

**VIKARAM HOSPITAL PVT LIMITED
(IN CIRP)**

**DETAILED INVITATION FOR
EXPRESSION OF INTEREST**

**IN CONNECTION WITH FORM G
DATED 06-09-2018 ISSUED IN
CONNECTION WITH
VIKRAM HOSPITAL PVT LTD (In CIRP)**

**R.D. CHOUDHARY,
RESOLUTION PROFESSIONAL OF
VHPL (IN CIRP)**

Pursuant to the Form G issued in connection with the CIRP in the case of VIKRAM HOSPITAL PVT LTD. this Detailed Invitation for EOI is issued to enable participation by the Prospective Resolution Applicants. Eligible persons desirous to participate may provide their EOI on or before 21-09-2018.

DETAILED INVITATION FOR EOI

Pursuant to our Newspaper Advertisement dated 06/09/2018 / 07/09/2018 inviting Resolution Plans from prospective Resolution Applicants this Detailed Invitation for EOI document is made aiming clarity to various issues related to the Resolution Applicants / Resolution Plans.

The information provided herewith is categorized into the following headings:

- A. BRIEF PARTICULARS OF CORPORATE DEBTOR**
- B. ABOUT THE ONGOING CIRP**
- C. THE EOI PROCESS**
- D. CRITERIA AS PER SECTION 25 (2) (h) of IBC, 2016**
- E. INELIGIBILITY CRITERIA OF PROSPECTIVE RESOLUTION APPLICANTS UNDER SECTION 29 A TO THE EXTENT APPLICABLE**
- F. MANDATORY CRITERIA OF RESOLUTION APPLICANTS**

All prospective resolution applicants who meet the requirements of the invitation for expression of interest shall submit expression of interest latest by 6 PM on 21st of September, 2018. Please be informed that the expression of interest received after the time specified here shall be rejected.

Please also be informed that the expression of interest shall be unconditional and shall be accompanied by the documents specified in (C) THE EOI PROCESS.

The details / mandatory provisions thought as might be required to enable prospective resolution applicants to submit the EOI are provided in this document. However, the same shall not be construed as inclusive of all the mandatory requirements; all the provisions contained in the IBC, 2016 and Regulations thereto will be applicable to the extent relevant in this EOI process. The words and expressions used in this document shall have meaning as per the IBC, 2016 and Regulations thereto.

CA Ramchandra Dallaram Choudhary
Resolution Professional of Vikram Hospital Pvt. Ltd.

IP Reg. No: IBBI/IPA-001/IP-P00157/2017-18/10326

A. BRIEF PARTICULARS OF CORPORATE DEBTOR

A-1: PARTICULARS AS PER MCA SITE:

The identity of the Company is provided herein below in brief; these information are as taken from the MCA site.

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|----------------------------------|---------------------------|
| ✚ Name of the Company: | VIKRAM HOSPITAL PVT. LTD. |
| ✚ Date of Incorporation: | 26/05/2000 |
| ✚ CIN No : | U85110KA2000PTC027149 |
| ✚ Registered & Corporate Office: | No.46,Vivekananda Road, |

Yadavagri, Mysore

Karnataka (India)-570020

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|---|--|
| ✚ Listing Status: | Unlisted |
| ✚ Authorised Equity Share Capital is Rs. 200000000./- | |
| ✚ Paid up Equity Share Capital is Rs. 164053000/- | |
| ✚ Directors of the company: | Dr. Srikakulam Bhaskar Vikram Dr. Srikakulam Bhaskar Mr. HonnavalliNanjundaiahSanatKumar |

A-2 NATURE AND SCALE OF OPERATION:

Vikram Hospital Pvt. Ltd. was known as the leader in the diagnosis and treatment of cardiovascular disease and is among one of the top heart centers in India. The Hospital also provided high-quality care in all clinical disciplines and had outstanding specialized treatment facility for the following:

- Cardiology, Cardiac Surgery
- Cosmetology & Dermatology
- Critical Care
- Endocrinology, ENT
- Pulmonology
- Gastroenterology & Hepatobiliary
- Medical & Surgical Oncology
- Nephrology & Urology
- Neurology & Neuro Surgery
- Orthopaedic & Trauma Care
- Plastic Surgery & Spine Surgery
- Maxillofacial

