

**DETAILED INVITATION FOR PROPOSING A SCHEME FOR COMPROMISE OR ARRANGEMENT FOR STERLING BIOTECH LIMITED (UNDER LIQUIDATION IN INSOLVENCY & BANKRUPTCY CODE) UNDER SECTION 230 OF THE COMPANIES ACT, 2013**

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*Issued By:*

**Dr. (h.c.) Adv Mamta Binani (B.Com, FCS)**

Liquidator

In the matter of Sterling Biotech Limited

Registration No.: IBBI/IPA-002/IP-N00086/2017-18/10227

[liquidatorsterlingbiotech@gmail.com](mailto:liquidatorsterlingbiotech@gmail.com) (process specific)

[mamtabinani@gmail.com](mailto:mamtabinani@gmail.com) (registered with IBBI)

Address of the Liquidator registered with IBBI:

2A, Ganesh Chandra Avenue, Commerce House,

Fourth Floor, Room no.6, Kolkata 700013

## 1. ABOUT THE CORPORATE DEBTOR & BACKGROUND

- 1.1. Sterling Biotech Limited (SBL)** was incorporated in March 1985, as Pluto Exports & Consultants Limited, and was involved in trading of commodities like spices, tea and pulses. In 1991, Pluto Exports & Consultants Limited entered into tea plantation business as the industry experienced substantial growth during the early 1990s and in June 1991 changed its name to Sterling Tea and Industries Limited. With growth potential in food, pharmaceuticals and photography industries, it diversified into the production of Pharmaceutical Gelatin. Consequently in 1997, Sterling Tea and Industries Limited successfully commissioned its first Gelatin production facility, at Karakhadi, Dist. Vadodara, Gujarat.
- 1.2.** Later, Sterling Tea and Industries Limited (STIL) decided to focus exclusively on the Gelatin production and exit the tea business entirely in 2000. STIL in March 2001 changed its name to Sterling Biotech Limited (**SBL**).
- 1.3.** SBL operates Two Manufacturing facilities in Dist. Vadodara, at Karakhadi & Masar, in Gujarat and One also in Ooty, Tamilnadu, though this facility is not operational since 2018. The Ooty Plant was also into manufacturing facilities as that of Karakhadi. SBL's facilities at Karakhadi is one of the world's best site, catering globally to major Capsule Manufacturers. This facility is ISO, GMP, EDQM, FSSAI, MUI, IFANCA, Kosher Certified. Karakhadi Plant is engaged in manufacturing of Gelatin and Dicalcium Phosphate (DCP) while Masar Plant manufactures Pharma products namely, Lovastatin, Daunorubicin Hydrochloride, Doxorubicin Hydrochloride, Epirubicin Hydrochloride, etc. through microbiological fermentation process. SBL manufacturing facility at Masar, Gujarat, is at par with international standards. It complies with cGMP norms complying to the standards of WHO and also approved by EDQM for Doxorubicin Hydrochloride. The Division also have Certificate of Suitability (COS/CEP) for Lovastatin, Doxorubicin Hydrochloride and Epirubicin Hydrochloride and US Drug Master File (USDMF) for Lovastatin and Doxorubicin Hydrochloride.
- 1.4.** The Company has successfully implemented the Gelatin, Dicalcium Phosphate (DCP) & Pharma (Lovastatin, Daunorubicin Hydrochloride, Doxorubicin Hydrochloride, Epirubicin Hydrochloride etc) in the following locations:

LOCATION	PRODUCTS	CAPACITY	FACILITY
<b>Karakhadi</b>	Gelatin & Dicalcium Phosphate (DCP)	4440 MT (Gelatin)  16500 MT Dicalcium Phosphate (DCP)	<i>Inter-alia</i> , Bone handling shed, Acidulation shed, DCP Precipitation and drying, Gelatin Filtration & Re-boiling system, Fish Gelatin Plant, Hydrolysed Protein, Effluent treatment Plant (capacity of 7 MLD), Captive Power Plant 2.77x2 MW) etc. <b>Land</b> - 90.30 acres <b>Building</b> - 67341.81 Sq. Mtrs. (consisting of Production Wing, Bone handling Unit, DMB building etc.)

