

**BEFORE THE NATIONAL GREEN TRIBUNAL
(PRINCIPAL BENCH), NEW DELHI**

ORIGINAL APPLICATION NO. 164 OF 2018

BETWEEN

ASHWANI KUMAR DUBEY

...APPLICANT

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

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PLACE: NEW DELHI

DATED: 12.09.2025

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RESOLUTION PLAN
SUBMITTED PURSUANT TO
INSOLVENCY & BANKRUPTCY CODE, 2016
FOR RESOLUTION OF
ESSAR POWER MP LIMITED

SUBMITTED BY:



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SECTION 1 : EXECUTIVE SUMMARY OF THE RESOLUTION PLAN

1.1 Admitted Debt

As per the Information Memorandum and information made available in the Virtual Data Room as on April 8, 2021, the total Claim(s) filed by the Creditors amount to INR 202,089,514,739. Out of these, claims amounting to INR 126,771,712,416 have been verified and admitted by the Resolution Professional and INR 62,843,211,331 has been admitted as contingent claims which comprise of:

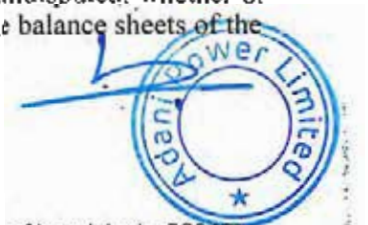
Category of Creditor	Claims Filed (INR)	Claims Admitted (INR)	Contingent Claims Admitted (INR)	Claims under verification (INR)
Secured Financial Creditors	124,391,359,685	120,129,831,567		
Unsecured Financial Creditors	4,975,951,504	545,937,816	114,500,000	
Operational Creditors (Other than Workmen, Employees and Government and Statutory Authorities)	30,045,050,525	506,187,156	26,325,399,999	463,936,203
Employees	182,713,304	143,034,574	-	-
Workmen	-	-	-	-
Government and Statutory Authorities	42,494,439,721	5,446,721,303	36,403,311,332	
Other Creditors	-	-	-	-
Total	202,089,514,739	126,771,712,416	62,843,211,331	463,936,203

1.2 Financial Proposal

- 1.2.1 The composite financial proposal made by the Resolution Applicant to settle all Claims against the Corporate Debtor (including but not limited to the Claims of the Financial Creditors, Operational Creditors, the CIRP Costs, Employees and Workmen and Government and Statutory Authorities) is as set out in the table below and detailed further in Section 2 (Treatment of Stakeholders) and Annexure 1 (Salient Terms and Conditions of the Proposal) of this Resolution Plan. Upon implementation of this Resolution Plan in the manner set-out hereinbelow, the Corporate Debtor or the Resolution Applicant shall have no liability to make any payments to any stakeholder of the Corporate Debtor (except as expressly set-out in this Resolution Plan), including any Creditor whether the Financial Creditors, Employees, Workmen, Government and Statutory Authorities, Other Operational Creditors, Other Creditors, shareholders or any other stakeholder whether asserted or unasserted, whether admitted, rejected or kept under verification, contingent or otherwise, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, whether or not set out in the Information Memorandum, the Virtual Data Room, the balance sheets of the

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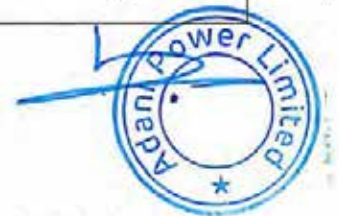
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Corporate Debtor or the profit and loss account statements of the Corporate Debtor and all liabilities of the Corporate Debtor towards the Creditors and other stakeholders shall be extinguished and settled, on and from the Effective Date.

Stakeholders / Subject Matter	Our Proposal
CIRP Costs	It is anticipated that during the CIRP Period, cash flows generated by the Corporate Debtor will be sufficient to pay the CIRP Costs till the NCLT Approval Date. Any CIRP Costs which are unpaid as of the NCLT Approval Date will be paid out of the cash flows of the Corporate Debtor on the Effective Date. In the event that the cash flows generated by the Corporate Debtor are insufficient to pay the CIRP Costs till the NCLT Approval Date, then all unpaid CIRP Costs as on the NCLT Approval Date will be paid in priority over payments to any other Creditors of Corporate Debtor and the same shall be paid out of the Fund Infusion to be made by Resolution Applicant.
Interim Period Costs	<p>(i) If this Resolution Plan is approved by the COC, the Resolution Applicant shall (prior to the NCLT Approval Date) agree with the Resolution Professional and the COC on the fees, costs and expenses which may be incurred by the Implementation and Monitoring Committee in discharging its duties (as specified in this Resolution Plan) and legal fees that may be incurred by them from the NCLT Approval Date till the Effective Date.</p> <p>(ii) Any costs relating to appointments of the Implementation and Monitoring Committee and the operation of the Corporate Debtor as a going concern and any legal fees in respect thereof, during the period from the NCLT Approval Date till the Effective Date (“Interim Period Costs”) shall be paid from the cash flows of the Corporate Debtor. In the event such cash flows are insufficient, then shortfall, if any, shall be funded by the Resolution Applicant.</p> <p>(iii) The Resolution Applicant agrees to reimburse the legal cost as may be reasonably incurred by the Implementation and Monitoring Committee and the Resolution Professional post the Effective Date for an amount not exceeding INR 2,00,00,000 (Rupees Two Crore Only) in relation to the Resolution Process of the Corporate Debtor. Such legal cost shall be paid out of the internal accruals of the Corporate Debtor. The Resolution Applicant or the Corporate Debtor shall in no event be required to bear any legal cost for an amount exceeding INR 2,00,00,000 (Rupees Two Crore Only).</p>
Financial Creditors	A. Secured Financial Creditors

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Stakeholders / Subject Matter	Our Proposal
	<p>(i) Restructured Debt</p> <p>A portion of the Admitted Secured Financial Creditor Debt specified in the Debt Term Sheet, excluding the (a) Admitted Secured Financial Creditor Debt constituting the Necessary Bank Guarantees that remain un-invoked as on the Effective Date; and (b) Admitted Secured Financial Creditor Debt of the Dissenting Financial Creditors ("Restructured Debt") shall be restructured with effect from the Effective Date as per the terms detailed in the Debt Term Sheet appended to Annexure 1 (Salient Terms and Conditions of the Proposal) of this Resolution Plan.</p> <p>(ii) Balance Secured Admitted Financial Creditor Debt</p> <p>The Admitted Secured Financial Creditor Debt less the (i) Restructured Debt; and (ii) Necessary Bank Guarantees ("Balance Secured Admitted Financial Creditor Debt") shall be treated as follows:</p> <p>(a) In compliance with Section 30(2)(b) of the Code and Regulation 38 of the CIRP Regulations, the Financial Creditors who do not vote in favour of this Resolution Plan ("Dissenting Financial Creditors") will be entitled to receive the amount that they would have received in accordance with sub-section (1) of Section 53 of the Code in the event of a liquidation of the Corporate Debtor ("Mandatory Dissenting Financial Creditor Payment") in cash in priority to the Financial Creditors who vote in favour of the Resolution Plan ("Approving Financial Creditors").</p> <p>In the Resolution Applicant's assessment, the Mandatory Dissenting Financial Creditor Payment payable to the Dissenting Financial Creditors in compliance with Section 30(2)(b) of the Code will be less than INR 600 Crore. In consideration for such payment, the Admitted Secured Financial Creditor Debt of the Dissenting Financial Creditor(s) shall be transferred, assigned, acquired, or novated in the same manner as the Balance Admitted Secured Financial Creditor Debt of the</p>

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Stakeholders / Subject Matter	Our Proposal
	<p>Approving Secured Financial Creditors.</p> <p>(b) After payment of the Mandatory Dissenting Financial Creditor Payments, the Resolution Applicant will make payment of the balance amount (i.e., an amount equal to INR 600 Crore less the Mandatory Dissenting Financial Creditor Payments) to the Approving Secured Financial Creditors ("Upfront Secured Financial Creditor Payments"), as consideration for transfer, assignment, acquisition or novation of the Balance Secured Admitted Financial Creditor Debt ("Balance Admitted Secured Financial Creditor Debt Acquisition") in favour of the Resolution Applicant or such entity as may be specified by the Resolution Applicant (which entity shall be eligible under Section 29A of the Code and such entity shall be identified and an undertaking in relation to its eligibility under Section 29A shall be submitted prior to the Effective Date), as specified in Annexure 1 (Salient Terms and Conditions of the Financial Proposal).</p> <p>(c) The Balance Admitted Secured Financial Creditor Debt Acquisition shall be on the existing terms and conditions of the Balance Admitted Secured Financial Creditor Debt. Provided that the debt transferred, assigned, acquired or novated pursuant to this Resolution Plan shall be subordinated to the Restructured Debt.</p> <p>The Upfront Secured Financial Creditor Payments and the Restructured Debt are collectively referred to as "Secured Financial Creditor Payments".</p> <p>It is hereby clarified that, in any event, the sum of (i) the Mandatory Dissenting Financial Creditor Payment, and (ii) the Upfront Secured Financial Creditor Payments shall not exceed INR 600 Crore (Rupees Six Hundred Crore). It is further clarified that in any event, the sum of (i) the Mandatory Dissenting Financial Creditor Payment, (ii) the Upfront Secured Financial Creditor Payments; and (iii) the Restructured Debt, shall not</p>

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Stakeholders / Subject Matter	Our Proposal
	<p>exceed INR 2,500 Crores (Rupees Two Thousand Five Hundred Crore).</p> <p>(iii) Necessary Bank Guarantees- Bank Guarantees of INR 12,45,00,000 (Rupees Twelve Crore Forty-Five Lakhs Only) (“Necessary Bank Guarantees”) listed in Schedule 1 (Necessary Bank Guarantees) and to the extent they remain uninvoked as on the Effective Date shall continue with their current terms post the Effective Date and the Corporate Debtor shall be liable to repay them in full if they devolve post the Effective Date. In the event the Necessary Bank Guarantees are invoked prior to the Effective Date then such Necessary Bank Guarantees (to the extent they form part of the Admitted Secured Financial Creditor Debt) shall be treated in accordance with the terms of this Resolution Plan applicable to Admitted Secured Financial Creditor Debt.</p> <p>For the avoidance of doubt, it is clarified that bank guarantees issued by the Secured Financial Creditors which are not classified as Necessary Bank Guarantees shall be treated in accordance with the terms of this Resolution Plan applicable to Admitted Secured Financial Creditor Debt and any rights of the issuers or the sureties of such guarantees including any right of reimbursement, indemnity and/or subrogation, shall stand permanently extinguished as of the Effective Date on and with effect from the NCLT Approval Date. The Financial Creditors who have issued such guarantees will not have any further recourse to the Resolution Applicant and/or the Corporate Debtor under law of contract or tort or any other remedy, other than receiving payments in terms of this Resolution Plan. If any amount is realised by the Corporate Debtor subsequent to the Effective Date in relation to the said bank guarantees which are not classified as Necessary Bank Guarantees, then such amount shall belong to the Corporate Debtor / Resolution Applicant.</p> <p>The Resolution Applicant understands that no consent of any regulatory authority is required for payment to any Secured Financial Creditor in terms of this Resolution Plan (including payments in respect of the external commercial borrowing of ICICI Bank). In the event that any regulatory approval is required for such payment then the Implementation and Monitoring</p>

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Stakeholders / Subject Matter	Our Proposal
	<p>Committee shall cause the Corporate Debtor to make appropriate application to obtain such approval. In the event the requisite approval is not obtained prior to the Effective Date, the Secured Financial Creditor Payments in respect of the Admitted Secured Financial Creditor Debt of the relevant Secured Financial Creditor shall be deposited by the Resolution Applicant in a designated account (for the benefit of the relevant Secured Financial Creditor) in compliance with the Applicable Law, as may be specified by the COC and the amounts shall be remitted to such Secured Financial Creditor once the requisite approvals are obtained. It is however clarified that the Secured Financial Creditors, for whom the regulatory approvals are required shall be deemed to have been paid the settlement amount on the date of transfer of funds to the said designated account. The payment by the Corporate Debtor of the said amount in such account shall be sufficient compliance of its obligation to make such payment. The Corporate Debtor and the Resolution Applicant shall provide all reasonable cooperation such to the Secured Financial Creditors for obtaining requisite regulatory approvals. Without prejudice to the above, in the event that such approval is not received by the said Secured Financial Creditors, then, the Resolution Applicant and Corporate Debtor will explore other legally viable options that are mutually agreeable to such Secured Financial Creditors and the Resolution Applicant to enable the transfer of their respective proportion of the Secured Financial Creditor Payments, in accordance with this Resolution Plan.</p> <p>(iv) The Resolution Applicant agrees that the distribution of Secured Financial Creditor Payments <i>inter se</i> the Approving Secured Financial Creditors shall be determined by the COC one day prior to the voting proposed in relation to this Resolution Plan.</p> <p>B. Unsecured Financial Creditors</p> <p>NIL payment is proposed to be made to the Unsecured Financial Creditors assuming that, in the event of liquidation of the Corporate Debtor, the amount payable to the Unsecured Financial Creditors would be NIL in accordance with the distribution waterfall specified under Section 53 of the Code.</p>





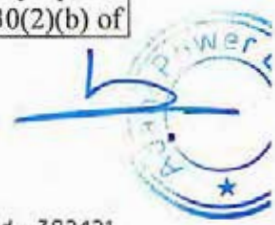
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Stakeholders / Subject Matter	Our Proposal
	<p>and the Financial Creditors shall undertake such steps as may be required by the Resolution Applicant without any further payment, to ensure the modification of charge or mortgage or Encumbrance or pledge as per the directions of the Resolution Professional or the Resolution Applicant (as may be applicable). No transfer of shares by a shareholder of the Corporate Debtor is to be permitted between release of the pledge and the Capital Reduction in the manner specified in this Resolution Plan.</p>
<p>Operational Creditors (other than Employees and Workmen and Government and Statutory Authorities)</p>	<p>In the Resolution Applicant's assessment, the Liquidation Value is insufficient to even satisfy the claims of the Secured Financial Creditors in full and therefore, the amounts payable to the Operational Creditors (other than Employees and Workmen and Government and Statutory Authorities) ("Other Operational Creditors") in compliance with Section 30(2)(b) of the Code would be NIL.</p> <p>The Admitted Other Operational Creditor Debt shall be converted into equity shares of the Corporate Debtor and subsequently will be subject to Capital Reduction as specified in <i>Section 3 (Acquisition as a Going Concern)</i> of this Resolution Plan. Accordingly, the Resolution Applicant proposes to make NIL payment to Other Operational Creditors in compliance Section 30(2)(b) of the Code read with Regulation 38 of the CIRP Regulations ("Other Operational Creditor Payments").</p> <p>Without prejudice to anything contained above, any other debt of Other Operational Creditors appearing in the books of account of the Corporate Debtor, whether or not a claim has been filed in relation thereto, whether admitted or not, under verification, contingent or otherwise, asserted or unasserted, secured or unsecured shall be converted into equity shares of the Corporate Debtor and subsequently will be subject to Capital Reduction as specified in <i>Section 3 (Acquisition as a Going Concern)</i> of this Resolution Plan.</p>
<p>Employees and Workmen</p>	<p>As per the Information Memorandum and the List of Creditors provided by the Resolution Professional, no Claims have been made by any Workmen. Therefore, NIL amount is proposed to be paid to Workmen.</p> <p>In the Resolution Applicant's assessment, the Liquidation Value is insufficient to even satisfy the claims of the Secured Financial Creditors in full and therefore, the amounts payable to the Employees in compliance with Section 30(2)(b) of the Code would be NIL.</p> <p>The Admitted Employee Debt shall be converted into equity shares of the Corporate Debtor and subsequently will be subject to Capital Reduction as specified in <i>Section 3 (Acquisition as a Going Concern)</i> of this Resolution Plan. Accordingly, the Resolution Applicant proposes to make NIL payment to Employees in compliance Section 30(2)(b) of</p>



