

**DETAILED INVITATION FOR EXPRESSION OF INTEREST FOR**  
**TOPWORTH URJA & METALS LIMITED**  
**(UNDERGOING CORPORATE INSOLVENCY RESOLUTION PROCESS.**  
**UNDER THE INSOLVENCY & BANKRUPTCY CODE, 2016)**

**1. BACKGROUND**

Topworth Urja & Metals Limited (“**Corporate Debtor**” or “**TUML**” or the “**Company**”) having Corporate identity number (CIN) U27109MH1993PLC074950 was incorporated on 5th November 1993 under the Companies Act 1956, as a public company limited by shares with the Registrar of Companies (ROC), Mumbai. Its registered office is located at 308, 3rd Floor, Ceejay House, Dr. A. B. Road, Worli, Mumbai 400 018 India.

The Corporate Debtor is operating a mini-integrated steel plant with its unit centrally located at Umred, Nagpur with a Power unit mainly for captive consumption and an operating coal mine at Yavatmal, Maharashtra with the annual capacity of 3,75,000 MT per annum as per approved mining plan.

On account of default committed by the Corporate Debtor, Bank of Baroda filed Company Petition No. (IB) 1807/MB/C-I/2018 titled as *Bank of Baroda vs. Topworth Urja & Metals Limited* (“**Company Petition**”) before the Hon’ble National Company Law Tribunal, Mumbai (“**NCLT**”) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (“**IBC**” or the “**Code**”), for initiation of corporate insolvency resolution process (“**CIRP**”) against TUML.

On 12<sup>th</sup> August, 2022, Hon’ble NCLT allowed the Company Petition and passed an order initiating CIRP against TUML (“**Admission Order**”). In terms of the Admission Order, Mr. Alok Saxena (IBBI Registration IBBI/IPA-001/IP-P00056/2017-2018/10134) was appointed as the interim resolution professional (“**Interim Resolution Professional**” or “**IRP**”) of the Corporate Debtor. Committee of Creditors (**COC**) in its second COC Meeting held on 20<sup>th</sup> February, 2023 has appointed Mr. Avil Menezes an Insolvency Professional (Registration No. IBBI/IPA-001/IP-P00017/2016-17/10041), as Resolution Professional. Hon’ble NCLT is yet to confirm his appointment for which an application is being preferred.

Brief overview of Corporate Debtor is set out as below:

<b>Particulars</b>	<b>Details</b>
Company name	Topworth Urja & Metals Ltd
Corporate Identification Number	U27109MH1993PLC074950
Listing Status	Unlisted
Constitution	Closely held Public Company
Incorporation date	5th November 1993
Registered Office	308, 3rd Floor Ceejay House, Dr. A. B. Road, Worli Mumbai City Maharashtra 400018 India
Locations of the assets	Plant Address: Mouza Ukkerwahi, Village Heti, Umred Road, PO: Udasa - Dist. Nagpur 441 204,

	Maharashtra.  Mine Address: Marki Mangli – I, Village: Pardi, Pandharkawada, PO: Jhari Jamni, District: Yavatmal, Maharashtra
IRP's Address for communication	Alok Saksena First Floor, Laxmi Building, Sir P.M. Road, Fort, Mumbai – 400 001
Business Operations	The Corporate Debtor operates a mini steel plant at Umred, Maharashtra with a Power unit mainly for captive consumption and have a leased coal mine at Yavatmal district, Maharashtra.

## 2. CORPORATE INSOLVENCY RESOLUTION PROCESS OF THE CORPORATE DEBTOR

As mentioned above, pursuant to the Admission Order, CIRP was initiated against the Corporate Debtor and Mr. Alok Saksena (IBBI Registration Number IBBI/IPA-001/IP-P00056/2017-2018/10134) was appointed as the IRP of the Corporate Debtor.

The promoter of the CD challenged this admission order before the Hon'ble National Company Law Appellate Tribunal (NCLAT) in Company Appeal (AT)(Insolvency) No. 997 of 2022 and the Hon'ble NCLAT vide order dated 18th August 2022 stayed the formation of Committee of Creditors (COC). Further, Hon'ble NCLAT vide the order dated 20th December 2022 (received on 22nd December, 2022) dismissed the appeal of the promoter. The promoter further, challenged the order of the Hon'ble NCLAT before the Hon'ble Supreme Court in Civil Appeal No. 282/2023 and the Hon'ble Supreme Court dismissed the said appeal on 13th January, 2023.

The first meeting of the CoC was held on 13th January 2023 after the dismissal of the appeal filed before the Hon'ble Supreme Court. In the said meeting the appointment of Resolution Professional (RP) was deferred by CoC. COC in its second COC Meeting held on 20<sup>th</sup> February, 2023 has appointed Mr. Avil Menezes an Insolvency Professional (Registration No. IBBI/IPA-001/IP-P00017/2016-17/10041), as Resolution Professional. Hon'ble NCLT is yet to confirm his appointment for which an application is being preferred

Pursuant to Regulation 17(3) of the CIRP Regulations, 2016, where the appointment of the Resolution Professional is delayed, the IRP will perform the functions of the RP from the fortieth day of the Insolvency Commencement date till the appointment of Resolution Professional. Accordingly, this detailed expression of interest is invited by the Interim Resolution Professional.

The brief particulars of the Form-G published in the newspaper vide the advertisement dated 6<sup>th</sup> March, 2023 are set out below:

S. No.	Particulars	Date
1.	Insolvency Commencement Date for Topworth Urja & Metals Limited	12 <sup>th</sup> August, 2022
2.	Date of publication of invitation for EOI	6 <sup>th</sup> March, 2023
3.	Last date for submission of EOI	21 <sup>st</sup> March, 2023
4.	Issuance of Provisional List of Eligible Potential Resolution Applicant ( <b>PRA</b> )	24 <sup>th</sup> March, 2023

5.	Submission of objections to Provisional List	29 <sup>th</sup> March, 2023
6.	Issuance of Information Memorandum ( <b>IM</b> ), Evaluation Matrix ( <b>EM</b> ) and Request for Resolution Plan ( <b>RFRP</b> ) to the Eligible PRAs	29 <sup>th</sup> March, 2023
7.	Issuance of Final list of PRAs	3 <sup>rd</sup> April, 2023

*The above-mentioned timelines are subject to the further extension/ amendment at the discretion of the CoC.*

### 3. PROCESS

The EOI process for the Corporate Debtor as aforesaid shall follow the following steps:

- (a) Submission of EOI(s) along with all relevant documents by **PRAs** on or before 21<sup>st</sup> March, 2023 in accordance with Form-G and this Invitation;
- (b) Shortlisting of eligible PRAs (“**Eligible PRAs**”) by the Resolution Professional;
- (c) Issuance of provisional list of Eligible PRAs (“**Provisional List**”) in accordance with Regulation 36A (10) of the CIRP Regulations;
- (d) Pursuant to submission of EOI and related documents as specified in the Invitation (including but not limited to duly executed Confidentiality Undertaking), the Resolution Professional shall:
  - (i) circulate the Information Memorandum (“**IM**”), Evaluation Matrix (“**EM**”) and Request for Resolution Plan (“**RFRP**”) in accordance with Regulation 36B of CIRP Regulations;
  - (ii) provide access to virtual data room to the Eligible PRAs in accordance with such terms as may be specified in the RFRP.
- (e) Final date for receiving objections to the Provisional List;
- (f) Issuance of final list of Eligible PRAs (“**Final List**”) in accordance with Regulation 36A (12) of the CIRP Regulations.