<b>Masar</b>	Pharma (Lovastatin, Daunorubicin Hydrochloride, Doxorubicin Hydrochloride, Epirubicin Hydrochloride Etc.)	Annual Installed Capacity: Lovastatin 255 MT, Daunorubicin Hydrochloride 360 Kg, Doxorubicin Hydrochloride 72 Kg, Epirubicin Hydrochloride 24 Kg.	<b>Main fermenters</b> 1) 6 No. of 160 KL each 2) 2 No. of 16 KL each <b>Seed fermenters</b> 1) 4 No. of 16 KL each 2) 4 No. of 2 KL each <b>Land - 77 acres</b> <b>Building - 48417 Sq. Mtrs (12 Acres)</b> (Electrical sub-station, Workshop building, Raw material & Finished Goods building, Fermenter building, Extraction Building, Solvent Recovery Plant, ETP, Utility Buildings, Quality Building, Oncology Building, Admin Building etc.)
<b>Ooty</b> <i>(this facility is not operational since 2018)</i>	Gelatin & Dicalcium Phosphate (DCP)	2200 MT (Gelatin)  7800 MT Dicalcium Phosphate (DCP)	<i>Inter-alia</i> , Bone handling system, Drier Bagging system, Intake pums, EOT crane, MEL system. <b>Land – 13.15 acres</b> <b>Building - 21519.08 Sq. Mtrs.</b> (Bone go-down, Boiler house, Pump house, Ossessin Section, DG Room, Gelatin Plant etc.)
<b>SEZ - Bharuch</b>	Gelatin & Dicalcium Phosphate (DCP)	3000 MT (Gelatin)  9000 MT Dicalcium Phosphate (DCP)	<b>Land – 107.71 acres (leasehold)</b> <b>Building – 62646.27 Sq. Mtrs.</b>

- 1.5.** The Corporate Insolvency Resolution Process (CIRP), in respect of the Sterling Biotech Limited (Corporate Debtor) had been initiated on the Application under Section 7 of the Insolvency & Bankruptcy Code, 2016 (Code) filed by Union Bank of India (earlier Andhra Bank), which was admitted vide Order dated 11.06.2018 by the Hon'ble National Company Law Tribunal, Mumbai (Adjudicating Authority). During the CIRP, one Shri Sundaresh Bhat had been appointed as the Interim Resolution Professional (IRP) and subsequently was confirmed as the Resolution Professional (RP) by the Committee of Creditors of the Corporate Debtor.
- 1.6.** Thereafter, due to failure of CIRP, the Adjudicating Authority vide order dated 08.05.2019, effective from 11.05.2019 ordered liquidation of the Corporate Debtor and vide communication dated 13.05.2019 appointed Ms. Mamta Binani as the Liquidator of the Corporate Debtor. Therefore, the Liquidation Commencement Date was considered as 11.05.2019 and Liquidator Appointment Date as 13.05.2019.
- 1.7.** Subsequently, the Hon'ble National Company Law Appellate Tribunal (NCLAT) in the matter of Shweta Vishwanath Shirke & Ors. (Appellant) Vs. The Committee of

Creditors & Anr.,.....Respondent passed an Order dated 30.05.2019, in Appeal No. 601 of 2019, wherein *inter-alia* mention that:

**“Until further order, the operation of impugned order dated 8th May, 2019 so far as liquidation is concerned shall remain stayed. However, the Liquidator will ensure that the company remains a going concern. The bank account(s) of the ‘Corporate Debtor’ be allowed to be operated for day-to-day functioning of the company such as for payment of current bills of the suppliers, salaries and wages of the employees /workmen, electricity bills etc.”**

