

ICSI IIP – IBC KNOWLEDGE CAPSULE 10

RESOLUTION PLAN: AN OVERVIEW

Part 1 contains the provisions of the Code and Regulations made thereunder, relating to Resolution Plans, their preparation, contents and approval thereof.

Part 2 contains the various findings/rulings relating to resolution plans, i.e., what is to be included, what are the duties of various stakeholders, how it is approved etc, as per the orders of the AA or the Apex Court in a color coded format.

Part 3 contains a Model Resolution Plan. The plan has been prepared based on a study of various approved resolution plans and in no way is a statutory or regulatory document. The plan may only be used for reference while preparing a plan and is not based on any provision/regulation under the code. ICSI IIP bears no responsibility for any action taken on the basis of this plan. Kindly refer to the provisions of the code and its regulations for the preparation of your resolution plan.

The Model plan is also a part of ICSI IIP publication 'Practical Aspects of Insolvency Law'. The publication is available for sale on our website: <http://icsiip.com/on-line-shop>

TABLE 1: COMPLIANCES UNDER IBC

		Code	
		Regulations	
Provisions	Scope	Explanation	
Section 5(26) of the Code	Definition of Resolution Plan	It means a plan proposed by resolution applicant for insolvency resolution of the corporate debtor as a going concern. A resolution plan may include provisions for the restructuring of the corporate debtor, including by way of merger, amalgamation and demerger.	
Proviso to Section 14(4) of the Code	Applicability of moratorium	If at any time during the CIRP period, if the AA approves the resolution plan under sub-section (1) of section 31, the moratorium shall cease to have effect from the date of such approval.	
Section 25(2)(h) of the Code	Duties of Resolution Professional	It is the duty of a Resolution Professional to invite prospective resolution applicants, who fulfill such criteria as may be laid down by him with the approval of COC, having regard to the complexity and scale of operations of the business of the CD and such other conditions as may be	

		specified by the Board, to submit a resolution plan.
Explanation to Section 29(2)(c) of the Code	Preparation of Information Memorandum	Relevant information in IM means information to be given to resolution applicants to make a resolution plan.
Section 29A of the Code	Ineligibility to be a Resolution Applicant	A person shall not be eligible to submit a resolution plan if any conditions under Section 29A are fulfilled.
Proviso to Section 29A (C)	Ineligibility to be a Resolution Applicant	A person can be eligible to submit resolution plan if such person makes payment of all overdue amounts with interest thereon and charges relating to nonperforming asset accounts before submission of resolution plan.
Section 30(1) of the Code	Submission of resolution plan	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.
Section 30(2) of the Code	Contents of a Resolution Plan	The RP shall examine each resolution plan received by him to confirm that each resolution plan – (a) provides for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the payment of other debts of the corporate debtor; (b) provides for the payment of debts of operational creditors in such manner as may be specified by the Board (c) provides for the management of the affairs of the Corporate debtor 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.
Section 30(3) and 30(4) of the Code	Approval of the Plan	The resolution professional shall present to the committee of creditors for its approval such resolution plans which confirm the conditions The committee of creditors may approve a resolution plan by a vote of not less than 66% of voting share of the financial creditors, after considering its feasibility and viability, the manner of distribution proposed, which may take into account the order of priority amongst creditors, including the priority and value of the security interest of a secured creditor. Note: The plan should not be submitted by anyone ineligible under Section 29A.
Section 30(5) of the Code	Meeting of Approval	The resolution applicant may attend the meeting of the committee of creditors in which the resolution plan of the