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Stakeholders / Subject Matter	Our Proposal
	<p>the Code read with Regulation 38 of the CIRP Regulations (“Employees Payments”).</p> <p>The Resolution Applicant understands that the Corporate Debtor has made certain contributions under provisions of the Payment of Gratuity Act, 1972 (“Gratuity Contributions”). The Resolution Applicant confirms that the amounts of such Gratuity Contributions are not assets of the Corporate Debtor but assets held by the Corporate Debtor in trust for their beneficiaries and shall be distributed to the respective beneficiaries in accordance with the Applicable Law. Provided however that if the Corporate Debtor has failed to make any contributions till the Effective Date, neither the Resolution Applicant nor the Corporate Debtor shall be required to make any contributions whatsoever under provisions of the Payment of Gratuity Act, 1972. The Resolution Applicant confirms that on and with effect from the Effective Date, the Gratuity Contributions shall be made by the Corporate Debtor in accordance with the Applicable Law.</p> <p>Without prejudice to anything contained above, any other debt of the Employees appearing in the books of account of the Corporate Debtor, whether or not a claim has been filed in relation thereto, whether admitted or not, under verification, contingent or otherwise, asserted or unasserted, secured or unsecured shall be converted into equity shares of the Corporate Debtor and subsequently will be subject to Capital Reduction as specified in Section 3 (<i>Acquisition as a Going Concern</i>) of this Resolution Plan.</p>
<p>Government and Statutory Authorities</p>	<p>In the Resolution Applicant’s assessment, the Liquidation Value is insufficient to even satisfy the claims of the Secured Financial Creditors in full and therefore, the amounts payable to Government and Statutory Authorities in compliance Section 30(2)(b) of the Code would be NIL.</p> <p>The Admitted Government and Statutory Authority Debt shall be converted into equity shares of the Corporate Debtor and subsequently will be subject to Capital Reduction as specified in Section 3 (<i>Acquisition as a Going Concern</i>) of this Resolution Plan. Accordingly, the Resolution Applicant proposes to make NIL payment to Government and Statutory Authorities in compliance Section 30(2)(b) of the Code read with Regulation 38 of the CIRP Regulations (“Government and Statutory Authority Payments”) in priority to any payment to any Financial Creditors.</p> <p>Without prejudice to anything contained above, any other debt of Government and Statutory Authority appearing in the books of account of the Corporate Debtor, whether or not a claim has been filed in relation thereto, whether admitted or not, under verification, contingent or</p>



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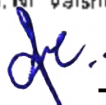
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	otherwise, asserted or unasserted, secured or unsecured shall be converted into equity shares of the Corporate Debtor and subsequently will be subject to Capital Reduction as specified in Section 3 (<i>Acquisition as a Going Concern</i>) of this Resolution Plan.
Other Creditors	<p>NIL payment has been proposed under this Resolution Plan towards claims of Other Creditors, as no Claim has been filed in respect of Other Debt ("Other Creditor Payments").</p> <p>In the event any claim is admitted in respect of Other Creditors prior to the NCLT Approval Date, then such debt of the Other Creditors shall be converted into equity shares of the Corporate Debtor and subsequently will be subject to Capital Reduction as specified in Section 3 (<i>Acquisition as a Going Concern</i>) of this Resolution Plan.</p> <p>Without prejudice to anything contained above, any debt of the Other Creditors appearing in the books of account of the Corporate Debtor, whether or not a claim has been filed in relation thereto, whether admitted or not, under verification, contingent or otherwise, asserted or unasserted, secured or unsecured shall be converted into equity shares of the Corporate Debtor and subsequently will be subject to Capital Reduction as specified in Section 3 (<i>Acquisition as a Going Concern</i>) of this Resolution Plan.</p>
Fund Infusion	<p>The Resolution Applicant and/or its Affiliates/Nominees (which entity shall be eligible under Section 29A of the Code and such entity shall be identified and an undertaking in relation to its eligibility under Section 29A shall be submitted prior to the Effective Date) will infuse funds, in one or more tranches, into the Corporate Debtor by way of equity, quasi equity, and / or shareholder debt or a combination thereof ("Fund Infusion") which shall be utilized for:</p> <ul style="list-style-type: none"> (i) Funding mandatory payments under the Code including CIRP Cost, to the extent the same is not paid out of the internal cash flows of the Corporate Debtor as on the NCLT Approval Date, (ii) Upfront Secured Financial Creditor Payments, (iii) Upto INR 502 Crore (Indian Rupees Five Hundred and Two Crore Only) to be infused within appropriate timelincs as per requirement of the project towards working capital, capital expenditure and operational improvements in the Corporate Debtor, (iv) Upto INR 600 Crore (Indian Rupees Six Hundred Crore Only) towards compliance with environmental and other norms as per

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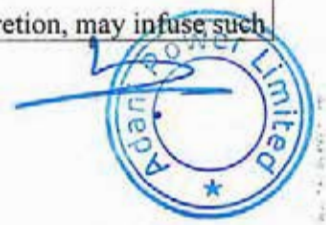
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	<p>regulatory requirements.</p> <p>The Resolution Applicant may finance requirements for working capital, capital expenditure, and other operational improvements in the Corporate Debtor by way of raising debt of upto 75% of the total funding requirement in the Corporate Debtor. The internal accruals of the Corporate Debtor post Effective Date shall be utilised first for meeting the equity component for the above funding requirements. In case of any shortfall in the equity requirement, the Resolution Applicant shall fund by way of equity, quasi equity, and / or shareholder debt or a combination thereof, at the sole discretion of the Resolution Applicant. Any Fund Infusion by the Resolution Applicant in the Corporate Debtor shall be in the form of equity, quasi equity, and / or shareholder debt or a combination thereof, at the sole discretion of the Resolution Applicant.</p> <p>The Resolution Applicant understands that in terms of Clause 4.11.2 of the RFRP, the Resolution Plan is required to provide for treatment for rectification of ash dyke related work and cost. However, based on information made available by the Resolution Professional, it is understood that the rectification of ash dyke has already been completed during the CIRP Period. Basis the same, no separate treatment is envisaged. In the event any additional cost is required for ash dyke rectification work, the same shall be borne out of the internal accruals of the Corporate Debtor. If the cash flows generated by the Corporate Debtor are insufficient to pay such cost, then shortfall, if any, shall be funded out of the Fund Infusion made by the Resolution Applicant. It is clarified that payments incurred towards such additional costs, if any, shall be over and above the consideration offered by Resolution Applicant to the Secured Financial Creditors under this Resolution Plan.</p> <p>In relation to the debt for working capital and/or capital expenditure and other components, the Resolution Applicant will approach existing Secured Financial Creditors and / or new lenders to avail debt financing for the Fund Infusion into the Corporate Debtor (“Additional Debt”), on terms and conditions agreeable to the Resolution Applicant and such respective Secured Financial Creditors or new lenders (as the case may be).</p> <p>The Secured Financial Creditors holding Restructured Debt and Necessary Bank Guarantees will cede <i>pari-passu</i> charge on the existing Assets and the new assets of the Corporate Debtor in favour of the lenders providing the Additional Debt and the working capital sanction limits, such that there is no dilution in security cover for Secured Financial Creditors.</p> <p>Further, the Resolution Applicant, at its sole discretion, may infuse such</p>

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	additional amounts over and above the aforementioned amount as may be required for improving the business operations of the Corporate Debtor.

It is expressly clarified that all Claims liabilities and demands against the Corporate Debtor shall be discharged under the Resolution Plan with the aforementioned payments and in the manner as proposed in this Resolution Plan and there shall be no further payments made by either the Corporate Debtor or the Resolution Applicant to any of the stakeholders of the Corporate Debtor under the Resolution Plan, the RFRP and/or any other document.

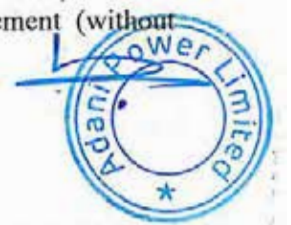
The Resolution Applicant submits that this Resolution Plan is fair and equitable to all stakeholders of the Corporate Debtor and is fully compliant with Applicable Law including without limitation the Code and the CIRP Regulations. In the event that the COC, NCLT or the NCLAT or any court determines that the distribution under this Resolution Plan is not in accordance with Applicable Law or the orders issued by the NCLT or NCLAT, as the case may be, the amount payable under this Resolution Plan shall stand re-allocated to such extent as is necessary for compliance with the Applicable Law or the orders issued by the NCLT or NCLAT, as the case may be. Such re-allocation shall be in accordance with the directions of NCLT or NCLAT amongst the payments to the various classes of creditors, which may be considered by the COC in its commercial wisdom, such that the total amount remains the same. Upon such revision and re-allocation, if any, the revised Resolution Plan shall be binding on all the stakeholders of the Corporate Debtor. For the avoidance of doubt, the maximum amount payable to the stakeholders under this Resolution Plan (including pursuant to any reallocation or redistribution), shall not exceed the Secured Financial Creditor Payments.

1.3 Other Material Terms

- (i) Based on the information made available in the Virtual Data Room, the Resolution Applicant understands that the Principal Additional Director General, Directorate of Revenue Intelligence (“DRI”) has filed a Claim as an Operational Creditor for an amount of INR 26,791,717,946 (“DRI Claim”) for penalty imposed for overvaluation of imported goods. In relation to the said DRI Claim, the Resolution Professional has admitted the DRI Claim for a notional value of INR 1 as the imposition of penalty is currently pending adjudication before the competent authority and the exact amount of penalty is not known as of date of publication of the List of Creditors. The balance amount of DRI Claim has been admitted on a contingent basis as the liability has not crystallised and would depend on the outcome of the pending proceedings. Prior to the COC Approval Date, if any amount is adjudicated by NCLT and/or appropriate authority to be due and payable to DRI by the Corporate Debtor and is subsequently admitted by the Resolution Professional, the DRI Claim, to the extent admitted by the Resolution Professional shall be treated in accordance with the terms of this Resolution Plan, as applicable to Government and Statutory Authorities and the same shall be binding on the DRI. However, if no order is passed prior to COC Approval Date and the DRI Claim continues as contingent claim as per the List of Creditors, then the Corporate Debtor will make NIL payment for full and final settlement (without

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admitting any liability of either the Corporate Debtor or the Resolution Applicant towards such Claims) of the DRI Claim. For the avoidance of doubt, it is clarified that any such admission shall not have the effect of increasing Resolution Applicants' or Corporate Debtor's liability hereunder.

- (ii) Based on the information made available in the Virtual Data Room, the Resolution Applicant understands that Power Grid Corporation Limited ("PGCL") has filed a Claim as an Operational Creditor for an amount of 26,325,400,000 ("PGCL Claim") for payment of LTA relinquishment charges. In relation to the said PGCL Claim, the Resolution Professional has admitted the PGCL Claim for a notional value of INR 1 since the Corporate Debtor has filed an appeal before the Appellate Tribunal for Electricity (being Appeal No. 436/2019) against the order dated October 7, 2019 (in Petition No. 187/MP/2019) of Central Electricity Regulatory Commission and the appeal is pending adjudication. The balance amount of PGCL Claim has been admitted on a contingent basis as the liability has not crystallised and would depend on the outcome of the pending proceedings. Prior to the COC Approval Date, if any amount is adjudicated by NCLT and/or appropriate authority to be due and payable to PGCL by the Corporate Debtor and is subsequently admitted by the Resolution Professional, the PGCL Claim, to the extent admitted by the Resolution Professional shall be treated in accordance with the terms of this Resolution Plan, as applicable to Other Operational Creditors and the same shall be binding on the PGCL. However, if no order is passed prior to the COC Approval Date and the PGCL Claim continues as contingent claim as per the List of Creditors, then the Corporate Debtor will make NIL payment for full and final settlement (without admitting any liability of either the Corporate Debtor or the Resolution Applicant towards such Claims) of the PGCL Claim. For the avoidance of doubt, it is clarified that any such admission shall not have the effect of increasing the Resolution Applicants' or Corporate Debtor's liability hereunder.
- (iii) Notwithstanding anything contained in the Resolution Plan and in accordance with Section 32A of the Code, the liability of the Corporate Debtor for an offence committed prior to the commencement of the CIRP, if any, shall cease, and neither the Corporate Debtor nor the Resolution Applicant shall be prosecuted for any such offence on and from the NCLT Approval Date. If a prosecution has been instituted during the CIRP against the Corporate Debtor, the Corporate Debtor shall stand discharged from the NCLT Approval Date.

Further, no action shall be taken against the Assets of the Corporate Debtor, including attachment, seizure, retention or confiscation of such Assets under the Applicable Laws, in relation to an offence committed prior to the commencement of the CIRP of the Corporate Debtor. Any such action under Applicable Laws, if any, taken prior to the NCLT Approval Date, shall cease to be effective on the NCLT Approval Date, and any attachment, seizure, retention or confiscation of any Assets of the Corporate Debtor (if any) shall cease to be effective on the NCLT Approval Date.

1.4 Salient Terms and Conditions of the Financial Proposal

The Salient Terms and Conditions of the Financial Proposal are provided in **Annexure 1** of this Resolution Plan in the manner prescribed by the RFRP.

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except if such claim or proceeding is on account of failure of the Resolution Applicant to implement the Resolution Plan fully; or

- (iv) any loss incurred under any proceedings filed by or against any erstwhile-Promoter, ex-management, shareholders, related parties or guarantor; or
- (v) any loss that may be incurred by, or any direct or indirect Taxes (including any penalties) that may be payable by, any Creditor as a result of any write-off or extinguishment of any debt or claim pursuant to the Resolution Plan, or in any claim or proceeding in connection thereto; or
- (vi) Any consequential, indirect or remote damages suffered by any Indemnified Party including any loss of profit, loss of opportunity, loss of interest etc.

1.5.6 The Resolution Applicant confirms that this indemnity obligation survive until the Effective Date.

1.5.7 The liability of the Resolution Applicant, on account of its obligations towards the Indemnified Parties under this clause, shall: (i) Only arise after NCLT Approval Date; (ii) Form a part of the payment towards CIRP Cost under the Resolution Plan insofar as it pertains to the CIRP period, and be treated accordingly. It is clarified that the aforesaid shall be without prejudice to the payments proposed to be made to the stakeholders of the Corporate Debtor in accordance with this Resolution Plan.

1.6 Term of the Resolution Plan

Subject to Section 9.7 (*Termination and Consequences*) of this Resolution Plan, the Resolution Plan shall remain valid until the Resolution Plan approved by COC is approved or rejected by Adjudicating Authority and upon the Resolution Applicant being selected as successful, the validity of this Resolution Plan shall be deemed extended up to the implementation of the Resolution Plan.

The sequence of events has been set out in greater detail in Section 8.8 (*Indicative Timeline of Events for Implementation of Proposed Resolution Plan*) of this Resolution Plan.

1.7 Other information as required by the Code, CIRP Regulations or RFRP

1.7.1 To enable the COC to assess the credibility of the Resolution Applicant and the Connected Persons, appropriate disclosures and details have been provided in Annexure- 2 (*Composition & ownership Structure of the Resolution Applicant*) of this Resolution Plan. The Resolution Applicant will be happy to provide any other information as may be required by the Resolution Professional or the COC.