- 1.8. Thereafter, vide Order dated 28.08.2019, the Hon’ble NCLAT set aside the Liquidation Order dated 08.05.2019 passed by the Adjudicating Authority and has also set aside the Corporate Insolvency Resolution Process, subject to the payment of the amounts as payable by the Promoters/Stakeholders in terms of the Application filed under section 12A of the Code and such other conditions as mentioned in the said order.
- 1.9. Subsequently, vide Order dated 18.11.2019, the Hon’ble NCLAT clarified its judgment dated 28.08.2019 and *inter-alia*, specified the time line for compliance of the Order dated 28.08.2019 and also directed the Resolution Professional to continue till the process contemplated under section 12 A of the Code was over. The relevant excerpt is as under:

**5. It is further clarified that if the order of this Appellate Tribunal dated 28th August, 2019, passed in terms of Section 12 A is not given effect within a period of 30 days from the date of this order, in such case, the order of this Appellate Tribunal dated 28.08.2019 shall stand recalled and the order of liquidation dated 08.05.2019 passed by the learned Adjudicating authority shall stand restored.**

**6. In view of the aforesaid position, we have allowed the “Resolution Professional” to continue till the process is completed under section 12A for a period of another 30 days. In case the amount is not paid within a period of 30 days as observed above and order of liquidation is restored, the Liquidator appointed by the Adjudicating Authority will continue.”**

- 1.10. One Richmond Investments Private Limited filed an appeal before the Hon’ble Supreme Court of India (Supreme Court), which was registered as Civil Appeal No. 9437 of 2019 challenging order dated 18.11.2019 passed by the Hon’ble NCLAT. The Hon’ble Supreme Court vide order dated 17.12.2019 extended the time granted by the Hon’ble NCLAT upto 31.03.2020. The relevant excerpt of the order is as under:

**“Permission to file the Civil Appeal is granted.**

**Having heard the Learned Senior Counsel for both sides, we are of the view that the 30 day period given in para 5 of the impugned order should be substituted by time till 31.03.2020.**

*In all other aspects, the order stays. Accordingly, the appeals are disposed of.”*

- 1.11.** Thereafter, another application was filed by Richmond Investments Private Limited, being M.A No. 972 of 2020 seeking further extension of time. The said application came to be allowed to be listed on 27.03.2020, however, on account of Lockdown, it appears it was not taken up. As soon as the Lockdown was lifted, the Liquidator, in compliance of the Judgment passed by the Learned Adjudicating Authority and Hon’ble NCLAT requested the Resolution Professional to handover the possession of the Corporate Debtor. However, the Hon’ble Supreme Court vide order dated 10.06.2020 directed “status quo” to be maintained and as such the possession of the Corporate Debtor continued to be with the Resolution Professional for all practical purposes.
- 1.12.** Subsequently, the matter was taken up by the Hon’ble Supreme Court on 11.01.2021, wherein the case was directed to be listed in the First week of February, 2021. Consequently, the case was taken up after few adjournments finally on 22.02.2021, wherein the Hon’ble Supreme Court *inter-alia* dismissed the Miscellaneous Application filed by Richmond Investments Private Limited.
- 1.13.** Therefore, the status quo, granted by the Hon’ble Supreme Court also came to an end and pursuant to the order passed by the Hon’ble NCLAT dated 18.11.2019, the order of NCLAT dated 28.08.2019 stands recalled and the order of liquidation dated 08.05.2019 passed by the Adjudicating Authority stands restored and the Liquidator appointed by the Adjudicating Authority stands reinstated on 22.02.2021 and the Liquidation Process under the Insolvency & Bankruptcy Code, 2016 has begun.
- 1.14.** The Liquidator while taking guidance from the principle laid down in the decision passed by Hon’ble NCLAT in Y. Shivram Prasad v. S. Dhanapal (Company Appeal (AT) (Insolvency) No. 224 of 2018) caused a Public Announcement on 10.03.2021 inviting Scheme of Compromise or Arrangement under Section 230 of the Companies Act, 2013 (“Scheme”). The said Public Announcement is published in Business Standard & Economic Times (All India Editions) in English Language, Dinamani (All Tamilnadu Editions) in Tamil Language, Sandesh (All Gujarat Editions) in Gujarati Language and Loksatta (All Maharashtra Editions) in Marathi Language and also finds a place on the website of the Corporate Debtor, viz [www.sterlingbiotech.in](http://www.sterlingbiotech.in) under the Tab ‘Liquidation Process’ on its homepage.