		<p>applicant is considered. 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.</p> <p>The resolution professional shall submit the resolution plan as approved by the committee of creditors to the Adjudicating Authority.</p>
Section 31 of the Code	Approval of the plan	If the AA is satisfied that the resolution plan as approved by the committee of creditors as per terms of Section 30, it shall by order approve the resolution plan which shall be binding on the corporate debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force, such as authorities to whom statutory dues are owed, guarantors and other stakeholders involved in the resolution plan.
Proviso to Section 31(4) of the Code	Combination in Resolution Plan	Where the resolution plan contains a provision for combination, as referred to in section 5 of the Competition Act, 2002, the resolution applicant shall obtain the approval of the Competition Commission of India under that Act prior to the approval of such resolution plan by the COC.
Section 32 of the Code	Appeal	Any appeal from an order approving the resolution plan shall be in the manner and on the grounds laid down in Section 61(3).
Section 32A(2) of the Code	Criminal proceedings against CD	No action shall be taken against the property of the corporate debtor in relation to an offence committed prior to the commencement of the corporate insolvency resolution process of the corporate debtor, where such property is covered under a resolution plan.
Section 33 of the Code	Liquidation	Liquidation proceedings will be initiated if resolution plan fails to get approved.
Section 61(3) of the Code	Grounds of appeal against the Resolution Plan	(i) The approved resolution plan is in contravention of the provisions of any law for the time being in force; (ii) there has been material irregularity in exercise of the powers by the resolution professional during the corporate insolvency resolution period; (iii) the debts owed to operational creditors of the corporate debtor have not been provided for in the resolution plan in the manner specified by the Board; (iv) the insolvency resolution process costs have not been provided for repayment in priority to all other debts; or (v) the resolution plan does not comply with any other criteria specified by the Board.
Section 74(3) of the Code	Punishment for contravention	Where the corporate debtor, any of its officers or creditors or any person on whom the approved resolution plan is binding

	of Resolution Plan	under section 31, knowingly and wilfully contravenes any of the terms of such resolution plan or abets such contravention, such corporate debtor, officer, creditor or person shall be punishable with imprisonment of not less than one year, but may extend to five years, or with fine which shall not be less than one lakh rupees, but may extend to one crore rupees, or with both.
Reg. 36A of the IBBI(CIRP) Regulations, 2016	Invitation for Expression of Interest	The resolution professional shall publish Form G for interested and eligible prospective resolution applicants to submit resolution plans.
Reg. 36B of the IBBI(CIRP) Regulations, 2016	Request for Resolution Plans	The resolution professional shall issue the information memorandum, evaluation matrix and a request for resolution plans, within five days of the date of issue of the provisional list of prospective resolution applicants. The request for resolution plans shall detail each step in the process, and the manner and purposes of interaction between the resolution professional and the prospective resolution applicant, along with corresponding timelines.
Reg. 37 of the IBBI(CIRP) Regulations, 2016	Resolution Plan	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.
Reg. 38 of the IBBI(CIRP) Regulations, 2016	Mandatory Contents of Resolution Plan	The contents that are to be included in the resolution plan including but not limited to a statement as to how it has dealt with the interests of all stakeholders, including financial creditors and operational creditors, of the corporate debtor, the entire payment plan and its implementation thereof.
Reg. 39 of the IBBI(CIRP) Regulations, 2016	Approval of Resolution Plan	A prospective resolution applicant in the final list may submit resolution plan or plans prepared in accordance with the Code and these regulations to the resolution professional electronically within the time given in the request for resolution plans under regulation 36B. The resolution professional shall endeavour to submit the resolution plan approved by the committee to the Adjudicating Authority at least fifteen days before the maximum period for completion of corporate insolvency resolution process under section 12, along with a compliance certificate (Form H)
Reg. 39(3) of the IBBI(CIRP) Regulations, 2016	Approval of Resolution Plan by COC	The committee shall evaluate the resolution plans received under sub-regulation (1) strictly as per the evaluation matrix to identify the best resolution plan and may approve it with such modifications as it deems fit.

Reg. 39B of the IBBI(CIRP) Regulations, 2016	Meeting Liquidation Cost	While approving a resolution plan, the committee may make a best estimate of the amount required to meet liquidation costs, in consultation with the resolution professional.
Reg. 39C of the IBBI(CIRP) Regulations, 2016	Assessment of sale as a going concern	While approving a resolution plan, the committee may recommend that the liquidator may first explore sale of the corporate debtor as a going concern.

TABLE 2: RULINGS/FINDINGS RELATING TO RESOLUTION PLANS

This table depicts various findings/rulings relating to resolution plans, i.e., what is to be included, what are the duties of various stakeholders, how it is approved etc, as per the orders of the NCLT, NCLAT or the Apex Court in the below mentioned color coded format.