### 4. SUBMISSION OF EXPRESSION OF INTEREST:

- (a) The PRAs must meet the Eligibility Criteria as set out in **Annexure ‘B’**.
- (b) EOI shall be submitted in following manner:

PRAs shall submit their EOI along with supporting documents in a sealed envelope **on or before 21<sup>st</sup> March, 2023 before 6.00 PM IST**. The envelope shall be superscripted as “**Expression of Interest for Topworth Urja & Metals Limited**” containing a complete set of the EOI in hard copy along with all the required annexures, and shall be submitted to the below mentioned address by speed post/ registered post or by hand delivery:

**Mr. Alok Saksena**

**Interim Resolution Professional for Topworth Urja & Metals Limited,**

IBBI Registration No. IBBI/IPA-001/IP-P00056/2017-2018/10134

First Floor, Laxmi Building, Sir P.M. Road, Fort, Mumbai – 400 001.

- (c) A soft copy of the EOI along with all the annexures required, should also be emailed to "[cirp.urja@gmail.com](mailto:cirp.urja@gmail.com)" with the subject line "**EOI for CIRP of Topworth Urja & Metals Limited**". The EOIs received after the last date specified above shall be rejected, *provided that* the Interim Resolution Professional (acting on the instructions and with prior approval of the CoC) may extend the last date for submission of EOI.
- (d) Documents to be submitted in the envelope mentioned in (b) above:
- (i) EOI shall be unconditional and should be submitted in the format as set out in **Annexure 'A'** accompanied by supporting documents as set out in **Annexure 'C'**;
  - (ii) details as set out in **Annexure 'D'**;
  - (iii) duly executed affidavit cum undertaking as set out in **Annexure 'E'**;
  - (iv) duly executed affidavit cum undertaking under Section 29A and the Code as per the format set out in **Annexure 'F'** along with the list of connected persons (as defined under the Code);
  - (v) duly executed Confidentiality Undertaking as per the format set out in **Annexure 'G'**;
  - (vi) in case of a Consortium, the relevant documents will need to be provided by each member of the Consortium;
  - (vii) power of Attorney as per format set out in '**Annexure H**' in case EOI is submitted by a Consortium.

*For the purposes of demonstrating the satisfaction of the eligibility criteria, financial strength of the Ultimate Parent/Parent/Affiliate of the PRA can be used. Provided that such PRA may prove its eligibility at Ultimate Parent/Parent/Affiliate's level only if such Ultimate Parent/Parent/Affiliate has provided a board resolution or similar authorization agreeing for use of its credentials to evidence eligibility of such PRA. The following terms shall have the meaning as provided hereunder:*

*"Affiliate" with respect to any person means any other person which, directly or indirectly: (i) Controls such person; or (ii) is Controlled by such person; or (iii) is Controlled by the same person who, directly or indirectly Controls such person.*

*"Control" has the meaning ascribed to the term under Section 2(27) of the Companies Act 2013 and the term "Controlled" shall be construed accordingly.*

*"Parent" means a company which Controls the Applicant, either directly or indirectly.*

*"Ultimate Parent" means a person which Controls, either directly or indirectly the Parent Company of the Potential Resolution Applicant.*

- (e) Any additional document or information or clarification that may be sought by the Interim Resolution Professional and/ or Resolution Professional and /or CoC, in their sole discretion, must be furnished by the PRA.

- (f) EOIs not fulfilling the above conditions are liable to be disqualified without any further communication.
- (g) EOIs found to be ineligible under Section 29A of IBC shall be disqualified. In case of Consortium, if any 1 (one) member of the Consortium is disqualified under Section 29A of the IBC, then the entire Consortium i.e., all the members of such Consortium; shall stand disqualified.
- (h) The EOI and other supporting documents shall be signed by an authorized signatory of the PRA, supported by evidence of authority of such authorized signatory (such as board resolution or power of attorney) and appropriately stamped / company seal (if any) affixed by the authorized representative of the PRA.

## 5. NOTES:

- (a) All PRAs who are desirous of submitting a resolution plan pursuant to the EOI in respect of the Corporate Debtor must read, understand and comply with all the requirements of the IBC, CIRP Regulations, and any other applicable laws for resolution plans and all matters under, in pursuant to, in furtherance of or in relation to, this Invitation
- (b) This is not an offer document and is issued with no commitment. Applicants should regularly visit the website of TUML, <https://tumml.co.in> to keep themselves updated on clarifications/ amendments/ time-extensions, if any.
- (c) The IRP/RP (acting on the instructions of the CoC) and the CoC reserves the right to cancel, amend, withdraw or modify the process (including the timelines) and change or vary any part thereof at any stage and also reserve the right to reject / disqualify any Potential Resolution Applicant or EOI, without assigning any reason and without incurring any liability, should it be so necessary at any stage of the CIRP.
- (d) All PRAs must bear in mind that resolution plan(s) must ensure that the Corporate Debtor is resolved in accordance with the provisions of the IBC and the CIRP Regulations.
- (e) The CoC reserves the right to stipulate such condition as they may deem fit in relation to the submission of the resolution plan in the interest of achieving the objectives of the IBC including but not limited to maximization of value of the assets of Corporate Debtor.
- (f) No oral conversations or agreements with the IRP/RP, advisor to the IRP/RP/COC or any official, agent or employee of the IRP/RP, TUML or any member of the CoC shall affect or modify any terms of this invitation for EOI.
- (g) Neither the PRAs nor any of representatives of the PRAs shall have any claims whatsoever against the IRP/RP or any member of the CoC or any of their officials, agents, advisors or employees arising out of or relating to this invitation for EOI.
- (h) By submitting its EOI, each PRA shall be deemed to acknowledge that it has carefully read the entire Invitation and has fully informed itself as to all existing conditions and limitations. Ignorance of law/s will not be treated as any excuse.

