event any of the above statements are found to be untrue or incorrect, then the Bidder unconditionally agrees to indemnify and hold harmless each member of the MC against any losses, claims or damages incurred by the MC on account of or in relation to ineligibility of the Bidder.
7. That the Bidder agrees and undertakes to disclose/inform forthwith, to the members of the MC, if the Bidder becomes aware of any change in factual information in relation to it which would make it ineligible to submit the bid under applicable laws at any stage of the bidding process of the Company, after the submission of this undertaking.

¹ Note: In case a bidder is an individual, relevant changes, as applicable, may be made in the format of the undertaking.

8. That this undertaking shall be governed in accordance with the laws of India and the courts and tribunals of Mumbai shall have the exclusive jurisdiction over any dispute arising under this undertaking.

SIGNED AND DELIVERED for and on behalf of [*insert name of bidder*], by its duly authorized signatory:

Name:

ANNEXURE-III

Confidentiality Undertaking

[To be printed by the bidder on the stamp paper of appropriate amount (not less than INR 600) as per the stamp act applicable to the state of execution. Bidder is requested to procure the appropriate stamp paper at its own cost]²

This confidentiality undertaking has been signed by _____, a potential bidder, having its office at _____ acting through Mr./Ms. _____, the authorized signatory / authorized representative (“**Bidder**” which expression shall, unless repugnant to the context, include its successors, legal representatives, permitted assigns and administrators in business) in favour of Monitoring Committee of [name of Company].

WHEREAS

1. [name of Company], a company registered under Companies, Act, 1956 (hereinafter referred to as “**Company**”) had been undergoing corporate insolvency resolution process (“**CIRP**”) under the provisions of the Insolvency and Bankruptcy Code, 2016. The CIRP of the Company stands completed by virtue of the common order passed by the Hon’ble National Company Law Tribunal, Mumbai Bench (“**NCLT**”) on June 9, 2020 approving the resolution plan submitted by UV Asset Reconstruction Company Limited, which has been published and uploaded on the website of the NCLT on June 18, 2020 (“**Approval Order**”).
2. Pursuant to the terms of the approved resolution plan, with effect from the publication of the Approval Order, the monitoring committee is required to oversee and supervise the operations and management of the Aircel Companies. The monitoring committee has been constituted and has assumed its roles and responsibilities in accordance with the terms of the approved resolution plan (“**Monitoring Committee**” or “**MC**”). The MC comprises one representative each of the financial creditors, successful resolution applicant, and Deloitte Touche Tohmatsu India LLP.
3. The Monitoring Committee proposes to sell various assets of the Company such as [insert details and types of assets] at several BSC premises of the Company that are either not in any use, commercially not useful or not required for the operations of the Company as set out in request for proposal dated _____ (“**Assets**”), subject to the compliance with applicable laws and terms of approved resolution plan (“**Asset Sale**”).
4. The MC is required to share the information with a potential bidder after receiving an undertaking from the bidder to the effect that the bidder shall maintain confidentiality of the information shared and shall not use such information to cause an undue gain or undue loss to itself or any other person and comply with the confidentiality terms and applicable law.

THEREFORE, the Bidder hereby declares and undertakes as follows:

1. The Bidder declares and undertakes that it will not divulge any information of the Company, including any financial, technical, or commercial information of the Company, disclosed to the Bidder by the MC (or any other person on behalf of the MC) through oral, electronic or written

² Changes, as applicable, may be made to the draft if the bidder is an individual.

communication or through any mode to anyone and the same shall constitute “**Confidential Information**”. Any information or documents generated or derived by the recipients of Confidential Information that contains, reflects or is derived from any Confidential Information shall be deemed as Confidential Information.