Vikram Hospitals is a Group of three (two pertaining to own and one, Vikram Jeev pertaining to the wholly owned subsidiary company, Prime Lifeline Healthcare Pvt. Ltd.) fine tertiary care hospitals in Mysore:

- ✚ VIKRAM JESHTA –which is in closed down condition since last 1 year due to working capital crunch.
- ✚ VIKRAM JEEV – The Hospital is a wholly owned subsidiary of Prime Lifeline Healthcare Pvt. Ltd. and managed presently by another Company namely, Advika Hospital LLP under an agreement of Operation and Management since the last one year. The agreement dated 27th July, 2017 that contains terms of reference, including the conditions as to the termination, renewal, payables etc. can be provided along with the IM.
- ✚ VIKRAM PERFECT – The Hospital is managed by VHPL and having dermatology department and dentistry department. This unit is run on leasehold premises

A-3: WHOLLY OWNED SUBSIDIARY COMPANY OF C.D:

The entity PRIME LIFELINE HEALTHCARE PVT LTD. was running the Unit Vikram JEEV. Presently the Unit is being run under an Operations and Management agreement dated 27th July, 2017, entered into with Advika Hospital LLP, by Vikram Hospital Pvt. Ltd., Prime Lifeline Healthcare Pvt. Ltd. and another Party.

A-4 THE NAME, REG. NO., ADDRESS, EMAIL ID, ETC. OF THE RESOLUTION PROFESSIONAL ARE AS FOLLOWS:

The Resolution Professional may be contacted for any query related to the above corporate insolvency resolution process at the above address / email id.

Name of Interim Resolution Professional: Ramchandra D Choudhary

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| <i>Name of Resolution Professional:</i> | <i>Ramchandra D Choudhary</i> |
| <i>IP Reg. No:</i> | <i>IBBI/IPA-001/IP-P00157/2017-18/10326</i> |
| <i>Address:</i> | <i>9 B, Vardan Tower, Near Vimal House, Lakhudi Circle, Navrangpura, Ahmedabad – 380 014. Telephone: (079) 26566577</i> |
| <i>Eamil Id:</i> | <i>rdc_rca@yahoo.comz`</i> |

VIKRAM HOSPITAL PRIVATE LIMITED – JESTHA



B. ADMISSION AND MAJOR EVENTS OF ONGOING CIRP

The major events in relation to the CIRP of the corporate debtor are chronologically stated below:

B-1. INITIATION OF CIRP & APPOINTMENT OF IRP:

19-06-2018: *The Hon'ble Bengaluru Bench of NCLT, in C.P. No. 258/2016 (T.P. No. 108/2017) in the case of Encarta Pharma Private Limited (the Applicant Operational Creditor) Vs. Vikram Hospital Private Limited, admitted the CIRP against the entity. By*

the same order the NCLT has also appointed Mr. Ramachandra D. Choudhary, IP Registration No: IBBI/IPA-001/IP-00157/2017-18/10326 as the Interim Resolution Professional.

In view of the above the resolution period will have a definite process period of 180 days, counting from 19-06-2018. Unless the Hon'ble NCLT extends the resolution process period, subject to a maximum period of extension of 90 days, the CIRP will end on the 15th of December, 2018.

B-2 PUBLIC ANNOUNCEMENT IN FORM A:

20-06-2018: Public Announcement as per the provisions of Regulation 6 of the Regulations made on 20th June, 2018 in Times of India, Mysore Edition and in Vijaya Vani, Mysore Edition.

B-3. INTIMATION OF CIRP TO VARIOUS AUTHORITIES

26.06.2018: Intimation of Initiation of Corporate Insolvency Resolution Process to Regulatory Authorities i.e. ESIC, PF, Etc. was made.

B-4. CUSTODY OF THE ASSETS OF THE CORPORATE DEBTOR:

27.06.2018: As part of the Corporate Insolvency Resolution Process, Interim Resolution Professional, Ramchandra D. Choudhary took the physical possession and control of the properties of the Corporate Debtor.

B.5 REPORT CERTIFYING CONSTITUTION OF COMMITTEE OF CREDITORS:

16-07-2018: The Report certifying the Constitution of Committee of Creditors as per Regulation 17 (1) of the Insolvency and Bankruptcy of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (herein after stated as the Regulation, for brevity) was made to the Hon'ble National Company Law Tribunal, Bengaluru Bench.