- (i) The PRA acknowledges that any investment in/acquisition of the Corporate Debtor pursuant to its resolution plan for the Corporate Debtor shall be made by the PRA on an "as is where is basis", "as is what is basis", "whatever there is basis" and "no recourse" basis and neither the Interim Resolution Professional/ Resolution Professional nor the CoC will be providing any representations or warranties for or on behalf of the Corporate Debtor.
- (j) The eligibility criteria specified in this Invitation for the Corporate Debtor may be amended or changed at any stage during the CIRP at the discretion of the IRP/RP and the CoC.
- (k) The IRP/RP and the CoC reserve the right to issue clarifications, amendments and modifications to the Invitation for EOI or to waive or relax any term or condition or its application as they may deem fit in their sole discretion. The IRP/RP and the CoC also have the right to issue further supplements to the invitation for EOIs.
- (l) Any extension in timelines / modification in the content of this Invitation for EOI will not necessarily be carried out by issuance of revised Invitation, addendum to Invitation, advertisement etc., but may be notified directly on the website: <https://tuml.co.in>. PRAs should regularly visit website <https://tuml.co.in> to keep themselves updated regarding clarifications, amendments or extensions of time, if any in relation to this Invitation for EOIs.
- (m) The detailed manner and process for submission of resolution plans for the Corporate Debtor shall be set out in the RFRP. Further detailed information about the process, access to the information memorandum, evaluation matrix, Virtual Data Room (VDR), RFRP etc., will be provided to the shortlisted PRAs upon the examination of the EOI and documents submitted with the EOI by PRAs.
- (n) It is hereby clarified that subject to approval of the CoC:
  - (i) a resolution plan may be submitted and/ or implemented by Ultimate Parent/Parent/Affiliate/subsidiary/special purpose vehicle/group entity of the PRA; and
  - (ii) a PRA may also submit a resolution plan along with a co-investor which may be identified at a later stage (but prior to approval of a resolution plan by the CoC in accordance with the provisions of the IBC) or along with any financial strategic partner as it may deem fit;

Provided that in each such case, the Interim Resolution Professional/ Resolution Professional and the CoC shall have the right to require submission of additional documentation/ undertakings as they may deem fit to ensure compliance with the provisions of the IBC, CIRP Regulations, this Invitation and the undertakings annexed hereto and the RFRP.

Notwithstanding the above, the PRA and/or any other entity as specified in paragraph (n)(i) or (ii) above should not be ineligible to submit a resolution plan as per the IBC and shall be jointly and severally liable for all their duties, liabilities and obligations.

- (o) It may be noted that the EOIs of only those interested PRAs who meet the eligibility criteria specified herein shall be considered. The fulfilment of the eligibility criteria in the EOI does not automatically entitle PRAs to participate in the CIRP. Such participation will be subject to applicable laws

and further conditions which may be stipulated by the IRP/RP and/or the CoC, in their sole discretion, including those in relation to access to VDR.

- (p) The CoC reserves the right to assess the credibility of any prospective resolution applicant and other connected persons of such prospective resolution applicants to take a prudent decision while considering the resolution plan for its approval. In this regard, the CoC may stipulate such requirements and require submission of such information for assessment of credibility of the prospective resolution applicants as it may deem appropriate and, in the event, the CoC is of the view that the prospective resolution applicant is not credible, then it may reject the expression of interest or resolution plan of such prospective resolution applicant, in its sole and absolute discretion.
- (q) Without prejudice to the generality of the above provisions, the IRP /RP / CoC reserves the right (without being bound to do so) to reject the EOI of any PRA without assigning any reason and not include the said PRA in the provisional or final list of eligible PRAs, save without limitation, in the following events:
  - (i) the PRA does not meet the eligibility criteria set out herein; or
  - (ii) If the EOI is submitted after the last date for EOI submission; or
  - (iii) If the EOI submitted by the PRA is incomplete or the PRA does not submit the documents as required under this invitation for EOI; or
  - (iv) If the PRA does not submit such further documents or information as requested by the IRP /RP for conducting due diligence on the PRA; or
  - (v) If any information/document provided is false, incorrect, inaccurate or misleading or in the opinion of the IRP/ RP/ CoC, the PRA is not credible; or
  - (vi) If in the opinion of the COC, the PRA is undesirable or not credible or if the PRA fails to provide information, if requested, to establish its credibility, eligibility or ability to implement a resolution plan;
  - (vii) It is discovered that the PRA or any member of the consortium or a consortium (of which the PRA is a member) is in default of/ has not complied with any of the conditions stipulated in any other approved resolution plan submitted by it for some other corporate debtor (cross default).

**Sd/-**

**Mr. Alok Saxena**

**Interim Resolution Professional for Topworth Urja & Metals Limited,**  
IBBI Registration No. IBBI/IPA-001/IP-P00056/2017-2018/10134

**Address and Email id registered with IBBI**

First Floor, Laxmi Building, Sir  
P.M. Road, Fort, Mumbai -  
400001.

[aks@dsaca.co.in](mailto:aks@dsaca.co.in)

**Email id for communication:**[cirp.urja@gmail.com](mailto:cirp.urja@gmail.com)



## **ANNEXURE A**

### **Format of Expression of Interest**

[On the letter head of the entity submitting the EOI/ lead member in case of a consortium]

**Date:** .....

Mr. Alok Saksena  
Interim Resolution Professional for Topworth Urja & Metals Limited,IBBI  
Registration No. IBBI/IPA-001/IP-P00056/2017-2018/10134  
First Floor, Laxmi Building, Sir P.M.  
Road, Fort, Mumbai – 400001  
Email: [cirp.urja@gmail.com](mailto:cirp.urja@gmail.com)

Subject: Expression of Interest (“**EoI**”) for submitting resolution plan for Topworth Urja & Metals Limited (“**Corporate Debtor**”) undergoing Corporate Insolvency Resolution Process (“**CIRP**”)

Dear Sir,

In response to the public advertisement dated [●] [*Insert date*] and the invitation for expression of interest (“**Invitation for EoI**”) for submission of resolution plans (“**Resolution Plan**”) for the Corporate Debtor undergoing CIRP as per the provisions of the Insolvency and Bankruptcy Code, 2016, as amended from time to time (“**IBC**”), we confirm that we have understood the eligibility and other criteria mentioned in the Invitation for EoI and meet the necessary threshold and criteria mentioned therein and submit our EoI for submission of a Resolution Plan for the Corporate Debtor.

[We are submitting the EoI as a consortium. The following are the constituents of the Consortium.

