

A&I HOSPITALITY PRIVATE LIMITED
MANDATORY CONTENTS – 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 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 repayment of other debts of the corporate debtor
- (b) Provides for repayment 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.

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

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(4) The committee of creditors may approve a resolution plan by a vote of not less than seventy-five 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.”.

(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 Regulation

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:-

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- (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;

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(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;

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- (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) .

Resolution Professional