Based on the claims received and admitted till the date of this report, and also based on the provisions of the Code and Regulations, as of now, the Committee of Creditors consists of only one Secured Financial Creditor, viz. Pridhvi Asset Reconstruction and Securitisation Company Limited.

B-6 REPORT CERTIFYING THE LIST OF CREDITORS:

16-07-2018: The report certifying the List of Creditors as per the provisions of the Regulation was made to the Hon'ble National Company Law Tribunal, Bengaluru Bench.

B-7 FIRST MEETING OF THE COMMITTEE OF CREDITORS

18-07-2018: 1st meeting of CoC of Vikram Hospital Private Limited was held at the office of CoC i.e. Pridhvi Asset Reconstruction and Securitisation Company Limited, Hyderabad. The interim resolution professional is appointed as the Resolution Professional.

B-7 APPOINTMENT OF VALUERS:

02-12-2017: The appointments of Valuers are completed as per the provisions contained in Regulation 27.

B-8 SECOND MEETING OF THE C.O.C:

03-09-2018: On this date the Resolution Professional convened the 2nd meeting of COC on this date. In the said meeting the minimum criteria applicable in the resolution plan process was approved by the COC.

C. THE EOI PROCESS

C.1 REQUISITES OF EOI

The EOI (Expression of Interest) shall be unconditional and be accompanied by the following documents:

- (a) an undertaking by the prospective resolution applicant that it meets the criteria specified by the committee under clause (h) of sub-section (2) of section 25;
- (b) relevant records in evidence of meeting the criteria under clause (a);
- (c) an undertaking by the prospective resolution applicant that it does not suffer from any ineligibility under section 29A to the extent applicable;
- (d) relevant information and records to enable an assessment of ineligibility under clause (c);

- (e) Demand Draft of Rs.5 Lacs (refundable) that is required to be submitted along with the EOI documents;
- (f) an undertaking by the prospective resolution applicant that it shall intimate the resolution professional forthwith if it becomes ineligible at any time during the corporate insolvency resolution process;
- (g) an undertaking by the prospective resolution applicant that every information and records provided in expression of interest is true and correct and discovery of any false information or record at any time will render the applicant ineligible to submit resolution plan, forfeit any refundable deposit, and attract penal action under the Code; and
- (h) an undertaking by the prospective resolution applicant to the effect that it shall maintain confidentiality of the information and shall not use such information to cause an undue gain or undue loss to itself or any other person and comply with the requirements under sub-section (2) of section 29.

C-2 GENERAL GUIDELINES W.R.T EOI

- a. The last date and time of submission of expression of interest is 21st of September, 2018 till 6 PM. Please be informed that the expression of interest received after the time specified here shall be rejected.
- b. Briefing Session – Pre-EOI submission session – If some more details are required by any of the prospective resolution applicants or clarifications are required, the details can be sought from the resolution professional whose contact details are already provided.
- c. On or before 25th of September 2018 a Provisional list of eligible prospective resolution applicants will be prepared by the Resolution Professional and shall be communicated to all the prospective resolution applicants and to the committee of creditors. Any objection to inclusion or exclusion of a prospective resolution applicant in the provisional list referred to may be made with supporting documents within five days from the date of issue of the provisional list.
- d. On receiving the objections received on the inclusion or exclusion specified above the resolution professional shall be issuing the final list of prospective resolution applicants within 05th of October, 2018.
- e. The EOI shall state clearly the name of the person to be communicated, the communication address, email and telephone number for contact in case of need.

The communication of the Provisional List of eligible prospective Resolution Applicants will be communicated to the email id provided by the prospective applicants.

- f. The prospective Resolution Applicants shall bear all costs associated with the submission of EOI / Resolution Plans and the Resolution Professional or the Committee of Creditors, regardless of the conduct or outcome of the process, will not be responsible for any costs thereof.
- g. The prospective Resolution Applicants must intimate the Resolution Professional immediately in writing of any material change to the information contained in the EOI / Resolution Plan, including any substantial changes in their ownership or their financial or technical capability. Copies of the relevant documents substantiating any such changes must be submitted along with such intimation.