<b>Sr. No.</b>	<b>Name of Consortium Member</b>	<b>Type of Entity</b>	<b>% share (Basis economic interest)</b>

[•] is the Lead Member of the Consortium.] [*Note: To be retained only in case of EoI being submitted by a Consortium*]

We further undertake that the information furnished by us in this EoI and Annexures is true, correct, complete, and accurate and we agree and acknowledge that:

- the EoI and all its contents will be evaluated by the Interim Resolution Professional (“**IRP**”)/ Resolution Professional (“**RP**”) on behalf of the Committee of Creditors (“**CoC**”) of the Corporate Debtor to determine our eligibility to submit a Resolution Plan;
- We agree and acknowledge that the IRP/RP does not provide any representation or warranty in relation to the Corporate Debtor. The EoI and the resolution plan proposed to be submitted is based on our own independent verification and due



diligence;

- c. The IRP/RP/CoC reserve the right to determine at their sole discretion, whether or not we qualify for the submission of the proposal and may reject the EoI submitted by us without assigning any reason/without any liability whatsoever and not include us in the provisional or final list of eligible prospective resolution applicants;
- d. The IRP/RP/CoC reserves the right to conduct due-diligence on us and request for additional information or clarification(s) from us for the purposes of the EoI and we shall promptly comply with such requirements and co-operate with the IRP/RP and the IRP's/RP's team. Failure to address the queries of the IRP/RP/CoC to its satisfaction or our non-responsiveness may lead to rejection of our EoI;
- e. Meeting the qualification criteria set out in the invitation for EoI alone does not automatically entitle us to participate in the next stage of the resolution process;
- f. We will continue to meet the eligibility criteria throughout the resolution process, and any material adverse change affecting our/consortium's (or any of its members) eligibility or ability to submit a Resolution Plan shall be intimated immediately;
- g. We are not an ineligible person in terms of provisions of Section 29A of the IBC. We are a 'fit and proper' person and do not suffer from any legal disability to be a promoter entity of the Corporate Debtor under the applicable laws including listing agreements, stock exchange requirements and regulations and guidelines of the Securities and Exchange Board of India. Any change affecting the said status of our eligibility shall be intimated immediately.
- h. The enclosures and supporting documents submitted herewith form an integral part of the EoI submission and that we have submitted all annexures and exhibits required under the Invitation for EoI, strictly as per the formats set out in the Invitation for EoI.

Yours Sincerely,

On behalf of [●] [Insert the name of the entity submitting the EoI]

Signature:

Name of the signatory:

Designation:

Name of the entity:

Seal/Stamp of the entity (if any)

**Note:**

- *The person signing the EoI and other supporting documents should be an authorised signatory supported by necessary board resolution and/or duly executed power of attorney and the EoI shall be accompanied with the said resolution/power of attorney authorising the signatory to execute and submit the EoI. In case of Consortium Applicant, the EoI shall be signed by each member.*

## ANNEXURE B

### Eligibility Criteria

(Set out in accordance with section 25 (2) (h) of the Code)

- PRA can be individual, registered partnership firm, Limited Liability Partnership, registered body corporates in India and Overseas - referred as strategic investors (“**SI**s”) and/or financial investors (“**FI**s”). Eligibility criteria for both SI and FI have been detailed below. FIs may include financial entities such as private equity funds, investment funds, or other pooled investment vehicles. Please note that this is an indicative list and is not exhaustive and has been presented for illustration purposes only.
- Eligibility criteria for the PRAs to submit resolution plans as approved by the CoC, in terms of Section 25(2)(h) of the IBC are mentioned below: (the “**Qualification Criteria**”):
  - (i) In the event PRA is **not** a Consortium:
    - A. If the PRA is a Strategic Investor (SI), namely; individual, registered partnership firm, Limited Liability Partnership, registered body corporates in India and Overseas, it must have:
      - a minimum Net Worth<sup>1</sup> of INR 30,00,00,000 (Indian Rupees Thirty Crores) of the applicant or at a group level taking into account the financials of ultimate parent/affiliate in the immediately preceding completed financial year;
    - B. If the PRA is Financial Investor (FI), then it must have:
      - Minimum Asset Under Management (AUM) of INR 100,00,00,000 (Indian Rupees One Hundred Crores) in the immediately preceding completed financial year;
      - OR**
      - Committed funds available for investment/deployment in Indian companies or Indian assets of INR 100,00,00,000 (Indian Rupees One Hundred Crore) or more in the immediately preceding completed financial year.
  - (ii) In the event the PRA is a Consortium, the financial limits of eligibility given in (i) above shall apply and further the consortium should fulfil/meet the following additional requirements:
    - A. The Consortium would be required to have a lead consortium member identified upfront with authority to bind, represent and take decisions on behalf of the Consortium.

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<sup>1</sup> Net Worth shall be computed as per (Indian) Companies Act, 2013

<sup>2</sup> For the purpose of the Invitation, the term “**Consortium**” shall mean any person acting together with another person as a consortium/joint bidder for the purpose of submission of the EOI and resolution plan for the Corporate Debtor.

- B. In the event the Consortium is made up of body corporates, the net worth of the Consortium shall be calculated as the weighted average (basis the % share provided in **Annexure A**) of the relevant eligibility criteria.
  - C. In the event the Consortium is made up of FIs the minimum AUM of consortium shall be calculated as weighted average (basis the % share provided in **Annexure A**) of individual member's AUM or committed funds available for investment/deployment in Indian companies.
  - D. In the event the Consortium is made up of a mix of SIs and FIs viz. comprising body corporates, FIs/funds/private equity investors/non-banking financial institutions/any such other applicants, the qualifying criteria shall be testified as follows – either the SI members or the FI members should meet the eligibility criteria applicable to their respective categories as stated earlier.
  - E. Any SI/FI can participate in only 1 (one) Consortium and can submit only 1 (one) EoI.
- (iii) The PRAs (anyone in case of Consortium) should be capable of carrying on the business of Corporate Debtor.
- IRP/RP & CoC reserve the right to request further information for the purpose of determining eligibility and qualification of PRAs at any stage. The CoC reserves the right to assess the credibility of any prospective resolution applicant and other connected persons of such prospective resolution applicants to take a prudent decision while considering the resolution plan for its approval. In this regard, the CoC may stipulate such requirements and require submission of such information for assessment of credibility of the prospective resolution applicants as it may deem appropriate and, in the event, the CoC is of the view that the prospective resolution applicant is not credible, then it may reject the expression of interest or resolution plan of such prospective resolution applicant, in its sole and absolute discretion.
  - Any entity which has been barred by the Central/ State Government/or any other relevant regulator, or any entity acting jointly or in concert or controlled by them, as on the date of submission of the EoI, would not be eligible to submit the EoI, either individually or as member of a Consortium and if any such prohibition is imposed after the submission of the EoI, then such PRA shall be disqualified.