Supreme Court	
NCLAT	
NCLT	

Date of the Order	Case Title	Finding/Ruling
04.10.2018	Arcelormittal India Private Limited v. Satish Kumar Gupta and Ors.	RP is not empowered to 'decide' whether resolution plan contravenes any provisions of the law.
25.01.2019	Swiss Ribbons Pvt. Ltd. &Anr. v. Union of India &Ors	Since the FCs are in the business of money lending, they are best equipped to assess viability and feasibility of the business of the CD. Even at the time of granting loans, they undertake a detailed market study which includes a techno-economic valuation report, evaluation of business, financial projection, etc. They are in a good position to evaluate the contents of a resolution plan.
15.11.2019	Committee of Creditors of Essar Steel India Limited v. Satish Kumar Gupta &Ors.	<ul style="list-style-type: none"> The resolution plan submitted by the prospective resolution applicant must provide for measures as may be necessary for the insolvency resolution of the CD for maximisation of the value of its assets, which may include transfer or sale of assets or part thereof, whether subject to security interests or not.

		<ul style="list-style-type: none"> The plan may provide for either satisfaction or modification of any security interest of a secured creditor and may also provide for reduction in the amount payable to different classes of creditors.
20.02.2018	Quantum Limited v. Indus Finance Corporation Ltd.	It is the duty of the AA to find out whether a suitable resolution plan is there to be approved instead of going for liquidation.
15.05.2018	Rajputana Properties Pvt. Ltd. v. Ultra Tech Cement Ltd. &Ors.	<ul style="list-style-type: none"> RP cannot hold or decide as to who is ineligible under Section 29A to submit a Resolution Plan. A Resolution Plan submitted by one or other Resolution Applicant, being confidential, cannot be disclosed to any competitor Resolution Applicant. COC should have transparency while accepting or rejecting resolution plans.
08.08.2018	Rashidbhai Ismail Tharadra &Ors. v. Raj Oil Mills Limited &Anr.	Resolution plans, fulfilling the criteria laid down under Sections 30(2) & 29A, IBC can be approved by COC and the Adjudicating Authority cannot sit in appeal over the financial implications of such a Resolution Plan.
09.08.2018	Vijay Kumar Jain v. Standard Chartered Bank Ltd. &Ors.	Resolution Plans are confidential. Hence, cannot be handed over to (suspended) Board of Directors or Operational Creditors or the competitor Resolution Applicants. Note: The members of the erstwhile Board of Directors, being vitally interested in Resolution Plans that may be discussed at meetings of the COC, they must be given a copy of such plans as part of “documents” that have to be furnished along with the notice of such meetings.
24.09.2018	Madhya Gujrat Vij Company Ltd. v. Kalptaru Alloys Pvt. Ltd. &Ors.	There is no requirement to issue notice to the Operational Creditors if a Resolution Plan is already approved by the Committee of Creditors. Resolution Plan is binding on the Corporate Debtors, Financial Creditors, Operational Creditors and all other stakeholders, including guarantors.
14.11.2018	Binani Industries Limited v. Bank of Baroda and Anr.	<ul style="list-style-type: none"> The approval of the Resolution Plan is in the domain of the CoC and not of the RP. If the Resolution Plan is approved by the CoC and does not provide for full satisfaction of claims of OCs, in absence of any power of the RP to reject such resolution plan, the RP cannot be blamed for the same.
04.02.2019	Tata Steel Ltd. v. Liberty House Group Pte. Ltd. &Ors.	A Resolution Applicant has no vested right or fundamental right to have its Resolution Plan considered or approved.
19.03.2019	Mr. Sharad Sanghi v. Ms. Vardana Garg &Ors	Once CoC votes in favour of a Resolution Plan, it cannot change its view subsequently.