C-3 MODE OF SENDING EOI

The EOIs shall be submitted in person or by post to the office of the resolution professional or electronically to the email id of the resolution professional. All prospective resolution applicants who meet the requirements of the invitation for expression of interest shall submit expression of interest latest by 6 PM on 21st of September, 2018.

The EOIs and all documents sent by post shall be addressed to the Resolution Professional at the address provided in this document. The Resolution Professional will not be responsible for any delay in postal transmission and the prospective Resolution Applicants themselves shall ensure that the EOIs are delivered to the office of the Resolution Professional before the specified date and time.

The EOIs will be received at the office of the Resolution Professional on all working days, between 11 AM to 6 PM. The EOI received after the last date and time of receiving the EOI shall not be accepted for any reason. However, if the last day happens to be a holiday for the office of the Resolution Professional, the next working day shall be considered as the last date of receiving the EOI.

ILLUSTRATIVE LIST OF DOCUMENTS IN SUPPORT OF ELIGIBILITY

All prospective resolution applicants who wish to submit EOI shall submit relevant records in evidence of meeting the criteria under section 25 (2) (h) of IBC, 2016 r/w Regulations thereto; an illustrative list of documents in support of eligibility is provided below; the list need not be construed as inclusive of all relevant records.

- Letter stating Expression of Interest by the Resolution Applicant signed by the person(s) authorized to make the EOI on behalf of the Applicant;
- Copy of PAN Card of the Resolution Applicant;
- Copy of Incorporation document of the Resolution Applicant;
- Copy of Memorandum and Articles of Association, in case the Resolution Applicant is a Company;
- Copy of KYC / Address Proof of the Resolution Applicant;
- Copy of KYC of the authorized person of the Resolution Applicant;
- Copy of appropriate Board Resolutions (by all participants, in case of joint applicants) authorizing the participation (either singly or jointly with others named in resolution), and also authorizing officials to represent the Resolution Applicant;
- Copies of Audited Annual Report of the Companies for the previous 3 Financial Years;
- Copy of solvency certificate issued by a Scheduled Bank in case the Resolution Applicant is an Individual; the solvency certificate shall not be more than 3 months old from the date of making the EOI;
- UNDERTAKINGS as stated in C-1 (REQUISITES OF EOI) above; AND
- Other Documents evidencing the meeting of the Minimum Criteria for Resolution Applicants approved by the Committee of Creditors, if the same is not revealed from the items listed above;

C-4 TENTATIVE TIMELINE OF VARIOUS PROCESSES / EVENTS:

The Corporate Insolvency Resolution Process is a time bound process and therefore the importance of observance of time schedules assumes great importance. The following are the time schedules fixed and shall be adhered to by all concerned.

The important dates in the Resolution Plan process are as under:

- 06-09-2018 / 07-09-2018: Newspaper advertisement in Form G

- 06-09-2018 /07-09-2018: Detailed Invitation for EOI will be made available in the website of IPE: www.sunresolution.in
- 21-09-2018: Last date of receiving EOI at the office of the Resolution Professional – within 6 PM of 21-09-2018
- 25-09-2018: Preparation of Provisional list of eligible prospective resolution applicants
- 30-09-2018: Last date of receipt of Objection, if any, to the Provisional list of prospective resolution applicants
- 05-10-2018: Preparation of Final list of eligible prospective resolution applicants
- 30-09-2018: Issuance of RFRP (Request for Resolution Plans)
- 30-09-2018: Issue of Information Memorandum, Evaluation Matrix
- 31-10-2018: Last date of receipt of Resolution Plans

D. MINIMUM CRITERIA AS PER SECTION 25 (2) (h) of IBC, 2016 AS APPROVED BY THE COC – DATED: 03-09-2018

The following are the Minimum Criteria for the prospective Resolution Applicants of the corporate debtor Vikram Hospital Private Limited, as approved by Committee of Creditors in their Meeting dated 03-09-2018.