## ANNEXURE C

### Documents to be submitted along with EoI

Sr. No	Strategic Investor	Financial Investor
1.	Profile of PRA including subsidiaries (wholly-owned subsidiary and partly-owned subsidiary, if any), board of directors, promoter and promoter group, parent company and ultimate parent company and key managerial personnel.	Profile of PRA including subsidiaries (wholly-owned subsidiary and partly-owned subsidiary, if any), board of directors, promoter and promoter group, parent company and ultimate parent company and key managerial personnel.
2.	A copy of Certificate of Incorporation/Registration and Constitutional Documents (such as Memorandum of Association, Article of Association)	A Copy of Certificate of Incorporation/Registration and Constitutional Documents (such as Memorandum of Association, Article of Association)
3.	Audited financial statement of 3 preceding completed financial years.	Audited financial statement of 3 preceding completed financial years.
4.	Certificate from Statutory Auditor or Chartered Accountant or Company Secretary or equivalent in the jurisdiction of incorporation/registration of the entity certifying tangible net worth as at end of 31st December 2022 if the 31st March 2022 financials are not yet audited	Certificate from Statutory Auditor or Chartered Accountant or Company Secretary or equivalent in the jurisdiction of incorporation of the entity certifying AUM as at end of last 3 financial years or committed funds not earlier than as at 31st March, 2022
5.	Copy of Pan Card, GST certificate, Registration certificate with any statutory body or equivalent documents.	Copy of Pan Card, GST certificate, Registration certificate with any statutory body or equivalent documents.
6	Undertaking for No Disqualification Under Section 29A of the Insolvency and Bankruptcy Code, 2016	
7	Non-Disclosure Agreement	

#### **In case of a consortium:**

- *The above documents including certificates are required for each of the consortium members.*
- *Power of attorney in the form set out in Annexure H must be submitted in case of a consortium.*

## **ANNEXURE D**

### **DETAILS OF POTENTIAL RESOLUTION APPLICANT**

*[On the letter head of the entity submitting the EOI]*

*[Note: In case of consortium, this Annexure D is to be provided for each of the member]*

**1. Name and address:**

- a. Name of the firm/ company/ organisation/partnership sole individual:
- b. Address:
- c. Telephone No:
- d. Mobile No:
- e. Fax:
- f. Email:

**2. Date of Establishment/ Incorporation:**

**3. Core Area of Expertise (Brief write up):**

**4. Contact Person:**

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

**5. Experience of the Company in the relevant sector. (In case of consortium details of relevant member of consortium may be mentioned).**

**6. PRA Profile:**

Financial Profile (consolidated / standalone as applicable):

<b>(Rs Crore)</b>	<b>Strategic Investor</b>	<b>Financial Institution</b>
As on 31 Mar 20	TNW <sup>3</sup> / Turnover	AUM / Committed funds
As on 31 Mar 21	TNW <sup>3</sup> / Turnover	AUM / Committed funds
As on 31 Mar 22	TNW <sup>3</sup> / Turnover	AUM / Committed funds

- a. Names and DIN of directors including Independent Directors

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<sup>3</sup> Net Worth shall be computed as per (Indian) Companies Act, 2013

- b. History, if any of the Prospective Resolution Applicant or affiliates of the Prospective Resolution Applicant being declared a 'wilful defaulter' or 'non-performing asset'
- c. Any other relevant details which would be useful for the IRP/RP to evaluate the bid and help to shortlist for the next stage in the process

Yours Sincerely,

On behalf of [●] [Insert the name of the entity submitting the EoI]

Signature:

Name of the signatory:

Designation:

Name of the entity:

Seal/Stamp of the entity (if any)

**ANNEXURE E**  
**FORMAT OF UNDERTAKING TO BE PROVIDED BY PROSPECTIVE**  
**RESOLUTION APPLICANT**

*[To be on non-judicial stamp paper of adequate amount as per applicable stamp law. Foreign companies submitting expression of interest / resolution plan are required to follow the applicable law in their country and ensure that the documents submitted as part of the expression of interest / resolution plan are appropriately apostilled, and stamp duty paid in India before submission to the Interim Resolution Professional / Resolution Professional.]*

**Prospective Resolution Applicant's Undertaking**

1. This is in relation to the ongoing corporate insolvency resolution process of Topworth Urja & Metals Limited ("**Corporate Debtor**") in terms of the Insolvency and Bankruptcy Code, 2016 ("**Code**"). In terms of Section 25(2)(h) of the Code and Regulation 36A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, as amended ("**CIRP Regulations**") the Resolution Professional of the Corporate Debtor has issued an invitation for expression of interest dated [ ] ("**Invitation**") inviting expression of interest from prospective resolution applicants. One of the requirements of the Invitation is that the prospective resolution applicants are required to submit the undertakings contained herein at the time of submission of the expression of interest.
2. In furtherance of the foregoing, I, [Name of the authorized representative], aged about [age] years, currently residing at [Address to be inserted], currently residing at [Address to be inserted] and having Aadhaar / Passport number [insert], on behalf of [Insert name of the Prospective Resolution Applicant] ("**Prospective Resolution Applicant**"), submitting its expression of interest dated [●] [Insert date] ("**EOI**") do solemnly undertake, agree, acknowledge and confirm that:
  - a. The Prospective Resolution Applicant has examined and understood the Invitation for EOI and its contents, including the eligibility and other criteria mentioned therein and that it shall provide all documents, representations and information as may be required by the IRP/RP or the CoC to substantiate to the satisfaction of the IRP/RP and the CoC that the Applicant is eligible in terms of the eligibility criteria set out in the Invitation for EOI and is also eligible under the IBC and the rules and regulations thereunder to submit an expression of interest in respect of the Corporate Debtor.
  - b. the Prospective Resolution Applicant meets the criteria specified by the committee of creditors of the Corporate Debtor under Section 25(2)(h) of the Insolvency and Bankruptcy Code, 2016 (the "**Code**"), relevant records in evidence of meeting the said criteria is attached herewith;
  - c. the Prospective Resolution Applicant does not suffer from any ineligibility under section 29A of the Code, relevant information and records to enable an assessment of our ineligibility are enclosed herewith as [●];
  - d. the Prospective Resolution Applicant shall intimate the RP forthwith if we become ineligible at any time during the Corporate Insolvency Resolution Process;
  - e. all the information and records along with all the confirmations, declarations and



representations provided in expression of interest is/are true, accurate and correct and discovery of any false information or record at any time will render the Prospective Resolution Applicant ineligible to submit resolution plan and may attract penal action under the Code; and

- f. the Prospective Resolution Applicant 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 Section 29(2) of the Code.
3. We further undertake and confirm that the EOI submitted by us is unconditional. This Undertaking shall be governed in accordance with the laws of India and the courts/tribunals of competent jurisdiction at Mumbai shall have the exclusive jurisdiction over any dispute arising under this undertaking.