## 2. SUBMISSION OF SCHEME FOR COMPROMISE OR ARRANGEMENT UNDER SECTION 230 OF THE COMPANIES ACT, 2013 ('SCHEME')

### 2.1. Invitation for submission of Scheme

Ms. Mamta Binani, in her capacity as Liquidator of Sterling Biotech Limited, is inviting a Scheme of Compromise or Arrangement under Section 230 of Companies Act, 2013 for Sterling Biotech Limited (in Liquidation under the Insolvency & Bankruptcy Code) from interested applicant(s) who fulfils the eligibility criteria provided below:

### 2.2. Eligibility

Scheme of Compromise or Arrangement is invited from the following categories of persons:

- Creditors of Sterling Biotech Limited, or any class of them
- Members of Sterling Biotech Limited, or any class of them

The concerned applicant shall not be eligible to submit a Scheme for SBL, if the applicant is ineligible under the Insolvency & Bankruptcy Code, 2016 and/or any other law as applicable (as amended from time to time).

### 2.3. Submission of Information/documents for taking access to Virtual Data Room (VDR)

2.3.1. For participating in the process of submission of Scheme for Compromise or Arrangement under Section 230 of Companies Act, 2013, following documents need to be submitted alongwith refundable deposit of Rs.5,00,000:

- Basic Information of the Applicant as per **Annexure A**
- Supporting Documents as set out in **Annexure B**
- Confidentiality Undertaking as per **Annexure C**
- Affidavit cum undertaking under Section 29A as per **Annexure D**

2.3.2. Non-Interest-Bearing Refundable Deposit of Rs. 5,00,000 either in form of Demand Draft or Direct Credit to Beneficiary's Bank Account, with an intimation at [liquidatorsterlingbiotech@gmail.com](mailto:liquidatorsterlingbiotech@gmail.com). Details of the Bank Account is given below:

- Name of the Beneficiary: Sterling Biotech Limited-In Liquidation
- Bank Name: Union Bank of India

- Branch Address: Juhu Vile Parle Branch – 2, A/5, Surekha Building, Model Town CHS Ltd., Gulmohar Road, JVPD, Mumbai - 400049
- Account Number: 059311010000001
- IFSC Code: UBIN0805939
- MICR: 400026326
- Account Type: Current Account

2.3.3. The Applicant may be given access to virtual data room (VDR) for carrying out due diligence, upon submission of all the documents in the formats prescribed herein which shall be subject to verification by the Liquidator and if found incomplete/ineligible at any point in time, the Liquidator reserves the rights to restrict/deny the said access.

**2.4. Submission of Scheme:** Only eligible applicant shall submit the Scheme of Compromise or Arrangement under Section 230 of Companies Act, 2013 by way of hard copy in a sealed envelope along with the requisite annexures/documents at the following address by post or deliver in person not later than Monday, 12.04.2021 AND also by email that too not later than Monday, 12.04.2021:

Dr. (h.c.) Adv Mamta Binani  
Liquidator in the matter of Sterling Biotech Limited  
2A, Ganesh Chandra Avenue, Commerce House  
Fourth Floor, Room no.6, Kolkata 700013  
Contact No. 98310-99551

**Applicant shall also be required to submit the exact copy of the Scheme in soft version along with annexures, if any, at email id: [liquidatorsterlingbiotech@gmail.com](mailto:liquidatorsterlingbiotech@gmail.com).**

Any extension of time for submission of Scheme shall be updated on the website of the Corporate Debtor.