- ✚ The Net Worth of the Resolution Applicant(s) as at 31-03-2018 shall be a minimum of INR 10 Cr.
- ✚ Along with the submission of the Expression of Interest (EOI) the eligible Resolution Applicant shall provide a earnest money deposit (EMD) of Rs.5 Lacs, refundable within 7 days of the preparation of the final list of eligible applicants, if the applicants name is not included in the final list. The amount of EMD shall be submitted along with the EOI by way of demand draft / pay order in favour of the Corporate Debtor “M/s Vikram Hospital Pvt. Ltd. (In CIRP)” payable at Mysore.
- ✚ Along with the Resolution Plan, the Resolution Applicant shall remit a minimum outright payment equivalent to at least 5% of the total offer price amount

(refundable, if Resolution Plan is not accepted) by way of demand draft / pay order in favour of Corporate Debtor “M/s Vikram Hospital Pvt. Ltd. (In CIRP)” payable at Mysore.

- ✚ Twenty-five per cent of the total offer amount shall be paid within one month from the order of approval of Resolution Plan by the Adjudicating Authority.

NOTES / MEANING OF DIFFERENT TERMS FOR MINIMUM CRITERIA:

- ✚ **NET WORTH:** Net worth in case of Corporate Debtor shall have the meaning as per Section 2 (57) of the Companies Act, 2014; that is, net worth means the aggregate value of the 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, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation. In the absence of audited balance sheets as at 31-03-2018, the audited balance sheet as at the end of previous financial year will be considered only if justifiable reasons exist for not providing the audited balance sheet as at 31-03-2018.

In case of individuals the Net Worth shall mean the fair value of tangible assets of the individual net of all liabilities as certified by a Chartered Accountant in full-time practice.

- ✚ **NPV WORKING:** Future payments will be discounted at 12% to arrive at the Net Present Value. In the working of NPV, the Inflows till 31-03-2019 will be considered as received in 0 year. Again, inflows from 01st April to 30th September each year shall be considered as received in end of previous year and from 01st October to 31st March will be considered as received in end of the same year. Year shall mean a period beginning from 01st September of a calendar year to 31st August of next calendar year

- ✚ **RESOLUTION APPLICANT:** *Resolution Applicant means a person, eligible as per the provisions of the Insolvency and Bankruptcy Code, 2016 and Regulations thereto to be a Resolution Applicant and who individually or jointly with any other person, submits a resolution plan to the resolution professional pursuant to the invitation made under clause (h) of sub-section (2) of section 25 of the IBC, 2016.*

✚ OFFER PRICE: *Offer price, for the purpose of Minimum Criteria, shall mean the entire consideration, present and future, whether by Cash or Cash Equivalents.*

E. ELIGIBILITY CRITERIA OF PROSPECTIVE RESOLUTION APPLICANTS UNDER SECTION 29 A TO THE EXTENT APPLICABLE / OTHER PROVISIONS

E-1 GENERAL:

In this document, the Code shall mean the Insolvency and Bankruptcy Code, 2016 and the Regulation shall mean the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Debtor) Regulations, 2016, as amended up to date and applicable.

E-2 SECTION 25 (2) (H) OF THE CODE:

For the purpose of sub-section (1) the resolution professional shall undertake the following actions, namely:- 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 specified by the Board, to submit a resolution plan or plans.

E-3 SECTION 29 (A) OF THE CODE:

[PERSONS NOT ELIGIBLE TO BE RESOLUTION APPLICANT]

A person shall not be eligible to submit a resolution plan if such person acting jointly or in concert with such person-

- (a) is an undischarged insolvent;
- (b) is a willful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 (10 of 1949);
- (c) at the time of submission of the resolution plan 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;

Provided that the person shall be eligible to submit a resolution plan if such person makes payment of all overdue amounts with interest thereon and charges relating to non-performing asset accounts before submission of resolution plan;

Provided further that nothing in this clause shall apply to a resolution applicant where such applicant is a financial entity and is not a related party to the corporate debtor;

Explanation 1 – For the purpose of this proviso, the expression “related party” shall not include a financial entity, regulated by a financial sector regulator, if it is a financial creditor of the corporate debtor and is a related party of corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares, prior to the insolvency commencement date.