08.04.2019	JM Financial Asset Reconstruction Company Ltd. v. Well- Do Holdings and Exports Pvt. Ltd. &Ors	Persons who are ineligible to file a Resolution Plan under Section 29A, IBC and those Resolution Applicants who did not move the AA before last date of submission of resolution plan, have no right to raise their grievance with regard to the expression of interest and that too after approval of the Resolution Plan by the Committee of Creditors.
24.04.2019	Prakash Chand Jain v. Punjab National Bank and Others	The Resolution Plan which is more suitable, feasible and viable amongst all the Resolution Plans should be the Successful Resolution Plan.
13.05.2019	Industrial Services v. Burn Standard Company Ltd. &Anr.	The resolution plan should not relate to the closure of the Corporate Debtor as it is against the scope and intent of the Code which is in violation of Section 30(2)(e), IBC.
11.06.2019	Jagmeet Singh Sabharwal &Ors. v. Rubber Products Ltd. &Ors.	Resolution Applicant should provide the same treatment in its Resolution Plan to all Operational Creditors which are similarly situated.
03.07.2019	Milind Dixit &Anr v. Elecon Engineering Company Ltd &Ors	On receipt of rejected resolution plan, NCLT is not expected to do anything more but is obligated to initiate liquidation process.
04.07.2019	Standard Chartered Bank v. Satish Kumar Gupta, R.P. of Essar Steel Ltd. &Ors.	IBC does not permit the Committee of Creditors to form a Sub- Committee or a Core Committee or to even delegate its power to a Sub-Committee or Core Committee for negotiating with the Resolution Applicant(s).
31.07.2019	Kautilya Industries Pvt. Ltd. v. Parasrampuriya Synthetic Ltd. &Anr.	Liquidator can accept the resolution plans which were not accepted in CIRP as schemes or arrangements in liquidation process.
06.09.2019	ShajiPurushothaman v. Union Bank of India &Ors.	COC is required to decide whether the proposal given for settlement in terms of Section 12A is better than the Resolution Plan or not.
11.09.2019	Sreeram E. Techno School Pvt. Ltd. v. Beans and More Hospitality Pvt. Ltd.	<ul style="list-style-type: none"> • COC to look at the viability, feasibility and other conditions of the resolution plan in respect of corporate debtor under CIRP • AA is not required to check the viability, feasibility and other conditions of the resolution plan in respect of corporate debtor under CIRP.
20.02.2018	In the matter of Gupta Energy Pvt. Ltd.	AA neither has the jurisdiction to question the actions of the CoC nor any discretion to examine the resolution plan
02.05.2018	BrajBhushan Das &Ors. v. Mr. Vijay Kumar V Iyer (RP)	RP has to comply with the provisions of the Code in submitting the resolution plan before CoC.
04.05.2018	Sunrise Polyfilms Pvt. Ltd. v. Punjab National Bank	RP cannot file for liquidation before inviting applications for resolution plans.

03.08.2018	Punjab National Bank v. Mintri Tea Company Private Limited	After approval of resolution plan by the CoC, the RP cannot file an application for withdrawal as per Section 12A of the Code.
05.12.2018	State Bank of India v. ARGL Limited	The bidder (resolution applicant) cannot drag its feet and backtrack after getting its resolution plan approved by the COC.

PART 3: MODEL RESOLUTION PLAN

DISCLAIMER: THIS PLAN HAS BEEN PREPARED BASED ON A STUDY OF VARIOUS APPROVED RESOLUTION PLANS AND IN NO WAY IS A STATUTORY OR REGULATORY DOCUMENT. THIS PLAN MAY ONLY BE USED FOR REFERENCE WHILE PREPARING A PLAN AND IS NOT BASED ON ANY PROVISION/REGULATION UNDER THE CODE. ICSI IIP BEARS NO RESPONSIBILITY FOR ANY ACTION TAKEN ON THE BASIS OF THIS PLAN. PLEASE REFER THE PROVISIONS OF THE CODE AND ITS REGULATIONS FOR THE PREPARATION OF YOUR RESOLUTION PLAN.

THIS PLAN IS ALSO A PART OF ICSI IIP PUBLICATION 'PRACTICAL ASPECTS OF INSOLVENCY LAW'. THE PUBLICATION IS AVAILABLE FOR SALE ON OUR WEBSITE :<http://icsiip.com/On-Line-Shop>

MODEL RESOLUTION PLAN

PRIVILEGED AND CONFIDENTIAL

_____ (DATE)

RESOLUTION PLAN FOR

_____ (NAME OF THE CORPORATE DEBTOR)

CIN: _____

(Pursuant to Insolvency and Bankruptcy Code, 2016)

BY RESOLUTION APPLICANT

_____ (NAME)

Submitted to:

_____ (Name)

Resolution Professional

IBBI registration No:

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I. DEFINITIONS AND INTERPRETATIONS

(All the definitions and interpretations can be covered here)

II. OVERVIEW OF THE CORPORATE DEBTOR AND CORPORATE INSOLVENCY RESOLUTION PROCESS

This resolution plan is submitted by the resolution applicant pursuant to the Code, for the corporate insolvency resolution of the Company.

The corporate insolvency process involving the Company was initiated pursuant to a petition under Section __ of the Code filed by _____ Ltd. as one of the _____ creditors for initiation of the Corporate Insolvency Resolution process (CIRP) against the Company which was admitted by the Hon'ble National Law Tribunal (Adjudicating Authority), _____ Bench vide its order dated _____.