1.7.2 The Resolution Applicant confirms that neither the Resolution Applicant nor any of its related parties have failed to implement or contributed to the failure of implementation of any other resolution plan approved by the NCLT at any time in the past.

1.7.3 The Resolution Applicant confirms that every information and records provided in connection with or in the Resolution Plan is true and correct and discovery of any false



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information and record at any time will render the applicant ineligible, forfeit any refundable deposit and attract penal action under the Code.

- 1.7.4 The Resolution Applicant confirms that the Resolution Applicant shall, until discharge and payment of the entire consideration proposed to be paid under this Resolution Plan, hold and maintain control of the management and affairs of the Corporate Debtor. Provided that any divestment or re-organization proposed by the Resolution Applicant in relation to the Corporate Debtor will be with prior approval of the Financial Creditors continuing with the Corporate Debtor till all dues to the said Financial Creditors are fully settled.
- 1.7.5 The Resolution Applicant submits that the contents of the undertaking submitted by it pursuant to the Clause 4.3 of the RFRP (29A Undertaking) continues to be true and correct and the Resolution Applicant warrants that it shall at all point of times remain true and correct. The Resolution Applicant specifically represents herein, that same is true as on the date of submission of this plan and shall continue to be true for each day thereafter till its approval from the Adjudicating Authority.

1.8 Source of Funds

In relation to Upfront Secured Financial Creditor Payments proposed by the Resolution Applicant under this Resolution Plan and in terms of the provisions of the RFRP, the Resolution Applicant has separately submitted (a) an undertaking from Adani Properties Private Limited ("APPL"), a Group Company of the Resolution Applicant, *inter alia* specifying that it has earmarked cash, cash equivalents and/or liquid investments in its balance sheet equal to the amount of the Upfront Secured Financial Creditor Payments for the purpose of funding Upfront Secured Financial Creditor Payments; and (b) certificate from a reputed chartered accountant certifying availability of cash, cash equivalents and/or liquid investments with APPL for funding the Upfront Secured Financial Creditor Payments in terms of the Resolution Plan.

1.9 Utilisation of available cash balances

- (i) All available free and unencumbered or lien marked cash balances lying in any trust and retention account or any other bank account of the Corporate Debtor on the Effective Date, after payment of the CIRP costs, Interim Period Cost as per this Resolution Plan shall remain with Corporate Debtor.
- (ii) The Resolution Applicant submits that the Resolution Plan is submitted after considering and evaluating several factors such as including the assets, liabilities, future cash flows of the business including the assumption that all cash and bank balances, trade receivables, net current asset, earnings, working capital of the Corporate Debtor as on the Effective Date shall continue to be of the Corporate Debtor and shall not be paid to any Creditor.
- (iii) Post the NCLT Approval Date, positive recovery, if any, realised by the Corporate Debtor, including but not limited to pursuant to any litigation, shall accrue to the benefit of the Corporate Debtor and neither the Resolution Applicant nor the Corporate Debtor shall be required to transfer the proceeds to the Creditors of the Corporate Debtor.

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Without prejudice to the generality of the above, it is clarified that, positive recovery, if any, in relation to the proceedings pending before the Supreme Court in the matter of SLP 11998 of 2019 shall accrue to the benefit of the Corporate Debtor in accordance with the directions of the Supreme Court of India.

1.10 Mandatory Contents

S. No.	Mandatory contents of the Resolution Plan	Relevant clause of the Resolution Plan complying with the mandatory contents
1.	The amount due to the operational creditors under a Resolution Plan shall be given priority in payment over financial creditors as per Regulation 38(1)(a) of the CIRP Regulations;	Section 2.2 (<i>Treatment of Operational Creditors</i>)
2.	Priority of payment of amounts to the financial creditors, who have a right to vote under sub-section (2) of section 21 and did not vote in favour of the Resolution Plan over financial creditors who voted in favour of the plan as per Regulation 38(1)(b) of the CIRP Regulations.	Section 2.3 3(iv) (<i>Treatment of Financial Creditors</i>)
3.	A statement as to how it has dealt with the interests of all stakeholders, including financial creditors and operational creditors, of the Company as per Regulation 38(1A) of the CIRP Regulations;	Section 2 (<i>Treatment of Stakeholders</i>)
4.	A statement giving details if the 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 as per Regulation 38(1B) of the CIRP Regulations;	Section 1.7 (<i>Other information as required by the Code, CIRP Regulations or RFRP</i>)
5.	The term of the Resolution Plan and its implementation schedule as per Regulation 38(2)(a) of the CIRP Regulations;	Section 1.6 (<i>Term of the Resolution Plan</i>) and Section 8.8 (<i>Indicative Timeline of Events for Implementation of Proposed Resolution Plan</i>)
6.	Provides for the management and control of the business of the Company during its term as per Regulation 38(2)(b) of the CIRP Regulations;	Section 7 (<i>Management of the Corporate Debtor after NCLT Approval</i>)
7.	Adequate means for supervising its implementation as per Regulation 38(2)(c) of the CIRP Regulations;	Section 7 (<i>Management of the Corporate Debtor after NCLT Approval</i>)
8.	The Resolution Plan shall demonstrate that it addresses the cause of default as per Regulation 38(3)(a) of the CIRP Regulations;	Schedule 2 (<i>Business Plan</i>)
9.	Demonstrate that the plan is feasible and viable as per Regulation 38(3)(b) of the CIRP Regulations;	Schedule 2 (<i>Business Plan</i>) and Section 3 (<i>Acquisition as a Going Concern</i>)

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S. No.	Mandatory contents of the Resolution Plan	Relevant clause of the Resolution Plan complying with the mandatory contents
10.	Should contain all the provisions for its effective implementation as per Regulation 38(3)(c) of the CIRP Regulations;	Section 7 (<i>Management of Corporate Debtor after NCLT Approval</i>)
11.	Should contain all the provisions for approvals required and the timeline for the same as per Regulation 38(3)(d) of the CIRP Regulations;	Section 8 (<i>Regulatory Approvals and Implementation of the Resolution Plan</i>)
12.	Should demonstrate the Resolution Applicant's ability to implement the Resolution Plan as per Regulation 38(3)(c) of the CIRP Regulations.	Schedule 2 (<i>Business Plan</i>) and Brief Background of Qualified Resolution Applicant
13.	Submission of Affidavit under Section 29A of Code along with the copy of the Resolution Plan as per Section 30(1) of Code.	Submitted.
14.	Provide for payment of the Insolvency Resolution Process Cost in priority to the payment of any other debts of the Company as per Section 30(2)(a) of the Code;	Section 2.1 (<i>Payment of CIRP Cost</i>)
15.	Provide for the payment of the debts of operational creditors in such manner as may be specified by IBBI which shall not be less than the amount to be paid to such creditors in the event of a liquidation of the corporate debtor under section 53; or the amount that would have been paid to such creditors, if the amount to be distributed in accordance with the order of priority in sub-section (1) of Section 53, whichever is higher, in priority over any financial creditor of the Company as per Section 30(2)(b) of Code. Provides for payment of debts of financial creditors, who do not vote in favour of the resolution plan, which shall not be less than the amount to be paid to such creditors in accordance with sub-section (1) of section 53 in the event of a liquidation of the corporate debtor as per Section 30(2)(b) of Code.	Section 2.2 (<i>Treatment of Operational Creditors</i>)
16.	Provides the mechanism for the management and control of the affairs of the Company post the approval of Resolution Plan as per Section 30(2)(c) of the Code;	Section 7 (<i>Management of the Corporate Debtor after NCLT Approval</i>)
17.	The manner of implementation and supervision of the Resolution Plan as per Section 30(2)(d) of the Code;	Section 7 (<i>Management of the Corporate Debtor after NCLT Approval</i>)
18.	A declaration to the effect that the Resolution Plan is not in contravention of provisions of the Applicable Law as per Section 30(2)(e) of the Code; and	Covering Letter
19.	Confirms to the requirements as specified by IBBI as per	As detailed above

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S. No.	Mandatory contents of the Resolution Plan	Relevant clause of the Resolution Plan complying with the mandatory contents
20.	Section 30(2)(f) of the Code. Identify specific sources of funds that will be used to pay the amounts under Section 30(2)(a) and Section 30(2)(b) of the Code;	Section 1.8 (<i>Source of Funds</i>)
21.	Details of any required approvals and the timeline within which such required approvals will be obtained. The Resolution Applicant shall bear the responsibility for the receipt of any required approvals for the implementation of the Resolution Plan;	Section 8.3 (<i>Regulatory Approvals and Implementation of the Resolution Plan</i>)
22.	Any infusion and/or arrangement of funds as may be required for working capital and expenditure requirements of the Company, which shall be in compliance of the following: in the event of infusion of Debt, (i) such Debt shall be arranged without any obligation on members of COC to provide such funds (ii) such funds shall be arranged without any recourse to the assets of the Company; and (iii) any Equity infusion to meet such requirements shall be in the form of fresh issuance of Equity shares of the Company or Equity like instruments;	Annexure 1 (<i>Salient Terms and Conditions of the Financial Proposal</i>)
23.	Representation to the effect that the contents of the affidavit submitted stating <i>inter alia</i> that that such Resolution Applicant is not disqualified or ineligible under the Code from submitting a Resolution Plan for the Company, in the format provided in Format V-B (Resolution Plan) continue to be true and warrant that it shall at all point of times remain true. The Resolution Applicant specifically must represent in the Resolution Plan that it is not disqualified from submitting a resolution plan under Section 29A and other provisions of the Code and any other Applicable Law;	Section 1.7 (<i>Other information as required by the Code, CIRP Regulations or RFRP</i>)
24.	Prior experience in managing /turning around of companies including managerial competence, technical abilities, key management personal experience;	Schedule 2 (<i>Business Plan</i>)
25.	Any other disclosure required to establish and assess the eligibility of the Resolution Applicant under the Code and including under Section 29A of the IB Code along with any supporting documents confirming the same;	N.A.
26.	An undertaking by the Resolution Applicant that every information and records provided in connection with or in the Resolution Plan is true and correct and discovery of any false information and record at any time will render	Section 1.7 (<i>Other information as required by the Code, CIRP Regulations or RFRP</i>)



S. No.	Mandatory contents of the Resolution Plan	Relevant clause of the Resolution Plan complying with the mandatory contents
	the applicant ineligible, forfeit any refundable deposit and attract penal action under the Code.	



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SECTION 2 : TREATMENT OF STAKEHOLDERS

We have set out below detailed terms of our proposal for the treatment of the interests of all stakeholders.

2.1 Payment of CIRP Costs

- 2.1.1 In accordance with the Code, the unpaid CIRP Costs will be paid in priority over payments to any other Creditors on the Effective Date. Once the CIRP Costs have been paid in full as set out in Section 2.1.2, it is clarified that no claims, liabilities, fines, costs, expenses or any other payment of such nature or otherwise, that are or are claimed to constitute CIRP Costs shall be payable by the Resolution Applicant.
- 2.1.2 It is anticipated that during the CIRP Period, cash flows generated by the Corporate Debtor will be sufficient to pay the CIRP Costs till the NCLT Approval Date. Any CIRP Costs which are unpaid as of the NCLT Approval Date will be paid out of the cash flows of the Corporate Debtor on the Effective Date. In the event that the cash flows generated by the Corporate Debtor are insufficient to pay the CIRP Costs till the NCLT Approval Date, then all unpaid CIRP Costs as on the NCLT Approval Date will be paid in priority over payments to any other Creditors of Corporate Debtor and the same shall be paid out of the Fund Infusion to be made by the Resolution Applicant.
- 2.1.3 The Resolution Applicant expects the amounts allocated to be sufficient to discharge the unpaid CIRP Costs and shall not infuse additional amounts into the Corporate Debtor. Once the unpaid CIRP Costs have been paid in full as set out above, it is clarified that no claims, liabilities, fines, costs, expenses or any other payment of such nature or otherwise, that are or are claimed to constitute CIRP Costs shall be payable by the Resolution Applicant or the Corporate Debtor.
- 2.1.4 The amounts to be paid toward CIRP Costs shall be determined by Resolution Professional and shall be communicated by the Resolution Professional to the Resolution Applicant as soon as practicable after the NCLT Approval Date and in any event no later than 10 (ten) days from the NCLT Approval Date.

2.2 Treatment of Operational Creditors

- 2.2.1 As per the Information Memorandum and the Virtual Data Room, Claims of Operational Creditors aggregating to approximately INR 72,722,203,550 have been submitted for the purposes of CIRP to the Resolution Professional, out of which Claim(s) aggregating to INR 6,095,943,033 have been verified and admitted for the purposes of the CIRP by the Resolution Professional as on April 8, 2021 (“**Admitted Operational Creditor Debt**”).
- 2.2.2 All Government and Statutory Authority claims (whether filed or admitted or not or whether disputed or not or subject matter of any Proceedings or not) are Claims and Debt (as defined under the Code) as applicable and would consequently qualify as Claims of Operational Creditors. Accordingly, the terms of this Resolution Plan applicable to Operational Creditors shall be binding on the Government and Statutory Authorities as well.
- 2.2.3 For avoidance of doubt, it is hereby clarified that even if any Claims of Operational Creditors are admitted at a later stage for any reason whatsoever, then the same shall be treated in the




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same manner as set out in this Resolution Plan and such admission shall not have the effect of increasing the Resolution Applicants' liability hereunder.

- 2.2.4 As per Section 30(2)(b) of the Code and Regulation 38 of the CIRP Regulations, the Operational Creditors (including any Government and Statutory Authorities) are required to be paid in priority in payment over Financial Creditors, the higher of such amount as would have been paid to them: (a) in the event of a liquidation of the Corporate Debtor under Section 53 of the Code; or (b) if the amount to be distributed under the resolution plan had been distributed to them in the same order of priority in sub section (1) of Section 53 of the Code.
- 2.2.5 In the Resolution Applicant's assessment, the Liquidation Value is insufficient to even satisfy the claims of the Secured Financial Creditors in full and therefore, the amounts payable to the Operational Creditors in compliance with Section 30(2)(b) of the Code would be NIL. The Admitted Operational Creditors Debt shall be converted into equity shares of the Corporate Debtor and subsequently will be subject to Capital Reduction as specified in **Section 3 (Acquisition as a Going Concern)** of this Resolution Plan, as detailed below.
- 2.2.6 Following the payment, reduction, cancellation and extinguishment (as applicable) of the Admitted Operational Creditor Debt in accordance with this Resolution Plan, no amounts shall be payable to any Operational Creditors whether or not set out in the Information Memorandum, Virtual Data Room, balance sheets or the profit and loss account statements of the Corporate Debtor.
- 2.2.7 Further, any and all rights and entitlements of any actual or potential Operational Creditors (including any person who may claim to be such a creditor by way of exercise of rights under Applicable Laws or equity) of the Corporate Debtor, whether such claims rights or entitlements (including any demand for any losses or damages, principal, interest, compound interest, penal interest, liquidated damages, (including without limitation the demand for liquidated damages and any other charges made by MPTCL in terms of the PPA executed between the Corporate Debtor and MPTCL), and other charges already accrued/accruing or in connection with any third party claims) have been submitted to the Resolution Professional or not, whether admitted by the Resolution Professional or not, and whether or not set out in the Information Memorandum, the Virtual Data Room, the balance sheets of the Corporate Debtor or the profit and loss account statements of the Corporate Debtor, being due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, disputed or undisputed, whether the subject matter of any Proceedings or not, in relation to any period until the Effective Date shall be reduced to Nil and shall be deemed to be permanently extinguished with effect from the Effective Date, by virtue of the order of the NCLT approving this Resolution Plan. The Resolution Applicant shall at no point of time, directly or indirectly, have any obligation, liability or duty in relation thereto. For the removal of doubt, it is clarified that any Claim (as determined and verified in accordance with the Code) in respect of any debt that is in the nature of Operational Debt (as defined under Section 5 (21) of the Code), whether claimed or unclaimed, whether admitted, rejected or kept under verification, contingent or otherwise, whether crystallized or uncrystallised, on the Effective Date shall be deemed to constitute Admitted Operational Creditor Debt for the purposes of this Resolution Plan, and shall be accorded such treatment as is proposed under this sub-section 2.2 (*Treatment of Operational Creditors*) of the Resolution Plan.