Explanation II – For the purposes of this clause, where a resolution applicant 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 and such account was acquired pursuant to a prior resolution plan approved under this Code, then the provisions of this clause shall not apply to such resolution applicant for a period of three years from the date of approval of such resolution plan by the Adjudicating Authority under this Code;

(d) has been convicted for any offence punishable with imprisonment –

- i. of two years or more under any Act specified under the Twelfth Schedule; or
- ii. for seven years or more under any other 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;

(e) is disqualified to act as a director under the Companies Act, 2013 (18 of 2013);

Provided further that this clause shall not apply in relation to a connected person referred to in clause (iii) of Explanation 1;

- (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) is subject to any disability, corresponding to clauses (a) to (h), under any law in a jurisdiction outside India; or
- (j) has a connected person not eligible under clauses (a) to (i).

Explanation I - For the purposes of this clause, the expression “connected person” means-

- (i) any person who is the promoter or in the management or control of the resolution applicant; or
- (ii) any person who shall be the promoter or in the management or control of the business of the corporate debtor during the implementation of the resolution plan; or
- (iii) the holding company, subsidiary company, associate company or related party of a person referred to in clauses (i) and (ii)

Provided that nothing in clause (iii) of Explanation I shall apply to a resolution applicant where such applicant is a financial entity and is not a related party of the corporate debtor:

Provided further that the expression "related party" shall not include a financial entity, regulated by a financial sector regulator, if it is a financial creditor of the corporate debtor and is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares, prior to the insolvency commencement date;

Explanation II—For the purposes of this section, "financial entity" shall mean the following entities which meet such criteria or conditions as the Central Government may, in consultation with the financial sector regulator, notify in this behalf, namely:—

(a) a scheduled bank;

(b) any entity regulated by a foreign central bank or a securities market regulator or other financial sector regulator of a jurisdiction outside India which jurisdiction is compliant with the Financial Action Task Force Standards and is a signatory to the International Organisation of Securities Commissions Multilateral Memorandum of Understanding;

(c) any investment vehicle, registered foreign institutional investor, registered foreign portfolio investor or a foreign venture capital investor, where the terms shall have the meaning assigned to them in regulation 2 of the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 made under the Foreign Exchange Management Act, 1999 (42 of 1999);

(d) an asset reconstruction company register with the Reserve Bank of India under section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

(e) an Alternate Investment Fund registered with Securities and Exchange Board of India;

(f) such categories of persons as may be notified by the Central Government.

F. MANDATORY CRITERIA OF RESOLUTION PLANS

GENERAL

In this document, the Code shall mean the Insolvency and Bankruptcy Code, 2016 and the Regulation shall mean the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Debtor) Regulations, 2016, as amended up to date.

Section 30 of the Code:

(1) A resolution applicant may submit a resolution plan along with an affidavit stating that he is eligible under section 29A to the Resolution Professional prepared on the basis of the information memorandum.

(2) The Resolution Professional shall examine each resolution plan received by him to confirm that each resolution plan:-

- (a) Provides for the payment of the IRP Costs in the manner specified by the Board in priority to the payment of other debts of the corporate debtor
- (b) Provides for payment of debts of operational creditor in such manner as specified by the Board which shall not be less than the amount to be paid to the operational creditors in the event of a liquidation of the corporate debtor under section 53
- (c) Provides for management of the affairs of the CD after approval of the Resolution Plan
- (d) The implementation and supervision of the resolution plan;
- (e) Does not contravene any of the provisions of the law for the time being in force;
- (f) Confirms to such other requirements as may be specified by the Board.

Explanation: For the purpose of clause (e), if any approval of shareholders is required under the Companies Act, 2013 (18 of 2013) or any other law for the time being in force

for the implementation of actions under the resolution plan such approval shall be deemed to have been given and it shall not be a contravention of that Act or Law.

(3) The resolution professional shall present to COC for its approval such resolution plans which confirms the condition referred to in sub-section (2)

(4) The committee of creditors may approve a resolution plan by a vote of not less than sixty-six per cent of voting share of the financial creditors, after considering its feasibility and viability, and such other requirements as may be specified by the Board:

Provided that the committee of creditors shall not approve a resolution plan, submitted before the commencement of the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2017, where the resolution applicant is ineligible under section 29A and may require the resolution professional to invite a fresh resolution plan where no other resolution plan is available with it:

Provided further that where the resolution applicant referred to in the first proviso is ineligible under clause (c) of section 29A, the resolution applicant shall be allowed by the committee of creditors such period, not exceeding thirty days, to make payment of overdue amounts in accordance with the proviso to clause (c) of section 29A:

Provided also that nothing in the second proviso shall be construed as extension of period for the purposes of the proviso to sub-section (3) of section 12, and the corporate insolvency resolution process shall be completed within the period specified in that sub-section.”.