The adjudicating Authority appointed _____, Insolvency professional, Registration Number: _____ as the interim resolution professional and subsequently appointed and confirmed as the Resolution professional in the first meeting of CoC held on _____.

The Resolution professional made available the Information memorandum to the Resolution applicant.

2.1 General information about the company:

S.NO	ITEM	PARTICULARS
1.	Name of the Company	
2.	Registered Office of the Company	
3.	Date of incorporation	
4.	Website	
5.	Date of initiation of CIRP	
6.	Name and contact details of Resolution Professional	
7.	Date of submission of Resolution Plan to Resolution Professional	
8.	Directors	
9.	Shareholding (Authorized/Paid up/top 5 shareholders)	
10.	Industry Segment	
11.	Business Activity of the Company	

2.2 Details about past performance of the Company:

Summarised performance of the Corporate Debtor in the last 3 financial years (including the balance sheet, profit & loss account, cash flow statement)

Any remarks by the resolution applicant:

2.3 Brief background of CIRP and timelines

Details of application filed with National Company Law Tribunal for insolvency resolution process, details of creditors and amount of credit therein etc

2.4 Details of litigations (prior to commencement of IBC) by or against the Corporate Debtor with respect to payment of debts

Details of all the litigations may be covered here.

III. PROJECT BACKGROUND AND PRIME REASONS OF INSOLVENCY

S.NO	ITEM	PARTICULARS
3.1	Brief details about the project	
3.2	Manufacturing facilities and Infrastructure available with the Company	
3.3	Manpower and employee strength of the Company	
3.4	Estimated reasons for insolvency of the Company	

IV. INFORMATION ABOUT THE RESOLUTION APPLICANT

S.NO	ITEM	PARTICULARS
1.	Name of the resolution Applicant	
2.	Constitution of the resolution Applicant	
3.	Address for correspondence of the Resolution Applicant	
4.	PAN	
5.	Email Id	
6.	Phone No	
7.	Date of incorporation	
8.	Name of Directors & KMPs	
9.	Name of the person (s) who is authorized by the company to submit Resolution Plan and their designation, contact no.	
10.	Shareholding (Authorized/Paid up/top 5 shareholders)	
11.	Details of subsidiaries and	

	associate companies	
12.	Main activities and Products	
13.	List of major customers and suppliers	
14.	Details of manufacturing facilities (Location etc)	
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V. DETAILS OF THE RESOLUTION PLAN

On the basis of information memorandum, documents available in the public domain and additional information provided by the resolution professional,

I/we hereby submit the following resolution plan:

The Resolution plan, as detailed in the following table envisages the following:

- (i) **“Cut-off date”** for the purpose of determining the liability to be settled under the proposed resolution plan has been considered as _____, which is also the Insolvency Commencement date.
- (ii) **“Effective date”** for the purpose of implementation of this plan means the date on which the resolution plan is approved by the Adjudicating Authority.
- (iii) **Assumptions:** *Key assumptions used for preparation of resolution plan may be indicated.*

S.NO	ITEM	PARTICULARS
5.1.	Main strategy proposed in the Resolution Plan <i>(Strategy may include takeover, merger, sale of assets etc)</i> Proposed Operation plan may be specified, Changes in technology, product mix etc. may be provided.	Annexure-
5.2	Proposed Governance Structure including Board of directors, key management, Promoters and members Adequacy regarding licences, permissions, manpower etc. to operate at projected level may	Annexure-

	also be specified	
5.3	<p>Cost of Resolution Plan and Means of Finance</p> <p>Sources of funds that will be used to pay cost of CIRP, dues to operational creditors & dissenting financial creditors as per provisions of section 30(2)(b) of the code, may be provided.</p>	Annexure-
5.4	<p>Specify procedure for payment of dues towards resolution process costs/ financial creditors/ operational creditors/ government dues/disputed claims/dissenting financial creditors etc. along with the details of payment made in relation to actual debts including the sources of funds that will be used to pay the dues.</p> <p><i>(With reference & confirmation that amount due to the operational creditors under a resolution plan shall be given priority in payment over financial creditors.)</i></p>	Annexure-
5.5	<p>Proposal for capital and Financial Restructuring</p> <ol style="list-style-type: none"> Details of the creditors along with details of such debt and amount of debt. The structure and method of payment to each of the creditor. Transfer of shares/merger, amalgamation, delisting or other corporate restructuring plans Details on satisfaction/modification of security interest Sale/disposal of assets, if any 	Annexure-