2.2.8 Treatment of Dues to Workmen and Employees

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- (i) As per the Information Memorandum and the List of Creditors provided by the Resolution Professional, no Claims have been made by any Workmen as on the CIRP Commencement Date. Therefore, nil amount is proposed to be paid to Workmen.
- (ii) As per the Information Memorandum and information available in the Virtual Data Room, Claims of Employees have been filed for an amount of INR 182,713,304 out of which an amount of INR 143,034,574 have been verified and admitted by the Resolution Professional. (“**Admitted Employees Debt**”).
- (iii) In the Resolution Applicant’s assessment, the Liquidation Value is insufficient to even satisfy the claims of the Secured Financial Creditors in full and therefore, the amounts payable to the Employees in compliance with Section 30(2)(b) of the Code would be NIL.
- (iv) The Admitted Employee Debt shall be converted into equity shares of the Corporate Debtor and subsequently will be subject to Capital Reduction as specified in **Section 3 (Acquisition as a Going Concern)** of this Resolution Plan.
- (v) Accordingly, the Resolution Applicant proposes to make NIL payment to Employees in compliance Section 30(2)(b) of the Code read with Regulation 38 of the CIRP Regulations (i.e., the Employee Payments).
- (vi) Without prejudice to anything contained above, any other debt of the Employees appearing in the books of account of the Corporate Debtor, whether or not a claim has been filed in relation thereto, whether admitted or not, under verification, contingent or otherwise, asserted or unasserted, secured or unsecured shall be converted into equity shares of the Corporate Debtor and subsequently will be subject to Capital Reduction as specified in **Section 3 (Acquisition as a Going Concern)** of this Resolution Plan.
- (vii) Any and all claims or demands made by, or liabilities or obligations owed or payable to, (including any demand for any losses or damages, or interest, back wages, compensation, penal interest, liquidated damages already accrued/ accruing or in connection with any third party claims, or any claims made by any Person who may claim to be a creditor by way of exercise of rights under Applicable Laws or equity) any present or past, direct or indirect, permanent or temporary employee, contract worker and/or workman of the Corporate Debtor, whether admitted or not, under verification or contingent, or otherwise, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, whether or not set out in the Information Memorandum, the Virtual Data Room, the balance sheets of the Corporate Debtor or the profit and loss account statements of the Corporate Debtor, in relation to any period up till the Effective Date, shall be reduced to Nil and shall be deemed to be, permanently extinguished with effect by virtue of the order of the NCLT approving this Resolution Plan. The Resolution Applicant or the Corporate Debtor shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto.
- (viii) The Resolution Applicant understands that the Corporate Debtor has made Gratuity Contributions under provisions of the Payment of Gratuity Act, 1972. The Resolution Applicant confirms that the amounts of such Gratuity Contributions are not assets of



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the Corporate Debtor, but assets held by the Corporate Debtor in trust for their beneficiaries and shall be distributed to the respective beneficiaries in accordance with the Applicable Law. Provided however that if the Corporate Debtor has failed to make any contributions till the Effective Date, neither the Resolution Applicant nor the Corporate Debtor shall be required to make any contributions whatsoever under provisions of the Payment of Gratuity Act, 1972. The Resolution Applicant confirms that on and with effect from the Effective Date, the Gratuity Contributions shall be made by the Corporate Debtor in accordance with the Applicable Law.

- (ix) Following the Effective Date, the Resolution Applicant shall have the authority to take suitable steps with regard to any gratuity schemes currently in place for the employees of the Corporate Debtor (collectively, the “**Existing Gratuity Schemes**”), including and not limited to changing/ replacement of the trustees (including the current trustees) or appointing additional trustees in respect of such scheme and payment of such amounts in this regard as may be required, entering into any agreement or arrangement in order for the existing gratuity trust to continue or aligning them with other gratuity schemes identified by the Resolution Applicant. The Resolution Applicant shall have the authority to apply for, and take approval of, any authorities (including tax authorities) for implementing any of these provisions.
- (x) Subject to the Applicable Law, with effect from the Effective Date, the employee and workmen policies of the Resolution Applicant shall be applicable to the employees and workmen of the Corporate Debtor and to the extent there is any inconsistency between the employee and workmen policies of the Resolution Applicant and the Corporate Debtor, the terms of the employee and workmen policies of the Resolution Applicant shall be applicable. Each of the directors whose offices are being vacated pursuant to the provisions of the Resolution Plan shall have no Claim, Debt, Liabilities or obligations against the Corporate Debtor either in law or tort including on account of any loss of profit, office or repute.
- (xi) The Resolution Applicant shall be entitled to review the terms of appointment of any employee, workmen and key managerial personnel and any arrangement for engaging contract labour within a period of 180 days from the Effective Date. Subject to Applicable Law and terms of the contractual arrangements in relation thereto, the Resolution Applicant shall be entitled to terminate such arrangements as the Resolution Applicant may deem fit and all liabilities including contingent liabilities, damages, claims, Debt or obligations whether admitted or not, under verification or contingent, or otherwise, known or unknown, crystallised or otherwise on account of implementation of this Resolution Plan shall be deemed to be permanently extinguished, discharged and settled.
- (xii) Subject to Applicable Law and the terms of the contractual arrangements, the termination of the arrangements with the employee, workmen and key managerial personnel and any arrangement for engaging contract labour shall not entitle the relevant counterparty to any Claim, Debt, liabilities including contingent liabilities or obligations either in law or tort on account of any loss of profit, office or repute or any other Claims and any cause of action for any Proceedings that any of the aforementioned Persons may be entitled to shall be deemed to have been permanently extinguished. Provided that without prejudice to the above, and to **the extent permitted**

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under the Applicable Law, the obligations of each of the parties mentioned above that survive termination or by nature intended to survive termination which are reasonable in the circumstances to protect the legitimate business interests and goodwill of the Corporate Debtor i.e., any non-compete, confidentiality and non-solicit obligations shall continue to subsist on the relevant counter parties post such termination.

2.2.9 Treatment of Dues to Government and Statutory Authorities

- (i) As per the Information Memorandum and information available in the Virtual Data Room, Government and Statutory Authorities have submitted Claims for an amount aggregating to INR 42,494,439,721 out of which claims aggregating to INR 5,446,721,303 have been verified and admitted by the Resolution Professional (“Admitted Government and Statutory Authority Debt”) and INR 36,403,311,332 has been admitted as contingent claims.
- (ii) In the Resolution Applicant’s assessment, the Liquidation Value is insufficient to even satisfy the claims of the Secured Financial Creditors in full and therefore, the amounts payable to Government and Statutory Authorities in compliance Section 30(2)(b) of the Code would be NIL.
- (iii) The Admitted Government and Statutory Authority Debt shall be converted into equity shares of the Corporate Debtor and subsequently will be subject to Capital Reduction as specified in *Section 3 (Acquisition as a Going Concern)* of this Resolution Plan.
- (iv) Accordingly, the Resolution Applicant proposes to make NIL payment to Government and Statutory Authority in compliance Section 30(2)(b) of the Code read with Regulation 38 of the CIRP Regulations (i.e., the Government and Statutory Authority Payments).
- (v) Without prejudice to anything contained above, any other debt of Government and Statutory Authority appearing in the books of account of the Corporate Debtor, whether or not a claim has been filed in relation thereto, whether admitted or not, under verification, contingent or otherwise, asserted or unasserted, secured or unsecured shall be converted into equity shares of the Corporate Debtor and subsequently will be subject to Capital Reduction as specified in *Section 3 (Acquisition as a Going Concern)* of this Resolution Plan.
- (vi) The Resolution Applicant will make payment of the Government and Statutory Authority Payments in priority to any payments being made to the Financial Creditors.
- (vii) The Corporate Debtor or the Resolution Applicant shall not, at any point of time, be held financially liable under the provisions in relation to the liability of the Corporate Debtor as per Section 170 of the Income-tax Act, 1961 in respect of any transaction carried out before the Effective Date or contemplated under the Resolution Plan or on account of any action taken pursuant to this Resolution Plan including acquisition of control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan.

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- (viii) A company is not ordinarily permitted to carry forward its unabsorbed business losses in case of a change in the shareholding of such company in excess of 51% (fifty-one per cent) as per Section 79 of the Income-tax Act, 1961. However, this restriction does not apply if such change in shareholding takes place pursuant to a resolution plan approved under the Code, provided that the jurisdictional principal commissioner of Income-tax or the jurisdictional commissioner of Income-tax (as appropriate), is afforded reasonable opportunity to express his views in this regard. Accordingly, the Resolution Professional shall serve a notice to jurisdictional principal commissioner of Income-tax or the jurisdictional commissioner of Income-tax (as appropriate) immediately after this Resolution Plan is submitted to the NCLT for its approval, and the Corporate Debtor should be permitted to carry forward its unabsorbed business losses notwithstanding a change in the shareholding of the Corporate Debtor pursuant to this Resolution Plan.
- (ix) Subject to the provisions of the Applicable Law, credit in respect of minimum alternate tax paid by the Corporate Debtor shall continue with the Corporate Debtor on a going concern basis and shall be available for the benefit of the Resolution Applicant or the Corporate Debtor, as the case may be.
- (x) For abundant clarity, any and all dues payable to Government and Statutory Authorities shall be treated as follows:
- (a) all Claims or demands made by, or liabilities or obligations owed or payable to or assessed by, any Government and Statutory Authority, in relation to any dues, direct Taxes (including for any previous or current assessment year(s)), indirect Taxes, duties (including stamp duties), penalties, fees, interest, fines, levies, cesses, assessments or additions or any other charges or payments whatsoever on the Corporate Debtor or in relation to the Corporate Debtor, whether or not such Claims or demands are admitted, due or contingent, asserted or unasserted, crystallised or uncrystallised, assessed or unassessed, known or unknown, secured or unsecured, disputed or undisputed,
 - (b) any liabilities in relation to any consent, permission, privilege, entitlement, exemption, benefit, license or approval granted to the Corporate Debtor, or in relation to the Corporate Debtor, whether or not such consent, permission, privilege, entitlement, exemption, benefit, license or approval is subsisting, lapsed or expired,
 - (c) all financial liabilities and prosecution that may be inflicted on Corporate Debtor due to acts and deed of its erstwhile Promoter, Director or personnel (including without limitation, for any penalty, interest, fines or fees) and other liabilities and obligations which may have a financial impact on the Corporate Debtor, in relation to (i) any investigation, inquiry, show-cause, notices, causes of action, suits, claims, disputes, litigation, arbitration or other judicial or regulatory or administrative proceedings whether civil or criminal against, or in relation to, or in connection with the Corporate Debtor or the affairs of the Corporate Debtor, pending or threatened , including any proceedings that may be initiated under the provisions of the Code (“**Proceedings**”); (ii) any non-compliance of provisions of any laws, rules, regulations, directions,



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notifications, circulars, guidelines, policies, approvals, consents or permissions under the Applicable Law (including any tax liability arising for payment of tax as a result of any transaction characterized as an impermissible avoidance arrangement under the provisions of the Income-tax Act, 1961 entered by Corporate Debtor prior to the Effective Date); (iii) cross subsidies availed by the Corporate Debtor; and (iv) any and all actual or potential rights and entitlements of the Central Government, the State Government, any regulatory or local authority or body or any agency or instrumentality thereof or any other party or entity (under any agreement, lease, license, approval, consent, permission or privilege) which may have a financial impact on the Corporate Debtor; and (v) any payment of any dues, charges, fees, fines, commissions, penalties and such other payment to any Person including any Government and Statutory Authority for the ownership and continued use of the underlying lands and such other properties used by the Corporate Debtor for the conduct of its business, whether admitted or not, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, present or future,

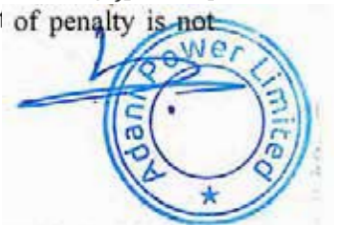
whether or not such Claim, demand, liability is set out in the Information Memorandum, Virtual Data Room, the balance sheets or the profit and loss account statements of the Corporate Debtor, in relation to any period up till the Effective Date shall be reduced to Nil and shall be, and be deemed to be, permanently extinguished by virtue of the order of the NCLT approving this Resolution Plan and the Resolution Applicant or the Corporate Debtor shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto.

It is specifically mentioned that all Claims or demands made by, or liabilities or obligations owed or payable to or assessed by, any Government and Statutory Authority, in relation to any dues, direct Taxes (including for any previous or current assessment year(s)), indirect Taxes, duties (including stamp duties), penalties, fees, interest, fines, levies, cesses, assessments or additions or any other charges or payments whatsoever on any subsidiary, joint venture or associate of the Corporate Debtor where such liability imposes financial obligation on the Corporate Debtor, or whether or not such Claims or demands are admitted, rejected or kept under verification, due or contingent, asserted or unasserted, crystallised or uncrystallised, assessed or unassessed, known or unknown, secured or unsecured, disputed or undisputed in relation to any period up till the Effective Date shall be reduced to Nil and shall be, and be deemed to be, permanently extinguished by virtue of the order of the NCLT approving this Resolution Plan and the Resolution Applicant or the Corporate Debtor shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto.

- (xi) Without prejudice to the generality of the above, and based on the information made available in the Virtual Data Room, the Resolution Applicant understands that DRI has filed a Claim as an Operational Creditor for an amount of INR 26,791,717,946 (i.e. DRI Claim) for an alleged penalty imposed for overvaluation of imported goods. In relation to the said DRI Claim, the Resolution Professional has admitted the DRI Claim for a notional value of INR 1 as the imposition of penalty is currently pending adjudication before the competent authority and the exact amount of penalty is not

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known as of date of publication of the List of Creditors. The balance amount of DRI Claim has been admitted on a contingent basis as the liability has not crystallised and would depend on the outcome of the pending proceedings. Prior to the COC Approval Date, if any amount is adjudicated by NCLT and/or appropriate authority to be due and payable to DRI by the Corporate Debtor and is subsequently admitted by the Resolution Professional, the DRI Claim, to the extent admitted by the Resolution Professional shall be treated in accordance with the terms of this Resolution Plan, as applicable to Government and Statutory Authorities and the same shall be binding on the DRI as well. However, if no order is passed prior to COC Approval Date and the DRI Claim continues as contingent claim as per the List of Creditors, then the Corporate Debtor will make NIL payment for full and final settlement (without admitting any liability of either the Corporate Debtor or the Resolution Applicant towards such Claims) of the DRI Claim. For the avoidance of doubt, it is clarified that any such admission shall not have the effect of increasing Resolution Applicants' or Corporate Debtor's liability hereunder.