2. The Bidder further unconditionally and irrevocably undertakes and declares that:
 - a) the Confidential Information shall be kept confidential by the Bidder and shall be used solely as allowed under the applicable laws;
 - b) it shall not use the Confidential Information to cause any undue gain or undue loss to itself or any other person;
 - c) it shall comply with all provisions of law for the time being in force relating to confidentiality and insider trading in relation to such Confidential Information;
 - d) it shall protect any intellectual property of the Company which it may have access to;
 - e) the Confidential Information may only be disclosed to and shared with any directors, officers, employees or advisors of the Bidder, by the Bidder, in accordance with applicable laws, including in relation to confidentiality and insider trading, and the terms of this confidentiality undertaking on a strict need-to-know basis and only to the extent necessary for and in relation to the Asset Sale process of the Company, provided that the Bidder binds such employees and third parties, by way of an undertaking/ agreement, to confidentiality obligations at least as restrictive as those stated in this confidentiality undertaking. The Bidder shall be responsible for any breach of the confidentiality obligations by such persons to whom it shares the Confidential Information in accordance with this confidentiality undertaking;
 - f) it shall ensure that all Confidential Information is kept safe and secured at all times and is protected from any unauthorised access, use, dissemination, copying, theft or leakage;
 - g) it shall immediately destroy and permanently erase all Confidential Information upon the completion of the Asset Sale.
 - h) it shall take all necessary steps to safeguard the privacy and confidentiality of the Confidential Information shared and shall ensure that no person acting on its behalf divulges or discloses or uses any part of the Confidential Information; and
 - i) it shall be responsible for any breach of obligations under this confidentiality undertaking (including any breach of confidentiality obligations by any director, officer, employee or advisor of the Bidder) and shall indemnify and hold harmless the MC and its representatives, advisors and agents for any loss, damages and costs incurred by the MC or such representatives, advisors and agents of the MC due to such breach of obligations by the Bidder or any person acting on its behalf.

3. Notwithstanding anything to the contrary contained herein, the following information shall however not be construed as Confidential Information:
 - a) information which, at the time of disclosure to the Bidder was already in the public domain without violation of any provisions of applicable laws;
 - b) information which, after disclosure to the Bidder becomes publicly available and accessible without violation of applicable laws or a breach of this confidentiality undertaking;
 - c) information which was, lawfully and without any breach of this confidentiality undertaking, in the possession of the Bidder prior to its disclosure, as evidenced by the records of the Bidder;
 - d) information that is received by the Bidder from a third party, who to the knowledge of the Bidder after having conducted reasonable enquiry into the authority of such third party to possess and divulge the same, is not in breach of its confidentiality obligations. Provided that upon the Bidder obtaining knowledge of a breach or the possibility of a breach by such third party of its confidentiality obligations, the Bidder shall promptly notify the MC of such breach or potential breach and refrain from any usage or dissemination of such information; and

- e) information that is required to be disclosed by the Bidder (and to the extent required to be disclosed) pursuant to the requirements of applicable laws, or order of a judicial authority or the guidelines of a regulatory authority or the stock exchange, provided however the Bidder must provide prior intimation of such disclosure to the MC. Without prejudice to the aforementioned, in the event such disclosure cannot be avoided on account of requirement under applicable law, the Bidder shall immediately disclose such requirement to the MC so that the MC may take appropriate legal steps to ensure protection of such Confidential Information and the disclosure by the Bidder must be limited strictly to the extent required for compliance with the aforementioned law, rules, direction or order.
4. No representation or warranty has been provided by the MC in relation to the veracity, completeness, authenticity, accuracy or adequacy of the information provided to the Bidder, including Confidential Information, and the Bidder would not have any claim against the MC or any person acting on its behalf or the Company in relation to any information provided.
5. Nothing in this confidentiality undertaking shall have the effect of limiting or restricting any liability arising as a result of fraud or wilful default.
6. The Bidder agrees that damages may not be an adequate remedy for a breach of this confidentiality undertaking and the MC shall be entitled to the remedies of injunction, specific performance and other equitable relief for a threatened or actual breach of this confidentiality undertaking.
7. The Bidder hereby represents and warrants that it has the requisite power and authority to execute, deliver and perform its obligations under this undertaking.
8. The terms of this confidentiality undertaking may be modified or waived only by a separate instrument in writing signed by the Bidder with the prior written consent of the MC that expressly modifies or waives any such term.
9. This confidentiality 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 laws and the courts at Mumbai shall have exclusive jurisdiction over matters arising out of or relating to this confidentiality undertaking.
10. The confidentiality undertaking shall be in conjunction to any other undertakings provided by the Bidder to the MC.

Encl: Board resolution / Power of Attorney authorising the execution of the undertaking³.

Signed on behalf of

(Name of Bidder)

By

(Name and Designation)
Authorised Signatory

³ Note: This is applicable in the case of corporate persons.