5.6	Proposal for operating restructuring a) The operating restructuring/turnaround strategy that may be adopted by the Company (changes in technology etc.). b) The benefits of adoption of such strategy to various stakeholders	Annexure-
5.7	Financial Projections <i>(Reasonableness of Financial Projections i.e. Sales, EBITDA, EBIT etc./Certainty/Likelihood/Feasibility/Eventuality of honoring proposed commitments may be provided)</i>	Annexure-
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5.9	Details of parties that will infuse the capital a) Details of the amount of capital infused b) Time period within which capital will be raised c) Source of such capital infusion d) Utilization of such capital	Annexure-
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5.12	Proposal relating to adequate means for supervising its implementation	Annexure-
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5.17	Details whether a resolution Applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any other resolution plan approved by the Adjudicating Authority at any time in the past.	
5.18	Recovery Indicators Specify recovery indicators of resolution plan, assessment techniques and mile stones	

VI. ELIGIBILITY DETAILS IN RELATION OF RESOLUTION APPLICANT AND CONNECTED PERSONS ARE PROVIDED BELOW:

SECTION	ITEM	PARTICULARS
29(A)(a)	is an undischarged insolvent	
29(A)(b)	is a willful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949	
29(A)(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 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:	

	<p>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 nonperforming asset accounts before submission of resolution plan:</p> <p>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.</p>	
29(A)(d)	<p>has been convicted for any offence punishable with imprisonment:</p> <p>(i) for two years or more under any act specified under the Twelfth Schedule; or</p> <p>(ii) for seven years or more under any other law for the time being in force.</p> <p>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:</p> <p>Provided further that this clause shall not apply in relation to a connected person referred to in clause(iii) of Explanation I</p>	
29(A)(e)	is disqualified to act as a director under the Companies Act, 2013	
29(A)(f)	is prohibited by the Securities and Exchange Board of India from trading in securities or accessing the securities markets;	
29(A)(g)	<p>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.</p> <p>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</p>	
29(A)(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	
29(A)(i)	is subject to any disability, corresponding to clauses (a) to (h), under any law in a jurisdiction outside India; or	
29(A)(j)	has a connected person not eligible under clauses (a) to (i)	

“Connected persons” means-

- Persons who are promoters or in the management or control of the resolution applicant;
- The Persons who will be promoters or in management or control of the business of Company during the implementation of the Resolution Plan;
- Holding company, subsidiary company, associate company and related party of the persons referred to it in terms (a) and (b).

An Affidavit in this connection is enclosed as Annexure-.....

VII. DETAILS AS PER REGULATION 38 OF INSOLVENCY & BANKRUPTCY BOARD OF INDIA (INSOLVENCY RESOLUTION PROCESS FOR CORPORATE PERSONS) REGULATIONS, 2016:

S.NO.	ITEM	REFERENCES
a)	it addresses the cause of default	
b)	it is feasible and viable	
c)	it has provisions for its effective implementation	
d)	it has provisions for approvals required and the timeline for the same	
e)	the resolution applicant has the capability to implement the resolution plan	

VIII. ELIGIBILITY NORMS AS PROPOSED IN THE EVALUATION MATRIX

S.NO.	ITEM	PARTICULARS
1.	Condition No. 1	Reference/ proof of complying
2.	Condition No. 1	Reference/ proof of complying

IX. APPROVALS/WAIVERS/ SPECIFIC ORDERS BY/FROM NCLT

The resolution applicant seeks for the following approvals/waivers/specific orders from the Hon'ble NCLT:

- Request approval from NCLT for:
- Request waiver of liabilities from NCLT for:
- Request waiver of liabilities from NCLT for:

X. **INDICATIVE TIMELINE OF EVENTS FOR IMPLEMENTATION OF PROPOSED RESOLUTION PLAN:**

Key action points of resolution plan alongwith implementation schedule and milestones may be highlighted in the resolution plan.

XI. **PERFORMANCE SECURITY :**

“Performance Security” means security of such nature, value, duration and source, as may be specified in the request for resolution plans with the approval of the committee, having regard to the nature of resolution plan and business of the corporate debtor.

The resolution applicant is required to provide a performance security within the time specified therein in case its resolution plan is approved and such performance security shall stand forfeited if the resolution applicant fails to implement or contributes to the failure of implementation of that plan in accordance with the terms of the plan and its implementation schedule.