- (xii) All notices, assessments (whether commenced or not), appellate or other Proceedings pending or threatened in relation to the Corporate Debtor, in relation to any period prior to the Effective Date or arising on account of the acquisition of control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan or on account of the measures contemplated under this Resolution Plan, shall stand terminated and withdrawn and all consequential liabilities, if any, shall stand extinguished and be considered as not payable by the Corporate Debtor by virtue of the order of the NCLT approving this Resolution Plan and any re-assessment, revision or other Proceedings would be deemed to be barred in relation to any period prior to the Effective Date, by virtue of the order of the NCLT approving this Resolution Plan and the Corporate Debtor or the Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto. The Resolution Applicant shall make or cause to be made, on behalf of the Corporate Debtor, such applications for abatement, withdrawal or dismissal of such Proceedings, wherever required.
- (xiii) It is specifically mentioned that liabilities on account of any investigations by any law enforcement government authorities, including but not limited to DRI, SEBI, ED, EoW, SFIO against the Corporate Debtor shall be deemed to be permanently extinguished upon the NCLT approving this Resolution Plan in accordance with Section 32A of the Code, however any liabilities created against the erstwhile Promoters, Promoter Group and Directors shall continue without any recourse to the Corporate Debtor and the Resolution Applicant. Without prejudice to the generality of anything contained in this Resolution Plan, any Claim, demand, liability that arises or may arise on account of the financial obligations of the Corporate Debtor pertaining to *inter alia*: (i) corporate social responsibility; (ii) environmental compliances; and (iii) resettlement and rehabilitation, whether admitted or not, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, disputed or undisputed, whether or not set out in the Information Memorandum, the Virtual Data Room, the balance sheets of the Corporate Debtor or the profit and loss account statements of the Corporate Debtor, in relation to any period up till the Effective Date, shall be reduced to Nil and shall be, and be deemed to be, permanently extinguished by virtue of the order of the NCLT approving this Resolution Plan and the Resolution Applicant or the Corporate Debtor shall at no point of time be, directly or indirectly, held responsible or

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liable in relation thereto. Without prejudice to the generality of the foregoing, the Corporate Debtor and the Resolution Applicant shall be responsible solely in relation to any obligations of the Corporate Debtor pertaining (i) corporate social responsibility; (ii) environmental compliances; and (iii) resettlement and rehabilitation that arise on and after the Effective Date.

- (xiv) Notwithstanding anything contained in the Resolution Plan and in accordance with Section 32A of the Code, the liability of the Corporate Debtor for an offence committed prior to the commencement of the CIRP, if any, shall cease, and neither the Corporate Debtor nor the Resolution Applicant shall be prosecuted for any such offence on and from the NCLT Approval Date. If a prosecution has been instituted during the CIRP against the Corporate Debtor, the Corporate Debtor shall stand discharged from the NCLT Approval Date.

Further, no action shall be taken against the Assets of the Corporate Debtor, including attachment, seizure, retention or confiscation of such Assets under the Applicable Laws, in relation to an offence committed prior to the commencement of the CIRP of the Corporate Debtor. Any such action under Applicable Laws, if any, taken prior to the NCLT Approval Date, shall cease to be effective on the NCLT Approval Date, and any attachment, seizure, retention or confiscation of any Assets of the Corporate Debtor (if any) shall cease to be effective on the NCLT Approval Date.

2.2.10 Treatment of Dues to Other Operational Creditors

- (a) As per the Information Memorandum and information available in the Virtual Data Room, Other Operational Creditors have submitted Claims for an amount aggregating to INR 30,045,050,525 out of which claims aggregating to INR 506,187,156 have been verified and admitted by the Resolution Professional (“**Admitted Other Operational Creditor Debt**”) and claims aggregating to INR 26,325,399,999 have been admitted as contingent by the Resolution Professional.
- (ii) In the Resolution Applicant’s assessment, the Liquidation Value is insufficient to even satisfy the claims of the Secured Financial Creditors in full and therefore, the amounts payable to the Other Operational Creditors in compliance with Section 30(2)(b) of the Code would be NIL.
- (iii) The Admitted Other Operational Creditor Debt shall be converted into equity shares of the Corporate Debtor and subsequently will be subject to Capital Reduction as specified in *Section 3 (Acquisition as a Going Concern)* of this Resolution Plan.
- (iv) Accordingly, the Resolution Applicant proposes to make NIL payment to Other Operational Creditors in compliance Section 30(2)(b) of the Code read with Regulation 38 of the CIRP Regulations (i.e., the Other Operational Creditor Payments).
- (v) Without prejudice to anything contained above, any other debt of Other Operational Creditors appearing in the books of account of the Corporate Debtor, whether or not a claim has been filed in relation thereto, whether admitted or not, under verification, contingent or otherwise, asserted or unasserted, secured or unsecured shall be converted into equity shares of the Corporate Debtor and subsequently will be subject to Capital

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Reduction as specified in **Section 3 (Acquisition as a Going Concern)** of this Resolution Plan.

- (vi) The Resolution Applicant will make payment of the Other Operational Creditor Payments in priority to any payments being made to the Financial Creditors.
- (vii) Based on the information made available in the Virtual Data Room, the Resolution Applicant understands that PGCL has filed a Claim as an Operational Creditor for an amount of INR 26,325,400,000 (i.e. PGCL Claim) for payment of LTA relinquishment charges. In relation to the said PGCL Claim, the Resolution Professional has admitted the PGCL Claim for a notional value of INR 1 since the Corporate Debtor has filed an appeal before the Appellate Tribunal for Electricity (being Appeal No. 436/2019) against the order dated October 7, 2019 (in Petition No. 187/MP/2019) of Central Electricity Regulatory Commission and the appeal is pending adjudication. The balance amount of PGCL Claim has been admitted on a contingent basis as the liability has not crystallised and would depend on the outcome of the pending proceedings. Prior to the COC Approval Date, if any amount is adjudicated by NCLT and/or appropriate authority to be due and payable to PGCL by the Corporate Debtor and is subsequently admitted by the Resolution Professional, the PGCL Claim, to the extent admitted by the Resolution Professional shall be treated in accordance with the terms of this Resolution Plan, as applicable to Other Operational Creditors and the same shall be binding on the PGCL as well. However, if no order is passed prior to the COC Approval Date and the PGCL Claim continues as contingent claim as per the List of Creditors, then the Corporate Debtor will make NIL payment for full and final settlement (without admitting any liability of either the Corporate Debtor or the Resolution Applicant towards such Claims) of the PGCL Claim. For the avoidance of doubt, it is clarified that any such admission shall not have the effect of increasing the Resolution Applicants' or Corporate Debtor's liability hereunder.
- (viii) The payment of Other Operational Creditor Payments shall be, in full and final settlement of all Admitted Other Operational Creditor Debt of the Other Operational Creditors. Post the payment of the Other Operational Creditor Payments, any and all other rights and entitlements of any actual or potential Other Operational Creditors of the Corporate Debtor (including any person who may claim to be such a creditor by way of exercise of rights under Applicable Laws or equity), whether admitted or not, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, disputed or undisputed, in relation to any period till the CIRP Commencement Date, shall be deemed to be permanently extinguished on the Effective Date. The Corporate Debtor or the Resolution Applicant shall at no point of time, directly or indirectly, have any obligation, liability or duty in relation thereto. All dues owed to Other Operational Creditors as against the Corporate Debtor or the Resolution Applicant, shall be deemed to be settled fully and finally on the Effective Date. Accordingly, no Other Operational Creditor shall bring, initiate or issue any notices, suits, claims, disputes, litigations, arbitrations or other judicial, regulatory or administrative proceedings against, the Corporate Debtor for recovery of, or in relation to, the Other Operational Creditor Debt.

2.2.11 Following the payment, write-off, cancellation and extinguishment (as applicable) of the Admitted Operational Creditor Debt in accordance with this Resolution Plan, no amounts shall

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be payable to any Operational Creditors whether or not set out in the Information Memorandum, Virtual Data Room, balance sheets or the profit and loss account statements of the Corporate Debtor. Further, any and all rights and entitlements of any actual or potential Operational Creditors (including any person who may claim to be such a creditor by way of exercise of rights under Applicable Laws or equity) of the Corporate Debtor, whether such claims rights or entitlements (including any demand for any losses or damages, principal, interest, compound interest, penal interest, liquidated damages, and other charges already accrued/accruing or in connection with any third party claims) have been submitted to the Resolution Professional or not, whether admitted by the Resolution Professional or not, and whether or not set out in the Information Memorandum, the Virtual Data Room, the balance sheets of the Corporate Debtor or the profit and loss account statements of the Corporate Debtor, being due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, disputed or undisputed, till the Effective Date shall be deemed to be permanently extinguished with effect from the NCLT Approval Date, by virtue of the order of the NCLT approving this Resolution Plan. The Resolution Applicant shall at no point of time, directly or indirectly, have any obligation, liability or duty in relation thereto. For the removal of doubt, it is clarified that any Claim (as determined and verified in accordance the Code) in respect of any debt that is in the nature of Operational Debt (as defined under Section 5 (21) of the Code), whether claimed or unclaimed, whether admitted, rejected or kept under verification, whether crystallized or uncrystallised, on the NCLT Approval Date shall be deemed to constitute Admitted Operational Creditor Debt for the purposes of this Resolution Plan, and shall be accorded such treatment as is proposed under this sub-section 2.2 (*Treatment of Operational Creditors*) of the Resolution Plan.

2.3 Treatment of Financial Creditors

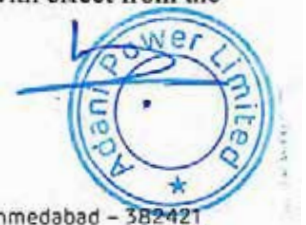
2.3.1 According to the Information Memorandum and the information provided in the Virtual Data Room as on April 8, 2021:

- (a) Secured Financial Creditors have submitted Claims for an amount aggregating to INR 124,391,359,685 out of which claims aggregating to INR 120,129,831,567 have been verified and admitted by the Resolution Professional (“**Admitted Secured Financial Creditor Debt**”); and
- (b) Unsecured Financial Creditors have submitted Claims for an amount aggregating to INR 4,975,951,504 out of which claims aggregating to INR 545,937,816 have been verified and admitted by the Resolution Professional (“**Admitted Unsecured Financial Creditor Debt**”) and INR 114,500,000 has been admitted as contingent claim.

2.3.2 The Resolution Applicant understands that the Admitted Secured Financial Creditor Debt includes Necessary Bank Guarantees which are specified in **Schedule 1 (Necessary Bank Guarantees)** of this Resolution Plan. All margin money, liens and related Encumbrances relating to Necessary Bank Guarantees will be held and maintained till the relevant Necessary Bank Guarantee is valid and subsisting. The agreements and documents executed by the Corporate Debtor with such Secured Financial Creditors providing the Necessary Bank Guarantees shall be on such terms and conditions as may be agreed by the Resolution Applicant in its sole discretion. Any commissions and charges in relation to the continuation of the Necessary Bank Guarantees until the Effective Date shall be extinguished with effect from the

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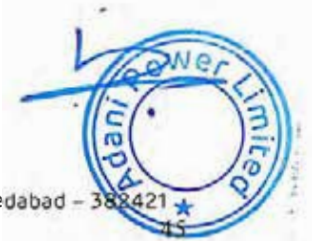
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any right of reimbursement, indemnity and/or subrogation, shall stand permanently extinguished as of the Effective Date on and with effect from the NCLT Approval Date. The Financial Creditors who have issued such guarantees will not have any further recourse to the Resolution Applicant and/or the Corporate Debtor under law of contract or tort or any other remedy, other than receiving payments in terms of this Resolution Plan. If any amount is realised by the Corporate Debtor subsequent to the Effective Date in relation to the bank guarantees which are not classified as Necessary Bank Guarantees, then such amount shall belong to the Corporate Debtor / Resolution Applicant.

- (v) The Resolution Applicant understands that no consent of any regulatory authority is required for payment to any Secured Financial Creditor in terms of this Resolution Plan (including payments in respect of the external commercial borrowing of ICICI Bank). In the event that any regulatory approval is required for such payment then the Implementation and Monitoring Committee shall cause the Corporate Debtor to make appropriate application to obtain such approval. In the event the requisite approval is not obtained prior to the Effective Date, the Secured Financial Creditor Payments in respect of the Secured Admitted Financial Creditor Debt of the relevant Secured Financial Creditor shall be deposited by the Resolution Applicant in a designated account (for the benefit of the relevant Secured Financial Creditor) in compliance with the Applicable Law, as may be specified by the COC and the amounts shall be remitted to such Secured Financial Creditor once the requisite approvals are obtained. It is however clarified that the Secured Financial Creditors, for whom the regulatory approvals are required shall be deemed to have been paid the settlement amount on the date of transfer of funds to the said designated account. The payment by the Corporate Debtor of the said amount in such account shall be sufficient compliance of its obligation to make such payment. The Corporate Debtor and the Resolution Applicant shall provide all reasonable cooperation such to the Secured Financial Creditors for obtaining requisite regulatory approvals. Without prejudice to the above, in the event that such approval is not received by the said Secured Financial Creditors, then the Resolution Applicant and Corporate Debtor will explore other legally viable options that are mutually agreeable to such Secured Financial Creditors and the Resolution Applicant to enable the transfer of their respective proportion of the Secured Financial Creditor Payments, in accordance with this Resolution Plan.
- (vi) The Resolution Applicant agrees that the distribution of Secured Financial Creditor Payments *inter se* the Approving Secured Financial Creditors shall be determined by the COC one day prior to the voting proposed in relation to this Resolution Plan.
- (vii) NIL payment is proposed to be made to the Unsecured Financial Creditors assuming that, in the event of liquidation of the Corporate Debtor, the amount payable to the Unsecured Financial Creditors would be NIL in accordance with the distribution waterfall specified under Section 53 of the Code. The Admitted Unsecured Financial Creditor Debt shall be converted into equity shares of the Corporate Debtor and subsequently will be subject to Capital Reduction as specified in **Section 3 (Acquisition as a Going Concern)** of this Resolution Plan.
- (viii) Unless otherwise specified in this Resolution Plan, any other debt of the Financial Creditors appearing in the books of account of the Corporate Debtor, whether or not a

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dated cheques, letters of awareness, letters of undertaking, guarantees, counter guarantees, corporate guarantees, bank guarantees (other than Necessary Bank Guarantees), performance guarantees for any other Persons, indemnity, undertaking, or similar obligations in respect of any debt or other obligation of the Corporate Debtor, whether any claims in respect thereof have been admitted in the CIRP or not, along with any other contingent or future claims, liabilities and/or commitments of any nature whatsoever issued by, or on behalf of, or at the behest of, the Corporate Debtor, or incurred or undertaken by the Corporate Debtor (as the case may be), till the Effective Date arising on account of the Resolution Plan, whether asserted or unasserted, whether admitted or not, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, whether or not set out in the Information Memorandum, the Virtual Data Room, the balance sheets of the Corporate Debtor or the profit and loss account statements of the Corporate Debtor, shall be reduced to Nil and will be, and be deemed to be, permanently extinguished, by virtue of the NCLT Approval of this Resolution Plan and all liabilities of the Corporate Debtor in relation thereto will be written-off in full. The Corporate Debtor or the Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto. With respect to the bank guarantees issued, if there is any upside, then the Resolution Applicant may at its option determine basis of sharing the upside with the institution impacted.