**2.5. Other Conditions:**

2.5.1. The Liquidator reserves the right to cancel or modify the terms of the process document without assigning any reason and without any liability. This is not an offer document and is issued with no commitment. Applicant should regularly visit the website of the Company ([www.sterlingbiotech.in](http://www.sterlingbiotech.in)) under the Tab, 'Liquidation Process' featuring on its homepage, to keep themselves updated regarding clarifications/amendments/time-extensions, if any.

- 2.5.2. The Liquidator reserves the right to withdraw the invitation for submission of Scheme under section 230 and change or vary any part thereof at any stage, should it be so necessary at any stage.
- 2.5.3. No oral conversations or agreements with the Liquidator or any official, agent or employees of the Liquidator, any creditor or class of creditors, any member or class of members shall affect or modify any terms of the invitation for submission of Scheme.
- 2.5.4. Neither the Applicant nor any of representatives of the Applicant shall have any claims whatsoever against the Liquidator or its advisors or any of their officials, agents or employees arising out of or relating to the Scheme.
- 2.5.5. By submitting the Scheme of Compromise or Arrangement, the Applicant shall be deemed to acknowledge that it has carefully read the document and has fully informed itself to all the conditions and limitations.
- 2.5.6. The Applicant acknowledges that the Scheme of Compromise or Arrangement shall be made by the Applicant on an “As is where is basis”, “As is what is basis”, “Whatever there is basis” and “No recourse” basis and the Liquidator will not be providing any representations or warranties for the Company.
- 2.5.7. For any clarifications on the process of submission of Scheme, please contact on [liquidatorsterlingbiotech@gmail.com](mailto:liquidatorsterlingbiotech@gmail.com) or CS Lovkesh Batra (Team member of Liquidator): +91- 8398994547

## “ANNEXURE – A”

**BASIC INFORMATION OF THE APPLICANT**

*[Note: In case of joint applicants, the details set out below are to be provided for each of the entities/groups/persons submitting the application jointly]*

**1. Name and Address:**

- a. Name of the Firm/Company/Organisation/Person:
- b. Address:
- c. Telephone No.:
- d. Email:
- e. PAN/CIN:
- f. Folio No./Membership details in Depository:

**2. Date of Establishment, if any:****3. Core Area of Expertise:****4. Contact Person:**

- a. Name:
- b. Designation:
- c. Telephone No.:
- d. Mobile No.:
- e. Email:

**5. Company/Firm/Organisation/Persons Profile:**

- a. Company/Firm/Organisation/Persons Financial Profile (consolidated/standalone/individual, as applicable):

*[Note: The Company/Firm/Organisation/Persons profile should necessarily include net worth and revenue numbers of the preceding three years. Where the entity submitting the Scheme is an Asset Reconstruction Company, please provide details pertaining to ‘assets under management’ and/or ‘committed funds’ for the preceding three years]*

- b. Names & DIN of Directors including Independent Directors, as may be applicable
- c. Experience of the Company/Firm/Organisation/Persons in the relevant sector
- d. Names of key lenders, if any, to the Company/Firm/Organisation/Persons
- e. History if any, of the Company/Firm/Organisation/Persons being declared a ‘wilful defaulter’, ‘non-cooperative borrower’, ‘non-impaired asset’ or ‘non- performing asset’.
- f. Any other relevant details which would be useful for the Liquidator to be aware of in respect of the Scheme

**“ANNEXURE – B”  
SUPPORTING DOCUMENTS TO BE GIVEN**

- a. Profile of the Applicant
- b. Legal Documents: Copies of Certificate of Registration and Constitutional Documents of the Applicant
- c. Preceding 3 (three) years audited financial results of the Applicant
- d. Confidentiality Undertaking-As given in Annexure C
- e. Affidavit under section 29A - As given in Annexure D
- f. Board Resolution / Power of Attorney authorizing the submission of documents and authorizing a person to act on behalf of the Applicants.
- g. Statement giving details if the Applicant 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 – C’  
**Confidentiality Undertaking**