Accordingly the resolution plan should specify a performance security as specified with approval of CoC, time period within which it shall be provided.

XII. **OTHER TERMS AND CONDITIONS**

Governing Law

The Company and the new management shall abide and be governed by the laws of India giving effect to Adjudicating Authority order approving the resolution plan and any agreements, documents and instruments executed in connection with the resolution plan.

Binding effect

This resolution plan once approved by the CoC and then by the Adjudicating Authority, along with such conditions as may be stipulated by the Adjudicating Authority, shall be binding on the Company, all holders of claims, creditors, members, promoter and all other parties in interest and each of their respective successors and assigns in accordance with Section 31(1) and 238 of the Code. The resolution plan does not contravene any of the provisions of the law for the time being in force. All requisite approvals and requirements of law required to give effect to the resolution plan shall be undertaken by the resolution applicant.

Severability and right to modify

- (a) In the event it is determined that any provisions of the resolution plan is unenforceable either on its face or as applied to any claims or transactions and/or in the event any provision of the resolution plan becomes invalid for reasons other than by breach of any party, the new management of the Company may apply to

Adjudicating Authority for appropriate modifications of such provisions of the resolution plan, to satisfaction of the Adjudicating Authority, and such invalidity and/or unenforceability of the provision of the resolution plan shall not render the whole resolution plan ineffective, unless otherwise directed by the Adjudicating Authority by order.

- (b) In case any such modification is required in the resolution plan after the receipt of Adjudicating authority approval, to comply with any laws currently in force or to apply for certain approvals as required under the resolution plan or for any requirements, not jeopardising the rights of the creditors under the current plan, the new management of the company can do so only after approval of National Company law Appellate Tribunal (NCLAT)

Assignment of Interest

Any creditor may assign its rights under this resolution plan, subject to the transferee unconditionally agreeing to be bound by the terms of this resolution plan.

Consequences of revocation

In the event the resolution plan fails, the existing facilities of the creditors, the rights and remedies of the creditors under their respective existing financing documents including all securities and guarantees shall continue as if they had not been waived, amended, modified, released, superseded or replaced by the resolution plan and the creditors shall be entitled to enforce such rights and remedies under the existing financing documents, as if the same had not been waived and/or modified pursuant to this resolution plan and the other relevant documents executed thereof. In the event of failure of resolution plan any amount paid to the financial creditor will be adjusted towards the outstanding dues of the company. Provided; however, that the obligations of the company under the resolution plan shall continue to be binding on the Company and its co-obligators and the creditors shall be entitled to exercise all the rights and remedies conferred on them pursuant to this resolution plan.

DECLARATION

We hereby declare that we have read and understood all the terms and conditions relating to the formulation of resolution plan and hereby express our interest in the submission of resolution plan for the said Company. We further declare that the resolution plan is not in contravention of provisions of the Applicable Law and conforms to other requirements as may be specified by the Insolvency and Bankruptcy Board of India.

We also hereby declare that any confidential information of the Company that has come to our knowledge or might come to our knowledge during the insolvency resolution

process shall not be divulged by us.

We hereby agree to invest the funds as proposed in the Resolution Plan. We understand that the Resolution Professional and/or the CoC have further right to renegotiate the terms of this Resolution Plan and the decision of the Resolution Professional and/or the CoC in selection of the Successful Resolution Applicant shall be final and binding on us. We acknowledge that the Resolution Plan submitted is irrevocable and once the Resolution Plan is received and accepted, it shall not be transferable/ assignable.

We undertake to provide the Resolution Professional, the CoC and the CoC's Advisor with any further information as may be requested by them.

In case any of the provisions of this resolution plan are in contradiction to the Request for Resolution Plan (Process Memorandum) and Evaluation Matrix issued by the Resolution Professional, then the terms of this resolution plan shall prevail.

Yours faithfully

..... (Name of the applicant)

Place

Date:

Notes:

Abbreviations used:

IBBI: Insolvency and Bankruptcy Board of India
IPA: Insolvency Professional Agency
ICSI IIP: ICSI Institute of Insolvency Professionals
IP: Insolvency Professional
CIRP: Corporate insolvency resolution process
IRP: Interim Resolution Professional
AR: Authorised Representative
COC: Committee of Creditors
CD: Corporate Debtor
FC: Financial Creditor
OC: Operational Creditor
Code: Insolvency and Bankruptcy Code, 2016

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