Solemnly affirmed at [●]

On the [●] day of [●] 2023

**Before me,**

**DEPONENT**

***Note:***

- *In case of Consortium applicant this undertaking shall be provided by each member of the Consortium.*
- *The person signing this undertaking and other supporting document should be an authorised signatory supported by necessary board resolution and/or duly executed power of attorney and the EoI shall be accompanied with the said resolution/power of attorney authorising the signatory to execute and submit the EoI. In case of Consortium Applicant, the EOI shall be signed by each member.*

## **ANNEXURE F**

### **UNDERTAKING FOR NO DISQUALIFICATION UNDER SECTION 29A OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016**

*[To be on non-judicial stamp paper of adequate amount as per applicable stamp law. Foreign companies submitting expression of interest / resolution plan are required to follow the applicable law in their country and ensure that the documents submitted as part of the expression of interest / resolution plan are appropriately apostilled, and stamp duty paid in India before submission to the Interim Resolution Professional / Resolution Professional.]*

*The execution of this undertaking must be authorized by a duly passed resolution of the board of directors of the prospective resolution applicant or any sub-committee of the board (if so authorized by the board).*

*Each page of the undertaking is required to be signed by the prospective resolution applicant at the bottom of the page and on the execution page, the deponent must affix his/her full signature and additionally affix the rubber stamp seal of the prospective resolution applicant.*

*Where the resolution applicant is a consortium, said undertaking shall be furnished by each member of the consortium.*

*Kindly fill in the requisite details in each of the items where information is left blank or has been sought.]*

1. This is with reference to the expression of interest dated [●] [Insert date] (“**Expression of Interest**”) in relation to the corporate insolvency resolution process of Topworth Urja & Metals Limited (“**Corporate Debtor**”) under the provisions of Insolvency and Bankruptcy Code, 2016 (“**Code**”).

In **furtherance** of the Expression of Interest, I, [Name of the Deponent], S/o [Father's name of the Deponent], Aged about [Age] years, R/o [Address in full along with the Pin Code], on behalf of [name of the Prospective Resolution Applicant] having registered office at [●] [Insert date] (“**Prospective Resolution Applicant**”, a term which also includes any person acting jointly with the Prospective Resolution Applicant), do solemnly affirm and state to the committee of creditors (“**CoC**”) of Topworth Urja & Metals Limited and the Interim Resolution Professional/ Resolution Professional of the Corporate Debtor that the Prospective Resolution Applicant is not ineligible resolution applicant(s) under Section 29A of the Code.

Without prejudice to the generality of the foregoing, I hereby solemnly affirm, declare, state and undertake as follows:

2. That I am duly authorized and competent to make and affirm the instant undertaking for and on behalf of the Applicant in terms of [resolution of its board of directors/ power of attorney dated [\_\_\_]]. I hereby unconditionally state, submit and confirm that the document is true, valid and genuine.
3. I hereby unconditionally state, submit and confirm that the Prospective Resolution Applicant is not disqualified from submitting a resolution plan in respect of the Corporate

Debtor under the Code and rules and regulations framed thereunder, each, as amended from time to time or under any applicable laws.

4. I hereby state, submit and declare that neither the Prospective Resolution Applicant nor any other person acting jointly or in concert with the Prospective Resolution Applicant<sup>4</sup>:

- (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;
- (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 nonperforming 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 Company;
- (d) has been convicted for any offence punishable with imprisonment:
  - i. for two years or more under any Act specified under the Twelfth Schedule of the Code; or
  - ii. for seven years or more under any law for the time being in force;
- (e) is disqualified to act as a director under the Companies Act, 2013;
- (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 the Code;
- (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 the 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) above, under any law in a jurisdiction outside India; or
- (j) has a connected person (*as defined under the Code*) not eligible under clauses (a) to (i) above.

<sup>4</sup> In case any proviso/exclusions/explanations, as stipulated under Section 29A of IBC, are applicable in relation to a Prospective Resolution Applicant, to such extent, the format of this affidavit may be revised by such Prospective Resolution Applicant to provide for the same.

[Note: Note: The aforementioned ineligibility criteria is set out based on the Section 29A of the IBC as applicable on the date of issuance of the invitation for EOI and are subject to changes pursuant to the amendments to the IBC from time to time. The PRAs are required to stay updated on the amendments to the IBC from time to time and any modifications to the ineligibility norms set out under Section 29A of IBC shall also apply to this invitation for EOI, without the requirement of any further communication to be issued to the PRAs.]

5. That the Prospective Resolution 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 in the event any of the above statements are found to be untrue, incomplete or incorrect, then the Prospective Resolution Applicant unconditionally agrees to indemnify and hold harmless the RP against any losses, claims or damages incurred by the RP on account of such ineligibility of the Resolution Applicant.
7. I declare and undertake that in case the Prospective Resolution Applicant/ or the person acting jointly with it or any of the connected person(s) or the person acting jointly with it or any of the connected person(s) becomes ineligible at any stage during the CIRP of the Corporate Debtor, it would inform the RP forthwith on becoming ineligible.
8. I undertake that the Prospective Resolution Applicant meets the eligibility criteria specified by the committee of creditors (set out in the Advertisement for EOI and EOI Invitation) and Prospective Resolution Applicant has submitted all relevant records in evidence of meeting the eligibility criteria set out in the EOI Invitation.
9. I undertake that the Prospective Resolution Applicant has submitted all relevant information and records to enable an assessment of ineligibility to submit a resolution plan under Code/IBC; and the Prospective Resolution Applicant shall intimate the resolution professional forthwith if it becomes ineligible at any time during the corporate insolvency resolution process of the Corporate Debtor;
10. I undertake that every information and records provided in expression of interest by the Prospective Resolution Applicant 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/IBC;
11. I undertake that the Prospective Resolution Applicant shall maintain confidentiality of any information received pursuant to the resolution process of the Corporate Debtor and information provided by the RP 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 of the Code.
12. That this Undertaking shall be governed in accordance with the laws of India and the courts of Mumbai shall have the exclusive jurisdiction over any dispute arising under this Undertaking.

Solemnly affirmed at [●]

On the [●] day of [●] 2023

**Before me,**

**DEPONENT**

**Notary/Oath Commissioner**

**VERIFICATION:**

I, *[name of the chairman/managing director/director/authorised person of resolution applicant, authorised by the Board of the resolution applicant company (in case of a company) for giving such undertaking]*, the deponent above named, on behalf of *[name of the resolution applicant]*, currently residing at [●], do hereby solemnly state on oath and declare and verify that the contents of the above undertaking are true, correct and complete to the best of my knowledge and nothing material has been concealed therein.

Verified at [●], on this the [●] day of [●] 2023.

## **DEPONENT**

Note:

- In case of Consortium Applicant, this undertaking shall be signed by each member.
- The person signing the undertaking and other supporting documents should be an authorised signatory supported by necessary board resolutions / authorization letter / power of attorney.