To,  
Dr. (h.c.) Adv Mamta Binani  
Liquidator  
In the matter of Sterling Biotech Limited

**Sub: Confidentiality Undertaking with respect to Scheme of Compromise or Arrangement in the matter of Sterling Biotech Limited (in Liquidation under the Insolvency & Bankruptcy Code) as per Section 230 of the Companies Act, 2013 and rules prescribed thereunder**

Madam

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 Sterling Biotech Limited, a company having its registered office at 43, Atlanta, Nariman Point, Mumbai 400021 (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 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 \_\_\_\_\_, 2021 at \_\_\_\_\_.

**SIGNED AND DELIVERED BY:**

For and on behalf of \_\_\_\_\_

WITNESS:

(Signature)

(Signature)

(Name)

(Name)

(Address)

(Address)

## ‘ANNEXURE – D’

**AFFIDAVIT CUM UNDERTAKING**

[To be submitted by each Applicant and in case the Applicant 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]*

I, [name of the chairman/managing director/director/authorized person of Applicant], son of [\_\_\_\_], aged about [\_\_\_\_] years, currently residing at [Address to be inserted] and having Aadhaar / Passport number [\_\_\_\_], on behalf of [name of the Applicant] having registered office at [\_\_\_\_] (“**Applicant**”) pursuant to authorization of the Applicant dated [\_\_\_\_] (as enclosed herewith), do solemnly affirm and state to the Liquidator of Sterling Biotech 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 Applicant.
2. That I/We are not ineligible from submitting a Scheme of Compromise and Arrangement in respect of Sterling Biotech Limited, pursuant to the provisions of the section 29A of the Insolvency and Bankruptcy Code, 2016 and/or otherwise.
3. That none of (a) us being the Applicant; (b) any other person acting jointly with us; (c) any other person in concert with us; (d) any person who is a promoter and/or in the management and/or control of the Applicant; (e) any person who shall be the promoter and/or in management and/or control of the business of Sterling Biotech Limited during the implementation of the Scheme; and/or (f) the holding company, subsidiary company, associate company or related party of any person referred to in (d) and/or (e) as referred above:
  - a) is an undischarged insolvent;
  - b) is a wilful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949;
  - c) at the time of submission of the documents 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 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 corporate insolvency resolution process of the corporate debtor;
  - d) has 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 of Section 29A of the Code;

- e) is 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 of Section 29A of the Code;

- f) is prohibited by the Securities and Exchange Board of India from trading in securities or accessing the securities markets;
- g) has been a promoter or in the management or 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 resolution applicant has not otherwise contributed to the preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction;

- h) has 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 this Code and such guarantee has been invoked by the creditor and remains unpaid in full or part;
- i) subject to any disability corresponding to clause (a) to (h) above under any law in a jurisdiction outside India.
4. That the Applicant 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 Applicant 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.
5. That the 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.
6. That the Applicant understands that the Liquidator may evaluate the eligibility of the Applicant or any other person acting jointly with it and such evaluation may be on the

basis of confirmations, representations, warranties, information & documents provided by the Applicant and/or such other information readily available in the public domain.

7. That I/We shall intimate the Liquidator, without any delay, in case after submission of this affidavit, the Applicant or/and any of its connected person become ineligible as per the provisions of Section 29A of the Code.
8. That the statements made in paragraph 1 to 7 are true to the best of our knowledge and are based on information, I believe them to be true.

Solemnly affirmed at \_\_\_\_\_, on this the [\_\_\_\_\_] day of [\_\_\_\_\_] 2021.

Before me,  
Notary

**DEPONENT**

**VERIFICATION**

I, *[name of the chairman/managing director/director/authorized person of Applicant, authorised by the Board of the Applicant (in case of a company) for giving such affidavit]*, the deponent above named, on behalf of *[name of the Applicant]*, 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 [\_\_\_\_\_] 2021.

**DEPONENT**