Provided also that the eligibility criteria in section 29A as amended by the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018 shall apply to the resolution applicant who has not submitted resolution plan as on the date of commencement of the Insolvency and Bankruptcy Code (Amendment Ordinance, 2018).

(5) The resolution applicant may attend the meeting of the committee of creditors in which the resolution plan of the applicant is considered:

Provided that the resolution applicant shall not have a right to vote at the meeting of the committee of creditors unless such resolution applicant is also a financial creditor.

(6) The RP shall submit the resolution plan as approved by the committee of creditors to the Adjudicating Authority

Regulations 37 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016:

A resolution plan shall provide for the measures, as may be necessary, for insolvency resolution of the corporate debtor for maximization of value of its assets, including but not limited to the following:-

- (a) transfer of all or part of the assets of the corporate debtor to one or more persons;
- (b) sale of all or part of the assets whether subject to any security interest or not;
- (c) the substantial acquisition of shares of the corporate debtor, or the merger or consolidation of the corporate debtor with one or more persons;
- (d) satisfaction or modification of any security interest;
- (e) curing or waiving of any breach of the terms of any debt due from the corporate debtor;
- (f) reduction in the amount payable to the creditors;
- (g) extension of a maturity date or a change in interest rate or other terms of a debt due from the corporate debtor;
- (h) amendment of the constitutional documents of the corporate debtor;
- (i) issuance of securities of the corporate debtor, for cash, property, securities, or in exchange for claims or interests, or other appropriate purpose;
- (j) change in portfolio of goods or services produced or rendered by the corporate debtor;
- (k) change in technology used by the corporate debtor; and
- (l) obtaining necessary approvals from the Central and State Governments and other authorities.”

Regulations 38 of Regulation:

(1) A resolution plan shall identify specific sources of funds that will be used to pay the-

- (a) Insolvency resolution process costs and provide that the insolvency resolution process costs will be paid in priority to any other creditor;
- (b) Liquidation value due to operational creditors and provide for such payment in priority to any financial creditor which shall in any event be made before the expiry of thirty days after the approval of a resolution plan by the AA;
- (c) Liquidation value due to dissenting financial creditors and provide that such payment is made before any recoveries are made by the financial creditors who voted in favour of the resolution plan.

(1A) A resolution plan shall include a statement as to how it has dealt with the interests of all stakeholders, including financial creditors and operational creditors, of the corporate debtor.

(2) A resolution plan shall provide:

- (a) The term of the plan and its implementation schedule;
- (b) The management and control of the business of the corporate debtor during its term; and
- (c) Adequate means for supervising its implementation.

(3) A resolution plan shall contain details of the resolution applicant and other connected persons to enable the committee to assess the credibility of such applicant and other connected persons to take a prudent decision while considering the resolution plan for its approval.

Explanation : For the purposes of this sub-regulation,—

(i) ‘details’ shall include the following in respect of the resolution applicant and other connected person, namely:—

- (a) identity;
 - (b) conviction for any offence , if any, during the preceding five years;
 - (c) criminal proceedings pending, if any;
 - (d) disqualification, if any, under Companies Act, 2013, to act as a director;
 - (e) identification as a willful defaulter, if any, by any bank or financial institution or consortium thereof in accordance with the guidelines of the Reserve Bank of India;
 - (f) debarment, if any, from accessing to, or trading in, securities markets under any order or directions of the Securities and Exchange Board of India,; and
 - (g) transactions, if any, with the corporate debtor in the preceding two years;
- (ii) the expression ‘connected persons’ means-
- (a) persons who are promoters or in the management or control of the resolution applicant;
 - (b) persons who will be promoters or in management or control of the business the corporate debtor during the implementation of the resolution plan;
 - (c) holding company, subsidiary company, associate company and related party of the persons referred to in items (a) and (b) .

Date: 06-09-2018
Place: Ahmedabad

Ramchandra Dallaram Choudhary
Resolution Professional
IP Reg. No: IBBI/IPA-001/IP-P00157/2017-18/1032