**ANNEXURE G**  
**CONFIDENTIALITY UNDERTAKING**

*[To be on non-judicial stamp paper of adequate amount as per applicable stamp law. Foreign companies submitting expression of interest / resolution plan are required to follow the applicable law in their country and ensure that the documents submitted as part of the expression of interest / resolution plan are appropriately apostilled, and stamp duty paid in India before submission to the Interim Resolution Professional / Resolution Professional.]*

This Confidentiality Undertaking has been signed by Mr./ Ms. [●] [Insert name of authorized representative] the authorized signatory/authorized representative of [●] [Insert name of Prospective Resolution Applicant] having its registered office at [●] [Insert address] (“**Prospective Resolution Applicant**” or “**PRA**”), which expression shall, unless repugnant to the context, include its successors in business, administrators in business, administrators, insolvency professional, liquidator and assigns or legal representative) in favour of the Interim Resolution Professional i.e., Mr. Alok Saxena (IBBI Registration No. IBBI/IPA-001/IP-P00056/2017-18/10134) (“**IRP**” or “**Interim Resolution Professional**”).

**WHEREAS** On 12<sup>th</sup> August 2022, Hon’ble National Company Law Tribunal, Mumbai Bench (“**NCLT**”) passed an order (“**Admission Order**”) initiating corporate insolvency resolution process (“**CIRP**”) in respect of Topworth Urja & Metals Limited (“**Company**” or “**Disclosing Party**” as the context may require, and shall include the IRP and any officers, and/or its/their advisors including, without limitation, duly authorized attorneys, accountants, legal advisors and financial advisors) under the provisions of the Insolvency and Bankruptcy Code, 2016 (“**IBC**”) and appointed Mr. Alok Saxena (IBBI Registration No. IBBI/IPA-001/IP-P00056/2017-18/10134) as the Interim Resolution Professional.

**WHEREAS** the Interim Resolution Professional has prepared information memorandum as per Section 29 (1) of the Code and Regulation 36 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 in respect of the Corporate Debtor (“**Information Memorandum**”).

**WHEREAS** the Interim Resolution Professional is required to share the information memorandum and any other information with a potential resolution applicant after receiving an undertaking from the Resolution Applicant to the effect that the Resolution Applicant shall maintain confidentiality of the information contained in the Information Memorandum and any other information shared with such Resolution Applicant 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 Section 29(2) of the Code.

**THEREFORE, the Prospective Resolution Applicant hereby declares and undertakes as follows:**

1. The Resolution Applicant declares and undertakes that it will not divulge Confidential Information (*as defined below*), disclosed to it by the Interim Resolution Professional (or any other person on behalf of the Interim Resolution Professional) and any part of the information contained in the Information Memorandum of Corporate Debtor, prepared as per Section 29(1) of the Code and Regulation 36 of the Insolvency and

Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, through oral or written communication or through any mode to anyone covenant to protect, preserve and keep confidential such Confidential Information from any third party. Any information or documents generated or derived by the recipients of Confidential Information that contains, reflects or is derived from any Confidential Information shall also be deemed as Confidential Information.

2. **“Confidential Information”** means all the information on the virtual data room relating to the Disclosing Party, including the information memorandum, and any other additional information in any form in relation to the Company provided by or on behalf of the Company or any of its affiliates or advisers to me/us, including but not limited to information concerning the business, financial condition, operations, assets and liabilities of the Company, reports or any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information;
3. I/We agree as follows:
  - (a) I/We agree to treat Confidential Information or any part thereof which has been or will be provided to me/us or my/our representatives in whatever form, by or on behalf of or in relation to the Company, as strictly confidential, in accordance with the provisions of this Undertaking and will not disclose the same or any portion thereof to any person whatsoever without the prior written consent of the RP.
  - (b) I/We hereby agree that the Confidential Information will be kept confidential and will not be disclosed, reproduced, disseminated, quoted, discussed, referred to, circulated or disclosed, in whole or in part, to any person provided however that, I/we may make any disclosure of such Confidential Information, (i) which is approved for release in writing by the RP; or (ii) to any of my/our duly authorized representatives including my/our employees, professional or legal advisors, directors and/or affiliates (collectively, **“Representatives”**) on a strictly need to know basis and only for purposes pertaining to the CIRP of the Company, and subject to such Representatives being subject to the same or substantially similar obligations of confidentiality as contained herein; or (iii) if mandatorily required by law, regulation or any competent judicial, supervisory or regulatory body, and the disclosure will be limited to items as are strictly required to be disclosed as per the applicable law, order or directions.
  - (c) I/We hereby undertake that I/we will not publish a news release or make any announcements or denial or confirmation in any medium concerning the proposal to prepare/ submit a resolution plan for the Company or contents of such proposed resolution plan in any manner nor advertise or publish the same in any medium, without the prior written consent of the Disclosing Party
  - (d) I/We agree that the rights, title or interest (including intellectual property rights) in relation to the Confidential Information disclosed pursuant to this Undertaking shall remain the property of the Disclosing Party. No right, title, interest or license in the Confidential Information shall be conveyed to me/us or any other person by release of such Confidential Information by the Disclosing Party to me/us



pursuant to the terms of this Undertaking.

- (e) For the purposes of this Undertaking, the following shall be deemed to not be Confidential Information, unless otherwise specified in the IBC or the rules and regulations thereunder: (i) information which is or becomes generally available to the public other than as a result of a disclosure or wrongful act by me/us or my/our Representatives under this Undertaking; (ii) was known to me/us as evidenced by written documentation prior to its being disclosed by me/us and in respect of which I/we have informed the Disclosing Party in writing; (iii) is received by me/us on a non-confidential basis from a source other than the Disclosing Party or any of its representatives, provided that such source is not bound by a confidentiality undertaking with or other contractual, legal or fiduciary obligation of confidentiality to the Disclosing Party or any other party with respect to such information; or (iv) is disclosed as per any applicable law provided that I/ We shall, in these cases, immediately notify the Disclosing Party of the information that has been disclosed as a result of such applicable law along with the corresponding details of the applicable law which warranted such disclosure
- (f) I/my representatives, in terms of applicable laws and IBC including but not limited to Section 29(2) of IBC and Regulation 36(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 will (i) maintain confidentiality of the Confidential Information; (ii) not use any such Confidential Information directly or indirectly to cause an undue gain or undue loss to me/us or any other person; (iii) comply with provisions of law for time being in force relating to confidentiality and insider trading; (iv) protect intellectual property of the Disclosing Party mentioned in the Confidential Information; (v) not share the Confidential Information with any third party unless such third party is bound by the terms of the undertaking.
- (g) The Disclosing Party (i) does not make any representation or warranty, express or implied, as to, or assume any responsibility for the accuracy, reliability or completeness of any of the Confidential Information or any other information supplied by it or the assumptions on which it is based nor (ii) shall the Disclosing Party be under any obligation to update or correct any inaccuracy in the Confidential Information or any other information supplied by it or be otherwise liable to me/us or any other person in respect of the Confidential Information.
- (h) I/We agree that upon the written request of the Disclosing Party, I/we undertake to surrender and return to the Disclosing Party, all Confidential Information and related documents, or destroy the same in accordance with the directions of the Disclosing Party, except to the extent, retention of such information is required under applicable law, within a period of ten (10) days of the receipt of such written request, provided that the I/we shall, in such cases, immediately notify the Disclosing Party of the information that has been retained as a result of such applicable law along with the corresponding details of the applicable law which warranted such retention.