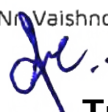
- 2.3.7 All liabilities of the Corporate Debtor in relation to any hedging, derivatives, futures contracts entered into by the Corporate Debtor in respect of any debt or other obligation of the Corporate Debtor, whether any claims in respect thereof have been admitted in the CIRP or not, along with any other contingent or future claims, liabilities and/or commitments of any nature whatsoever issued by, or on behalf of, or at the behest of, the Corporate Debtor, or incurred or undertaken by the Corporate Debtor (as the case may be), till the Effective Date arising on account of the Resolution Plan, whether asserted or unasserted, whether admitted or not, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, whether or not set out in the Information Memorandum, the Virtual Data Room, the balance sheets of the Corporate Debtor or the profit and loss account statements of the Corporate Debtor, shall be reduced to Nil and will be, and be deemed to be, permanently extinguished, by virtue of the NCLT Approval of this Resolution Plan and all liabilities of the Corporate Debtor in relation thereto will be written-off in full. The Corporate Debtor or the Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto.
- 2.3.8 No rights of subrogation, indemnity or action against the Corporate Debtor will survive, all related financial liabilities of the Corporate Debtor, whether admitted or not, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, disputed or undisputed, present or future, in relation to any period till the Effective Date or arising on account of the transactions contemplated in this Resolution Plan (including the Acquisition of control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan) in relation to any guarantee or other third party security of any nature, in respect of which such third parties (“**Third Party Security Provider**”) may have rights against the Corporate Debtor, which may have been provided or issued by any Person in support of, for the benefit of, or at the behest of the Corporate Debtor or for any other reason whatsoever (“**Credit Enhancement**”), shall stand cancelled and terminated without any liabilities accruing to the Corporate Debtor or the Resolution Applicant, and will be treated as extinguished, as the case may be, by virtue of the order of the NCLT approving this Resolution Plan. It is also clarified that the issuer of any guarantees issued in support of, for the benefit of, or at the behest of the

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Corporate Debtor, will do all acts and execute all agreements/documents as may be necessary to record the extinguishment of the subrogation rights of such guarantor of the Corporate Debtor, if required by the Corporate Debtor or the Resolution Applicant, as the case may be.

- 2.3.9 Post the discharge and extinguishment of Admitted Financial Creditor Debt in accordance with this Section 2.3 (*Treatment of Financial Creditors*), any and all other rights and entitlements of any actual or potential Financial Creditors of the Corporate Debtor (including any person who may claim to be such a creditor by way of exercise of rights under Applicable Laws or equity), whether admitted or not, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, disputed or undisputed, in relation to any period till the Effective Date (other than obligations in respect of any Restructured Debt and Necessary Bank Guarantee in the manner specified in the Resolution Plan), shall be deemed to be permanently extinguished by virtue of the order of the NCLT approving this Resolution Plan. The Corporate Debtor or the Resolution Applicant shall at no point of time, directly or indirectly, have any obligation, liability or duty in relation thereto. All dues owed to Financial Creditors as against the Corporate Debtor (other than the Restructured Debt or Necessary Bank Guarantees) or the Resolution Applicant, shall be deemed to be settled fully and finally on the Effective Date. Accordingly, no Financial Creditor shall bring, initiate or issue any notices, suits, claims, disputes, litigations, arbitrations or other judicial, regulatory or administrative proceedings against, the Corporate Debtor for recovery of, or in relation to, the any Financial Debt.
- 2.3.10 Other than as specifically addressed in accordance with the provisions of this Resolution Plan, any and all other Claims, rights and entitlements of any Financial Creditors of the Corporate Debtor not otherwise expressly addressed in this Resolution Plan, whether admitted or not, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, disputed or undisputed, arising on account of the acquisition of control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan, or on account of the measures contemplated under this Resolution Plan, in relation to any period till the Effective Date shall be deemed to be permanently extinguished, and any related contracts (including any loan agreements, term sheets and security documents) entered into by the Corporate Debtor with such Financial Creditors in relation to any such Claims will be deemed to be terminated without any liabilities, claims or obligations whatsoever arising out of or in relation to such contracts, by virtue of the order of the NCLT approving this Resolution Plan, the Corporate Debtor or the Resolution Applicant shall at no point of time, directly or indirectly, have any obligation, liability or duty in relation thereto.
- 2.3.11 If any Person has any call option, put option or any right of pre-emption in respect of the securities of the Corporate Debtor including any right of first refusal, right of first offer, all such options and rights in relation to any period prior to the Effective Date shall be deemed to be permanently extinguished, and all such rights against the Corporate Debtor will be deemed to be terminated without any liabilities, claims or obligations whatsoever arising out of or in relation to such contracts on the Effective Date, on and with effect from the NCLT Approval Date, by virtue of the order of NCLT approving the Resolution Plan, and the Corporate Debtor or the Resolution Applicant shall at no point of time, directly or indirectly, have any obligation, liability or duty in relation thereto.
- 2.3.12 No Financial Creditor shall bring, initiate or issue any notices, suits, claims, disputes, litigations, arbitrations or other judicial, regulatory or administrative proceedings against the Corporate Debtor for the recovery of, or in relation to any debt owed by the Corporate Debtor

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to such Financial Creditor. No Financial Creditor shall seek to collect and shall be permanently enjoined from seeking (directly or indirectly), any such extinguished amount as on the Effective Date, from the Corporate Debtor, the Resolution Applicant, or any of their respective Affiliates.

2.4 Treatment of Other Creditors

- 2.4.1 Nil payment has been proposed under this Resolution Plan towards claims of Other Creditors, as no Other Creditor have filed claims. In the event any claim is admitted in respect of Other Creditors prior to the NCLT Approval Date, then such debt of the Other Creditors shall be converted into equity shares of the Corporate Debtor and subsequently will be subject to Capital Reduction as specified in **Section 3 (Acquisition as a Going Concern)** of this Resolution Plan.
- 2.4.2 Without prejudice to anything contained above, any debt of the Other Creditors appearing in the books of account of the Corporate Debtor, whether or not a claim has been filed in relation thereto, whether admitted or not, under verification, contingent or otherwise, asserted or unasserted, secured or unsecured shall be converted into equity shares of the Corporate Debtor and subsequently will be subject to Capital Reduction as specified in **Section 3 (Acquisition as a Going Concern)** of this Resolution Plan.
- 2.4.3 All dues payable to Other Creditors, including any and all Claims or demands in connection with or against the Corporate Debtor, and all liabilities or obligations of the Corporate Debtor (including any demand for any losses or damages or in connection with any third party claims or any investigations by any governmental bodies or authorities) by or to any Other Creditors (including any other actual or potential creditor, if any or any counter-party, including any Subsidiary, joint venture or associate) whether under law, equity or contract, whether admitted or not, due or contingent, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, whether or not such claims, demands, dues or liabilities are set out in the Information Memorandum, the Virtual Data Room, the balance sheets or the profit and loss account statements of the Corporate Debtor, in relation to any period till the Effective Date shall be reduced to Nil and shall be, and be deemed to be, permanently extinguished by virtue of the order of the NCLT approving this Resolution Plan, the Corporate Debtor or the Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto.
- 2.4.4 Any and all Claims or demands in connection with or against the Corporate Debtor and all liabilities or obligations of the Corporate Debtor (including any demand for any losses or damages or in connection with any third party claims or any investigations by any governmental bodies or authorities) by or to any other stakeholder (including any other actual or potential creditor, if any or any counter-party, including any Subsidiary, joint venture or associate) whether under law, equity or contract, whether admitted or not, due or contingent, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, whether or not set out in the balance sheets of the Corporate Debtor or the profit and loss account statements of the Corporate Debtor, and all inquiries, investigations or proceedings in relation to the foregoing, in relation to any period till the Effective Date and arising pursuant to this Resolution Plan or arising on account of this Resolution Plan, shall be reduced to Nil and shall be, and be deemed to be, permanently extinguished by virtue of the order of the NCLT approving this Resolution Plan and all the investigations, inquiries or show-cause, in relation to the foregoing shall be disposed of and the Corporate Debtor, or Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto.

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2.5 Treatment of Security Interest and on-going Litigation

2.5.1 Under this Resolution Plan, all financial liabilities arising out of:

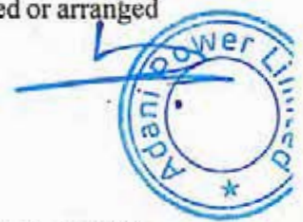
- (i) all adverse inquiries, investigations, notices, causes of action, suits, claims, disputes, litigation, arbitration or other judicial, regulatory or administrative proceedings against, the Corporate Debtor or the affairs of the Corporate Debtor, in relation to any matter whatsoever including economic matters, whether pending or threatened, (including without limitation, any investigation by any Government and Statutory Authority) that have been initiated or are threatened to be initiated against the Corporate Debtor (including those proceedings that relate to the Corporate Debtor) (“**Dispute**”) at any time till the Effective Date; and
- (ii) Any Encumbrance or collateral (whether enforced, crystallized or proceeded with or not) over the Assets of the Corporate Debtor (created and/or perfected for debt availed by the Corporate Debtor or a third party) (collectively “**Non-Financial Creditor Security**”), that exists by operation of Applicable Law, or in connection with any debt owed to Operational Creditors, Other Creditors or any other debt or obligation of the Corporate Debtor (other than any debt owed to the Financial Creditors), or in relation to a third party (including a Related Party) whose obligations were secured by the Corporate Debtor by creation of any Non-Financial Creditor Security in favour of another person, at any time till the Effective Date,
- (iii) Any Claims, debt, or demands against the Corporate Debtor for any return of monies appropriated by the Corporate Debtor prior to the Effective Date including on account of invocation of any letters of credit or bank guarantees or any other instrument of credit enhancement,

shall stand automatically revoked, released, cancelled, withdrawn, dismissed and deemed null and void (as the case may be) and all financial obligations in relation to such Non-Financial Creditor Security or Dispute shall be permanently extinguished on the Effective Date on and with effect from the NCLT Approval Date, after payments being made to any such Creditors if mandatorily required in accordance with the provisions of the Code. Further, any claim arising from any Dispute or Non-Financial Creditor Security, whether set out herein or not, whether admitted or not, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, whether or not set out in the Information Memorandum, the Virtual Data Room, the balance sheets of the Corporate Debtor or the profit and loss account statements of the Corporate Debtor, till the Effective Date or arising on account of this Resolution Plan, shall be reduced to Nil and shall be, and be deemed to be, permanently extinguished by virtue of the order of the NCLT approving this Resolution Plan and the Corporate Debtor or the Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto. All title deeds and other documents held by any such Creditor (not being a Financial Creditor) or third party (as trustee or otherwise) in relation to such Non-Financial Creditor Security shall be immediately released in fit and proper condition to the Corporate Debtor.

2.5.2 Any and all Encumbrance, or any other form of security interest or any restrictive covenant or any right of set-off or lien, including negative lien, springing security, etc., over Assets of Corporate Debtor that was created/granted/arranged or agreed to be created, granted or arranged

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in connection with any Debt or obligation of or Claim against the Corporate Debtor other than the Financial Creditor Security shall automatically be released, discharged, settled, revoked, cancelled and extinguished and all liabilities including contingent liabilities, Debts and obligations of and Claims against the Corporate Debtor in relation to such Encumbrance or other form of security interest or any restrictive covenant or any right of set-off or lien shall stand reduced to NIL and shall be permanently settled, discharged, and extinguished in full (including those created / arranged by the Corporate Debtor, whether as a guarantor or a third party, whether in relation to its subsidiaries, joint ventures, related parties or associates or any other person related to it or not), without the requirement of any further action on part of any Person, including the beneficiary of or holder of such Encumbrance or security interest or any restrictive covenant or any right of set-off or lien. The Corporate Debtor or the Resolution Applicant shall at no point of time, directly or indirectly, have any obligation, liability or duty in relation to any such Encumbrance, security interest or restrictive covenant or any right of set-off or lien. Each such person who is the beneficiary of or holder of such Encumbrance, security interest or restrictive covenant or any right of set-off or lien shall, notwithstanding the automatic and immediate release, extinguishment, discharge and/or settlement of such Encumbrance, security interest or restrictive covenant or any right of set-off or lien in accordance with the terms of this clause and the Resolution Plan, be obliged, on the Effective Date, and subsequently at the request of the Resolution Applicant, at all times thereafter, to execute such deeds and documents, including any forms prescribed under Applicable Law to evidence and/or record and/or confirm the permanent release, settlement, extinguishment and discharge of the relevant Encumbrance, security interest or restrictive covenant or any right of set-off or lien.

- 2.5.3 Any Encumbrance or collateral (whether enforced, crystallized or procedural or not) over the Assets created and / or perfected for debt owed by the Corporate Debtor to the Financial Creditors ("**Financial Creditor Security**") as on Effective Date shall be modified on the Effective Date in terms of this Resolution Plan. On the Effective Date the Financial Creditors shall file all necessary forms as required to achieve the objective of this sub-section. Further, any claim arising from any Financial Creditor Security, whether set out herein or not, whether admitted or not, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, whether or not set out in the Information Memorandum, the Virtual Data Room, the balance sheets of the Corporate Debtor or the profit and loss account statements of the Corporate Debtor, till the Effective Date shall be reduced to Nil and shall be, and be deemed to be, permanently extinguished on the Effective Date and the Corporate Debtor or the Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto.
- 2.5.4 Any invocation or other enforcement action already undertaken against the Corporate Debtor in respect of any Encumbrance, guarantee or collateral or any other debt or obligation of the Corporate Debtor (including with respect to the Financial Creditor Security), at the Effective Date shall stand automatically revoked and cancelled and withdrawn and deemed null and void and all financial liabilities and obligations in relation to such Encumbrance or collateral shall be deemed to have been permanently extinguished by the NCLT order approving this Resolution Plan and the Corporate Debtor or the Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto. For the avoidance of doubt, it is clarified that no adverse action shall be taken by the Financial Creditors between the NCLT Approval Date and the Effective Date. The Financial Creditors shall file the requisite applications before the appropriate forum for withdrawal of the pending proceedings.

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- 2.5.5 As per the information made available in the Virtual Data Room, the Resolution Applicant understands that currently the Resolution Professional has not identified any transaction under Sections 43, 45, 49, 50 and 66 of the Code. In the event any such transactions are identified by the Resolution Professional and pursuant to the order of the Adjudicating Authority any amounts or benefit or favourable order is received by the Corporate Debtor, then such amounts will not form part of the assets of the Corporate Debtor and shall be held in trust for the benefit of the Financial Creditors. It is expressly clarified that no liabilities, claims, demand, obligations, penalties etc. whatsoever arising out of or in relation to (i) proceedings, inquiries, investigations, orders, show causes, notices, suits, litigation etc. (including those arising out of any orders passed by the NCLT pursuant to Sections 43, 45, 49, 50, 66, 68, 70, 71, 72, 73, 74 of the Code) or any acts or omissions in breach of Applicable Law which occurred prior to the Effective Date or (ii) that may arise out of any proceedings, inquiries, investigations, orders, show cause, notices, suits, litigation etc. (including any orders that may be passed by the NCLT pursuant to Sections 43, 45, 49, 50, 66, 68, 70, 71, 72, 73, 74 of the Code), shall arise in respect of the Corporate Debtor or the Resolution Applicant or the Resolution Professional and his representatives who shall at no point of time, directly or indirectly, have any obligation, liability or duty in relation thereto. If any criminal proceedings initiated against the officers of the Corporate Debtor prior to the Effective Date cannot be disposed of by the NCLT under Applicable Law, the same shall continue against such officers. However, any liability accruing to the Corporate Debtor or the Resolution Applicant as a result of or in relation to any criminal proceedings against the officers of the Corporate Debtor shall be deemed to have been permanently extinguished by the NCLT order approving the Resolution Plan.
- 2.5.6 All liabilities arising after the Resolution Process or not disclosed during the Resolution Process which arises, out of any investigation undertaken by any statutory body/ agency due to the act or omission of the erstwhile/previous management/promoter of the Corporate Debtor shall not be fastened on the Resolution Applicant and/or any of its Affiliates or Nominees in accordance with Section 32A of the Code. However, any liability accruing to the Corporate Debtor or the Resolution Applicant as a result of or in relation such proceedings shall be deemed to have been permanently extinguished by the NCLT order approving the Resolution Plan in accordance with Section 32A of the Code.
- 2.5.7 Upon implementation of the Resolution Plan and with effect from the Effective Date, the Corporate Debtor, the assets and business of the Corporate Debtor, the Resolution Applicant shall not be subject to any proceedings, show cause notices issued by the DRI, attachment by the DRI, attachments under the provisions of any Applicable Laws including the Prevention of Money Laundering Act, 2002 for any actions undertaken by the erstwhile management, promoters and key managerial personnel of the Corporate Debtor for the period prior to the Effective Date in accordance with Section 32A of the Code.
- 2.5.8 Where required as per the Applicable Law, the creditors of the Corporate Debtor shall do all such acts, deeds or things necessary to give effect to the provisions of Section 32A of the Code, including but not limited to withdrawal of all legal proceedings commenced against the Corporate Debtor and its property in relation to claims, including all criminal proceedings, proceedings under Section 138 of the Negotiable Instruments Act, 1881 and proceedings under any of the statutes. In any event, any liability attached to the Corporate Debtor under the Negotiable Instruments Act, 1881, or any other Applicable Law shall stand extinguished on NCLT Approval Date in accordance with Section 32A of the Code.