- (i) I/We agree that I/we shall be responsible for any breach of this Undertaking by my/our Representatives. I/We will provide a notice in writing to the Disclosing Party in the event any breach, misuse or misappropriation of such Confidential Information has occurred. Further, I/we agree to promptly take all necessary measures to cure such breach, misuse or misappropriation and to mitigate its effects and keep the Disclosing Party apprised of all steps taken in this regard. I/we also agree to ensure that all efforts will be made by me/us to prevent further breach, misuse or misappropriation of the Confidential Information.
  - (j) I/We agree and acknowledge that breach of any of the obligations under this Undertaking would result in irreparable harm to the Disclosing Party for which damages alone would not be an adequate remedy. Accordingly, without prejudice to any other rights and remedies it may have, the Disclosing Party shall be entitled to equitable relief (including without limitation injunctive relief) concerning any threatened or actual breach of any of the provisions of this Undertaking. All remedies available to the Disclosing Party whether provided herein or conferred by law, custom, trade or usage are cumulative and not alternative and may be enforced successively or concurrently. I/We shall indemnify the IRP/RP and the Corporate Debtor on demand in respect of any type of liability, loss, damage, claims and expenses (including legal/attorney fees) arising out of or in connection with breach of this Confidentiality Undertaking by us
  - (k) It is understood and agreed that no failure or delay by the Disclosing Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder.
  - (l) This Undertaking shall remain valid for a period of seven years after it is executed, notwithstanding whether I/we are shortlisted for the next phase of inviting binding bids or not, or whether the resolution plan submitted by me/us is placed before the CoC and/ or approved by the CoC or not, and even after completion of the CIRP of the Company.
  - (m) Nothing in this Undertaking shall have the effect of limiting or restricting any liability arising as a result of fraud or wilful default.
  - (n) I/We hereby represent and warrant that I/we have the requisite power and authority to execute, deliver and perform my/our obligations under this Undertaking.
4. This Undertaking also applies to Confidential Information accessed through the electronic data room and supersedes any 'click through' acknowledgement or agreement associated with any such electronic data room.
5. This Undertaking shall be governed by and construed in accordance with the laws of India. Any action, suit or proceeding relating to this Undertaking shall be submitted to the exclusive jurisdiction of the courts of Mumbai.

6. We agree that we will comply with all the terms and conditions aforesaid of this Undertaking.

On behalf of [Please insert the Name of the Organisation]:

---

Signature

Name of the Authorized Signatory: [●]

Designation: [●]

Company Seal / Stamp: [●]

Place: [●]

Date: [●]

## ANNEXURE H

### **Power of Attorney for Nomination of Lead Member of Consortium**

*[To be on non-judicial stamp paper of adequate amount as per applicable stamp law. Foreign companies submitting expression of interest / resolution plan are required to follow the applicable law in their country and ensure that the documents submitted as part of the expression of interest / resolution plan are appropriately apostilled, and stamp duty paid in India before submission to the Interim Resolution Professional / Resolution Professional.]*

### **POWER OF ATTORNEY FOR NOMINATION OF LEAD MEMBER**

Know all men by these presents, We [●] *[Insert name and address of the registered office]* do hereby irrevocably designate, nominate, constitute, appoint and authorize M/s *[Insert name and address of the registered office of the Lead Member]* being one of the members of the consortium or joint venture (whether incorporated or not) as the Lead Partner and true and lawful attorney of the joint venture/ consortium (hereinafter referred to as the “**Attorney**”) and hereby irrevocably authorize the Attorney (with power to sub- delegate) to conduct all business for and on behalf of the consortium or joint venture, as may be applicable, to do on our behalf and on behalf of the joint venture/ consortium, all or any of such acts, deeds or things as may be necessary in connection with or incidental to the submission of the EoI and participation in the CIRP of the Corporate Debtor or any other document as may be required under or pursuant to the EoI, including but not limited to signing and submission of the EoI and all other documents in relation to EoI including but not limited to undertakings, letters, certificates, acceptances, clarification, or any other deeds or documents that the resolution professional may require and generally to represent the Consortium in its dealings with the resolution professional and the committee of creditors or any person, in all matters in connection with or relating to or arising out of the EoI or the CIRP.

We hereby agree to ratify all acts, deeds and things done by our said Attorney pursuant to this Power of Attorney and that all acts, deeds and things done by our aforesaid Attorney shall be binding on us and shall always be deemed to have been done by us.

All the terms used herein but not defined shall have the meaning ascribed to such terms under the Expression of Interest.

In witness where of we the Members of the Consortium above named have executed this power of attorney on this [●] *[Insert date]* Day of [●] *[Insert month]* [2023]

Signed by the within named  
*[Insert the name of the executing entity]*

Through the hand of

---

Mr. *[Name, designation and address of the executant]* duly authorised by the Board to issue such Power of Attorney dated this [•]

Accepted

.....

Signature of Attorney

*[Name, designation and address of the Attorney]* Attested

*[Signature and stamp of Notary of the place of execution]*

Common seal of ..... has been affixed in my / our presence pursuant to Board of Director's Resolution dated [•]

WITNESS

1.

*[Signature]*

*[Name]*

*[Designation]*

2.

*[Signature]*

*[Name]*

*[Designation]*

Notes:

- 1. The mode of execution of the power of attorney should be in accordance with the procedure laid down by the applicable law in the appropriate jurisdiction and the charter documents of the entity providing the power of attorney ("Principal") and the same should be under common seal of the executant affixed in accordance with the applicable procedure for entities in India. Further, the authorised person providing the power of attorney shall be duly authorised Principal in this regard.*
- 2. The person authorised under this Power of Attorney, in the case of the Principal being a public company, or a private company which is a subsidiary of a public company, in terms of the Companies Act, with a paid-up share capital of more than Rs. 5,00,00,000 (Rupees Five Crores only), should be the managing director / whole time director / manager appointed under section 203 of the Companies Act. In all other cases, the person authorised should be a director duly authorised by a board resolution duly passed by the company.*
- 3. In relation to the foreign parties, kindly ensure that the relevant proceedings as per applicable law is followed, supported by a legal opinion on enforceability in India.*

4. *In case of the Principal being a foreign company, the same shall be signed by a person of equivalent position and the submission should be supported by a legal opinion on enforceability.*
5. *Also, wherever required, the Principal should submit for verification an extract of the charter documents and documents such as a board resolution/power of attorney, authorising of the person executing this power of attorney for delegation of power hereunder on behalf of the Principal.*