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2.6 Treatment of Deposits and Other Cash Collateral

- 2.6.1 Except if covered under the treatment of Financial Creditors in this Resolution Plan, all margin money/ fixed deposit with lien provided by the Corporate Debtor or any Encumbrances of similar nature, or margin assurances, Encumbrances or liens that exist by operation of Applicable Law, along with any similar contractual comforts provided by the Corporate Debtor prior to the Effective Date, shall be released immediately on the Effective Date and shall revert to the Corporate Debtor. Further, any Claim arising from any such deposit or collateral, whether set out herein or not, whether admitted or not, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, whether or not set out in the Information Memorandum, the Virtual Data Room, the balance sheets of the Corporate Debtor or the profit and loss account statements of the Corporate Debtor, till the Effective Date, shall be reduced to Nil and shall be deemed to be, permanently extinguished by virtue of the order of the NCLT approving this Resolution Plan and the Corporate Debtor or the Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto. All title deeds and other documents held by any Creditor or third party (as trustee or otherwise) in relation to the same shall be immediately released in fit and proper condition to the Corporate Debtor.
- 2.6.2 Any margin money account(s), debt service reserve account(s), trust and retention/ escrow account(s), cash credit account, current account and/ or any other account(s) as may be applicable by whatsoever name of the Corporate Debtor maintained with any and/or all of the Financial Creditors, together with the interest thereon, shall be free from all Encumbrances immediately upon payment to the Secured Financial Creditors and any amount lying therein shall be forthwith released and transferred on the Effective Date to such account of the Corporate Debtor as identified by the Resolution Applicant. Any trust and retention account or escrow arrangement shall thereafter be separately be agreed between the Resolution Applicant and the Financial Creditors.

2.7 Interests of all Other Stakeholders

- 2.7.1 In relation to any other actual or potential third parties (including Creditors or stakeholders) whose Claims have not been specifically covered in this Resolution Plan, no payment shall be due to them except as may be mandatorily required in accordance with the provisions of the Code within the timelines prescribed therein. Accordingly, Nil amount shall be payable to such remaining Creditors and stakeholders under this Resolution Plan whether the Claims of such Persons have been admitted or not by the Resolution Professional.
- 2.7.2 Without prejudice to any claims or counter-claims that may be made by the Corporate Debtor or the Resolution Applicant against any person (including the erstwhile Promoters of the Corporate Debtor), any and all claims or demands in connection with or against the Corporate Debtor and all liabilities or obligations of the Corporate Debtor (including any demand for any losses or damages or in connection with any third party claims or any investigations by any Government and Statutory Authorities) by or to any other stakeholder (including any other actual or potential Creditor, if any or any counter-party, including any Subsidiary, joint venture or associate) whether under Applicable Law, equity or contract, whether admitted or not, due or contingent, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, whether or not set out in the Information Memorandum, the Virtual Data Room, the balance sheets or the profit and loss account statements of the Corporate Debtor, and all

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inquiries, investigations or proceedings in relation to the foregoing, till the Effective Date pursuant to this Resolution Plan or arising on account of this Resolution Plan, shall be reduced to Nil and shall be, and be deemed to be, permanently extinguished by virtue of the order of the NCLT approving this Resolution Plan and all the investigations, inquiries or show-cause, in relation to the foregoing shall be disposed of and the Corporate Debtor or Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto.

- 2.7.3 All claims, dues, liabilities, amounts, arrears, dividends or obligations owed or payable by, the Corporate Debtor for itself or on jointly and severally with any other person including any of its Subsidiaries, associates, joint ventures or affiliates, to the erstwhile Promoters or any of their Subsidiaries, associates, joint ventures or affiliates, whether admitted or not, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, whether or not set out in the Information Memorandum, Virtual Data Room, the balance sheets of the Corporate Debtor or the profit and loss account statements of the Corporate Debtor, shall be reduced to Nil and shall be, and be deemed to be, permanently extinguished by virtue of the order of the NCLT approving this Resolution Plan and the Corporate Debtor or the Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto.
- 2.7.4 All penalties, interest, delayed payment charges, any other liabilities for any non-compliance with statutory obligations including taxes, including delays in filing returns or payment of tax dues, against the Corporate Debtor shall stand permanently extinguished and discharged and reduced to nil pursuant to the approval of this Resolution Plan by NCLT and with effect from the Effective Date.
- 2.7.5 Any right of subrogation, reimbursement, or recompense against the Corporate Debtor, under any corporate guarantee, letters of comfort, personal guarantees or similar instruments, or any obligation provided by any erstwhile promoter, affiliate or Related Party of the Corporate Debtor shall stand permanently extinguished and discharged and become null and void with effect from the Effective Date.
- 2.7.6 Any right of any shareholder of the Corporate Debtor under any shareholder agreement with the Corporate Debtor shall stand extinguished as of the NCLT Approval Date and such shareholder agreement shall stand terminated as of the NCLT Approval Date and no such shareholder shall be entitled to exercise any right including objecting to any amendment of the articles of association of the Corporate Debtor on and from the NCLT Approval Date.
- 2.7.7 **Treatment of rejected Claims, Claims pending verification and Claims that have not been filed with the Resolution Professional**
- (i) In the event the Claims of any Creditor of the Corporate Debtor for the period prior to Effective Date has not been filed with the Resolution Professional, or has been filed and rejected or not verified by the Resolution Professional shall not be entitled to receive any payments under the Resolution Plan. Such Claims shall stand extinguished and become Nil by virtue of the order of the NCLT approving this Resolution Plan.
- (ii) For the avoidance of doubt, it is clarified that if any such Claims or amounts are admitted after the submission of this Resolution Plan for any reason whatsoever, then

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the same treatment provided to such class of Creditor shall be provided to the new Claim without any increase in the total financial obligation undertaken by the Resolution Applicant and/or the Corporate Debtor under the Resolution Plan. In the event such Claims or amounts are admitted after the submission of this Resolution Plan for any reason whatsoever, the payments proposed to the existing Creditors in such class of Creditors shall be proportionately reduced in the manner as specified in this Section 2.7.7.

2.8 Treatment of Shareholders, Promoters and Related Parties

- 2.8.1 All contracts of employment or consultancy with, and any benefits, fees, commissions, perquisites or profits in lieu of or in addition to any salary or wages or any policy of providing such benefits, fees, commissions, perquisites or profits extended by the Corporate Debtor or any of its Subsidiaries, jointly and severally with the Corporate Debtor to the erstwhile Promoters or the Related Parties of the erstwhile Promoters shall be deemed to be terminated and extinguished on and from Effective Date, and the Corporate Debtor will not have any further obligation to provide the same. Unless expressly agreed to by the Corporate Debtor and the Resolution Applicant by way of a written consent after the NCLT Approval Date, all properties of the Corporate Debtor and its Subsidiaries in the possession of the erstwhile Promoters or the Related Parties of the erstwhile Promoters shall be immediately vacated, released and transferred in fit and proper condition to the Corporate Debtor or the relevant Subsidiary of the Corporate Debtor, as the case may be. All rights and interests of the erstwhile Promoters and Related Parties of the erstwhile Promoter whether accrued or outstanding or otherwise, as shareholders of the Corporate Debtor, shall be and stand extinguished in terms of this Resolution Plan.
- 2.8.2 With effect from the Effective Date, all share application monies received by the Corporate Debtor shall stand forfeited and cancelled for no further consideration and any interest accrued on such application monies shall stand extinguished and cancelled.
- 2.8.3 All present and future, claims, dues, liabilities, amounts, arrears, dividends or obligations owed or payable by the Corporate Debtor to any person who holds securities of the Corporate Debtor prior to the Effective Date, whether admitted or not, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, whether or not set out in the balance sheets of the Corporate Debtor or the profit and loss account statements of the Corporate Debtor or the List of Creditors, shall be deemed to be reduced to Nil and be permanently extinguished by virtue of the order of the NCLT approving this Resolution Plan and the Corporate Debtor, the Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto.
- 2.8.4 No person who holds any shares (whether equity, preference or any instrument convertible into equity shares) of the Corporate Debtor till (and including) the Effective Date shall have any rights relating to such shares (including voting rights in relation to the affairs of the Corporate Debtor or any pre-emption rights) which rights shall be deemed to be suspended by virtue of approval of this Resolution Plan by the NCLT. On and from the Effective Date, the rights relating to all shares (where equity, preference or any instrument convertible into equity shares) of the Corporate Debtor shall come into effect without any further deed, action or thing to be done, which rights shall be exercisable in accordance with the terms of such shares (where equity, preference or any instrument convertible into equity shares) and applicable law.

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- 2.8.5 Upon approval of this Resolution Plan by NCLT, any agreement executed between the Corporate Debtor and its shareholders shall stand terminated without any further action or deed and all liabilities and obligations of the Corporate Debtor under such agreements executed between the Corporate Debtor and its shareholders and their respective successors assigns, transferees shall stand extinguished and cancelled for no consideration.
- 2.9 As on the Effective Date, unless to the extent specified in the Resolution Plan, the Creditors shall be deemed to have waived all rights to payment of penalty, default payment or any payment of like nature under any agreement or arrangement against the Corporate Debtor, including any rights arising from any breach, default, act or omission, under any such agreement or arrangement executed by the Corporate Debtor and/ or the Resolution Professional for and on behalf of the Corporate Debtor, until the Effective Date.
- 2.10 Upon approval of this Resolution Plan by NCLT, the rights of any Person (whether exercisable now or in the future), either directly or indirectly, and whether contingent or not, to call for the allotment, issue, sale or transfer of shares of the Corporate Debtor or whether through any exchange or otherwise, shall stand unconditionally and irrevocably extinguished. All employee stock options and sweat equity shares, whether granted, vested or otherwise, shall stand irrevocably and unconditionally cancelled and extinguished without further deed or action and for no consideration.
- 2.11 The Resolution Applicant, and the Corporate Debtor shall not be liable towards any claims or obligations (present or future, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, disputed or undisputed) towards or relating to the Subsidiaries or associate companies of the Corporate Debtor, domestic or foreign, that relate to a period prior to the Effective Date, including in relation to any undertakings or guarantees issued by the Corporate Debtor for such subsidiaries and associate companies, in any manner whatsoever. Without prejudice to the aforementioned, all guarantees/supports/credit comforts /put options/indemnities or any agreement of similar nature given by the Corporate Debtor in relation to such Subsidiaries or associate companies before Effective Date shall stand irrevocably and unconditionally withdrawn for no consideration and no claim shall be made pursuant to such guarantees/supports/credit comforts /put options/indemnities or any agreement of similar nature.

2.12 Treatment of Existing Preference Shareholders

It is clarified that the Existing Preference Shareholders of the Corporate Debtor shall in no event be treated as Financial Creditors of the Corporate Debtor whether or not: (a) any Claims may have been made by them in this regard; (b) such Claims may have been accepted or rejected by the Resolution Professional in this regard; and any reference to Financial Creditors in this Resolution Plan shall expressly exclude (by necessary implication) the Existing Preference Shareholders.

Further the Existing Preference Shareholders will be subject to Capital Reduction as specified in Section 3 (*Acquisition as a Going Concern*) of this Resolution Plan.

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2.13 Treatment of Contracts**(i) Contractual Arrangements to Continue**

- (a) Unless otherwise specified in the Resolution Plan, all agreements / arrangements / contracts, etc. including without limitation contracts and commercial arrangement and understanding with third parties ("**Company Contracts**") shall continue in full force and effect and shall remain valid and binding against the Corporate Debtor and the relevant counter-party(ies) (notwithstanding that corporate insolvency resolution proceedings have been initiated against the Corporate Debtor and / or a change in control of the Corporate Debtor has been effected). Provided that all claims, whether claimed or unclaimed, admitted or not, due or contingent, asserted or un-asserted, crystallised or uncrystallised, known or unknown, disputed or undisputed, present or future, in relation to any period prior to the Effective Date or arising on account of the Acquisition of control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan, or on account of the measures contemplated under this Resolution Plan shall be deemed to be permanently extinguished on the Effective Date on and with effect from the NCLT Approval Date by virtue of the order of the NCLT approving this Resolution Plan and the Corporate Debtor or the Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto. However, it is clarified that all claims of the Corporate Debtor against such counterparties (and all liabilities of such counterparties towards the Corporate Debtor) shall remain outstanding, due and payable in accordance with their terms.
- (b) From the NCLT Approval Date until the Effective Date, the Insolvency Professional is required to take all such steps, on a reasonable efforts basis, and as per the instructions of the Monitoring Committee, as may be necessary to prevent the modification or termination of the Company Contracts and to renew or extend or roll over the term of such Company Contracts to maintain the Corporate Debtor as a going concern after acquiring control of the Corporate Debtor. The Resolution Applicant proposes to cause the Corporate Debtor to bear all costs, charges and expenses in relation to such continuation, extension or roll over of the Company Contracts. The Resolution Applicant retains the right to terminate the Company Contracts if any additional terms in relation to such contracts are disclosed or discovered, which on examination by the Resolution Applicant are determined to be onerous and which may affect the 'going concern'. All expired contracts that form part of the Company Contracts shall be renewed (on arm's length terms, if applicable) and on the existing terms and conditions under the contracts at the time such contract expired or was terminated due to act of either party.
- (c) All properties of the Corporate Debtor required to be taken into custody in accordance with Section 18 of the Code and which is lying in the possession of the Promoters or the Related Parties of the Promoters, if any, shall be immediately vacated, released and transferred in fit and proper condition to the Corporate Debtor.

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- (d) Further, any claim arising from any other contractual arrangements, whether set out herein or not, whether admitted or not, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, present or future, whether or not set out in the Information Memorandum, the balance sheets of the Corporate Debtor or the profit and loss account statements of the Corporate Debtor, in relation to any period prior to the Effective Date or arising on account of the acquisition of control over the Corporate Debtor by the Resolution Applicant pursuant to this Resolution Plan, shall except where specifically provided for in this Resolution Plan, be written off in full and will be deemed to be permanently extinguished on and with effect from the Effective Date by virtue of the order of the NCLT approving this Resolution Plan and the Corporate Debtor or the Resolution Applicant shall not be, directly or indirectly, held responsible or liable in relation thereto.
- 2.13.2 All outstanding obligations of the Corporate Debtor arising / existing / accruing on or prior to Effective Date under the contracts entered into by the Corporate Debtor, whether identified or not, shall stand fulfilled and all liabilities including contingent liabilities, damages, claims and/or Debt whether admitted or not, known or unknown, crystallised or otherwise shall be deemed to be permanently settled, discharged, and extinguished in full and reduced to NIL.
- 2.13.3 All consents, waivers, no objections required to be provided by any Person for the change in control or management of the Corporate Debtor or for undertaking actions contemplated in this Resolution Plan shall be deemed to have been provided.
- 2.13.4 Without prejudice to the generality of the above, no Person shall have the right of lien or title over any goods and services provided or to be provided to the Corporate Debtor and any such right of lien or title pending receipt of any payments shall stand permanently settled, discharged, and extinguished in full and reduced to NIL save and except the payment for goods and services provided for Corporate Debtor provided during the CIRP Period.
- 2.13.5 All Non-Compliances of the Corporate Debtor for the period prior to the Effective Date under the any contracts/agreements entered by Corporate Debtor shall be deemed to be waived by all the counter parties to such contracts/agreements without levying any fee, penalty, termination payment or damages and any financial liabilities, debt, Claims or obligations arising pursuant to any such Non-Compliances shall be, and be deemed to be, permanently extinguished by virtue of the order of the NCLT approving this Resolution Plan and the Resolution Applicant or the Corporate Debtor shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto.
- 2.14 Statement as to how the Resolution Applicant will deal with the interest of all Stakeholders**
- 2.14.1 This Section 2 (*Treatment of Stakeholders*) of the Resolution Plan has dealt with the interests of all the stakeholders in the Corporate Debtor, including the Financial Creditors (whether secured or unsecured assenting or dissenting), Operational Creditors, Other Creditors, Employees and Workmen of the Corporate Debtor in accordance with Applicable Law.

2.15 Miscellaneous Claims

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For the avoidance of doubt, once approved by the NCLT, this Resolution Plan is binding on the Corporate Debtor, members of the Corporate Debtors, Creditors, Government and Statutory Authorities, guarantors and other stakeholders involved in the Resolution Plan, any and all Claims, demands, Debts and financial liabilities arising on or after Effective Date in respect of the Corporate Debtor and until the Effective Date will by virtue of the order of the NCLT approving this Resolution Plan: (i) be permanently extinguished; and (ii) deemed to have stopped accruing to the Corporate Debtor, and the Corporate Debtor or the Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto for any reason whatsoever.

2.16 Binding Effect of the Resolution Plan

Without prejudice to the generality of the foregoing, on and from the NCLT Approval Date, the Resolution Plan shall be binding on all Stakeholders of the Corporate Debtor and shall have the following binding legal effect with effect from the Effective Date:

- (i) The Resolution Plan shall be binding on all stakeholders and on and from the Effective Date, the Corporate Debtor shall start running the business and operations on a “fresh-slate” without any risk of payments or liabilities for past acts and omissions of the Corporate Debtor.
- (ii) Following the Effective Date, no liability would lie on the Resolution Applicant, any of its Affiliates, directors, employees and executives of the Resolution Applicant and/or its Affiliates, the directors and/or employees and/or executives of the Corporate Debtor appointed and/or continuing on and from the Effective Date. Without prejudice to the foregoing, following the Effective Date, no Creditor, shareholder and/or member of the erstwhile Promoter Group would be entitled to initiate or continue any Proceeding, including those under criminal law against the Corporate Debtor and/or any of the persons noted above.
- (iii) Subject to the provisions of the Applicable Law, all Non-Compliances of the Corporate Debtor for the period prior to the Effective Date (including but not limited to those relating to Tax), shall be deemed to be waived by all the Government and Statutory Authorities. In relation to any Non-Compliance arising under any foreign exchange regulations, Tax and duty benefit / subsidy scheme, the relevant Government Authority shall subject to the Applicable Law be deemed to have waived all such non-compliances by the Corporate Debtor without levying any fee, penalty or additional duty or impacting the benefits/subsidies available.
- (iv) Nothing in this Resolution Plan shall affect the rights of the Corporate Debtor to recover any amounts due to the Corporate Debtor from any third party (including any Related Party) and there shall be no set off of any such amounts recoverable by the Corporate Debtor or any liability extinguished pursuant to this Resolution Plan. If any Person receives any payments pursuant to this Resolution Plan recovers any additional amount from any third party including but not limited to recovery on account of any guarantees or other securities issued by any third parties, then such Person shall be liable to pay such additional amounts to the Corporate Debtor.

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- (v) The Assets of the Corporate Debtor shall not be Encumbered or be capable of being Encumbered with any attachment under any law for any actions committed by the Corporate Debtor or any person in management or control of the Corporate Debtor for any period prior to the Effective Date.
- (vi) The Resolution Applicant, in the event of being declared successful Resolution Applicant, shall be allocated appropriate and adequate time in order to secure all the necessary requisite corporate and regulatory approvals in order to run the business of the Corporate Debtor.
- (vii) Upon approval of this Resolution Plan by NCLT, all actions stated in this Resolution Plan shall be deemed to be approved. Accordingly, any action or implementation of this Resolution Plan shall not be a ground for termination of any consents and permits or the like that has been granted to the Corporate Debtor or for which the Corporate Debtor has made an application for renewal or grant.
- (viii) All inquiries, investigations, litigation, arbitration or other judicial, regulatory or administrative proceedings against, the Corporate Debtor or the affairs of the Corporate Debtor, pending or threatened, present or future, (including without limitation, any investigation by the Central Bureau of Investigation or the Serious Fraud Investigations Office), whether or not on account of acts or omissions in breach of applicable law in relation to any period prior to the Effective Date shall stand extinguished and accordingly, all such proceedings, inquiries, investigations, etc. shall be disposed of.
- (ix) There shall be no adverse effect on the rights of the Corporate Debtor over its immovable properties and subject to the provisions of the Applicable Law, any immovable property including any land and buildings currently being used by the Corporate Debtor shall stand vested in the Corporate Debtor without requirement of any further action, deed or document.
- (x) The payments contemplated in this Resolution Plan shall be Corporate Debtor's full and final performance and satisfaction of all Claims, Debt, liabilities including contingent liabilities against it, in each case, whether or not such Claim, Debt, liabilities including contingent liabilities is reduced to judgment, fixed, equitable, matured, unmatured, disputed, undisputed, secured, unsecured, contingent, crystallised, admitted, rejected, under verification, recognized in the financial statements or not and including in relation to or pertaining to Tax whether or not contingent, recorded, assessed, unassessed, disputed, undisputed, whether or not in relation to or on account of assessment, reassessment, notice, proceedings, compounding, non-compliance, non-filing, non-preparation of documents, reports including but not limited to pursuant to any surveys or summons. No other payments or settlement (of any kind) will be made to any other person in respect of the Claims, Debt and liabilities in relation to the period prior to the Effective Date (whether arising prior or post the Effective Date) against the Corporate Debtor and all such Claims, Debt and liabilities shall stand extinguished.

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- 2.17** The submission of this Resolution Plan or the acquisition of the Corporate Debtor shall not in any manner prejudice or affect the ability of the Resolution Applicant (or its affiliates) to be a 'resolution applicant' under the Code in respect of any other person or in respect of any other corporate insolvency resolution process under the Code.



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SECTION 6 : RELIEFS AND WAIVERS

- 6.1 Any reliefs requested to be granted by the NCLT to the Resolution Applicant shall not be construed as conditionalities to the implementation of this Resolution Plan. The Resolution Applicant submits that, at the time of seeking approval from the NCLT, the reliefs provided below shall be included, with such modifications as may be considered necessary by the NCLT:
- (i) On and from the NCLT Approval Date, by order of the NCLT sanctioning this Resolution Plan, a restraint on, and prohibition of, all Adverse Actions shall be deemed to be declared until the Effective Date;
 - (ii) On and from the NCLT Approval Date, by order of the NCLT sanctioning this Resolution Plan, all counter-party(ies) to the Company Contracts shall be deemed to have given their approval for change in ownership of the Corporate Debtor (as specified in this Resolution Plan) with effect from the date of the Effective Date.
 - (iii) The Resolution Applicant considers the uninterrupted supply of water and use of land in terms of the Articles of Arrangement signed with Uttar Pradesh Jal Vidyut Nigam Limited (“UPJVNL”) on December 23, 2009 (“UPJVNL Agreement”) for permission for use of land and water drawl, to be critical to preserve the value of the Corporate Debtor and to maintain its status as a going concern. Accordingly, the UPJVNL Agreement shall renew for a period of 12 months from the Effective Date in terms of this Resolution Plan and continue in full force and effect and shall remain valid and binding against the Corporate Debtor and UPJVNL.
 - (iv) On and from the NCLT Approval Date, by order of the NCLT sanctioning this Resolution Plan, the Township Lease Agreement dated May 16, 2011 entered with Trikaya Township Limited shall be deemed to be terminated, with such termination being effective from the NCLT Approval Date. Any claims or liabilities arising as a consequence of such termination shall be deemed to be relinquished, cancelled and written-off on the NCLT Approval Date.
 - (v) On and from the NCLT Approval Date, by order of the NCLT sanctioning this Resolution Plan, all Related Party contractual arrangements entered into by the Corporate Debtor shall be deemed to be terminated, with such termination being effective from the NCLT Approval Date. Any claims or liabilities arising as a consequence of such termination shall be deemed to be relinquished, cancelled and written-off on the NCLT Approval Date.
 - (vi) As the Resolution Applicant is required to take over the Corporate Debtor’s Business on a ‘going concern’ basis, all consents, licenses, approvals, clearances, rights, entitlements, benefits and privileges whether under law, contract, lease or license, granted in favour of the Corporate Debtor or to which the Corporate Debtor is entitled or accustomed to, shall continue to remain valid, notwithstanding any provision to the contrary in their terms, and provided that in case of consents, licenses, approvals, rights, entitlements, benefits and privileges that have expired or lapsed, notwithstanding that they may have already lapsed or expired due to any breach, non-compliance or efflux of time, be deemed to continue without disruption for the benefit of the Corporate Debtor, for a period of 12 (twelve) months from the Effective Date or such other period

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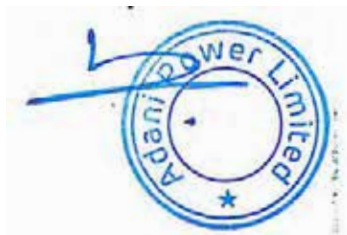
as required under Applicable Law. Further, no coercive actions shall be taken against Resolution Applicant or Corporate Debtor post NCLT Approval Date towards lapse of any consents, licenses, approvals, clearances etc. under the Applicable Law during the CIRP Period.

- (vii) The Resolution Applicant in the event of being declared successful shall be given an exemption of three (3) years from the Effective Date to correct, amend and remedy for (i) 100% utilization of fly ash; (ii) CSR Expenses, as required under the Environmental Clearance issued by the relevant Government and Statutory Authorities.
- (viii) The time period provided to Corporate Debtor to install flue gas desulfurization system (FGD) for Unit 1 and Unit 2 shall be extended to 31 March 2023 and no coercive action be taken against the Corporate Debtor or Resolution Applicant for non-compliance during such period.
- (ix) The Resolution Applicant and the Corporate shall be deemed to have received a waiver from all actions, Proceedings or penalties under any applicable Law for any Non-Compliance, including in connection with any prior transfer of assets, contracts or business by the Corporate Debtor.
- (x) All Assets whether leased or owned by the erstwhile Promoters, other individuals, Related Parties or affiliates of the erstwhile Promoters, which are integral to the operations of the Project shall vest with the Corporate Debtor.
- (xi) The implementation of the Resolution Plan by the Resolution Applicant and any change in control occurring pursuant thereto shall not impact or breach the validity of any such agreements, contracts (including but not limited to PPAs and FSAs) etc, to which the Corporate Debtor is a party to.
- (xii) The Ministry of Environment and Forest to waive all past non-compliances of the Corporate Debtor and an additional period of 36 months from the Effective Date to be provided for complying with all the emission norms for installation of FGD.
- (xiii) All permits, clearances and necessary approvals for transportation of coal by road which have been obtained by the Corporate Debtor shall be extended for 36 months from the Effective Date.
- (xiv) Any stamp duty liabilities or Tax liability arising pursuant to the transactions contemplated under this Resolution Plan shall be exempted or waived off.

It is hereby clarified that the non-grant of any of the aforementioned reliefs shall not be considered as modification of any of the other terms contained in this Resolution Plan, which shall continue to have the binding effect in terms of this Resolution Plan.

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SECTION 9 : OTHER TERMS AND CONDITIONS

9.1 Governing Law

This Resolution Plan and any agreements, documents and instruments executed in connection with the Resolution Plan shall be governed by the laws of India.

9.2 Binding Effect

This Resolution Plan, once approved by the COC and the NCLT, shall be binding in accordance with its terms on the Resolution Applicant, Corporate Debtor, all holders of Claims, Creditors, members, erstwhile Promoters, joint venture partners, contracting counterparties and all other parties in interest and each of their respective successors and assigns. Further, pursuant to the Code, the Resolution Plan shall be implemented by virtue of the NCLT Approval of this Resolution Plan, and unless otherwise specified in this Resolution Plan, no further acts, deeds, things, approvals or instruments shall be required for this purpose.

Each Creditor involved in the CIRP of the Corporate Debtor has submitted itself to the jurisdiction of the NCLT and agrees that the order of the NCLT in this CIRP shall be binding on it. Each Creditor acknowledges that implementation of the Resolution Plan shall be the full and final settlement of dues owed to it by the Corporate Debtor under any law or contract, and waives any rights, interests or causes of action it may have against the Corporate Debtor under any law or contract.

The Resolution Plan, once approved by the COC and the NCLT, shall be binding on 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 authorities to whom statutory dues are owed. Any such debt shall be deemed to be provided for in the Resolution Plan.

9.3 Severability and Modifications

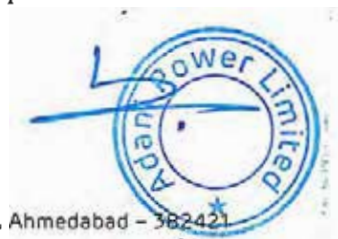
Save as otherwise specified, in case of any question or difficulty arising under this Resolution Plan or in the implementation hereof or in any matter whatsoever connected herewith, including on account of a change in Applicable Law or interpretation of Applicable Law by a Government and Statutory Authority, the Corporate Debtor, Resolution Professional, Implementation and Monitoring Committee, Creditors of the Corporate Debtor and the Resolution Applicant, as applicable, shall co-operate in good faith to remove such difficulty and implement the Resolution Plan in a compliant manner, including by agreeing to alternate structures for implementation of the Resolution Plan to give effect to the commercial intention of the Resolution Applicant and to achieve the same commercial effect. No modification, change or amendment to the Resolution Plan shall be binding unless agreed to by the Resolution Applicant in writing.

9.4 Resolution Plan to Prevail

The Resolution Plan shall prevail over the provisions of all agreements / contracts / arrangements / purchase orders / work orders etc. entered into by the Corporate Debtor to

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the extent of inconsistency between the Resolution Plan and such agreements/contracts/arrangements/purchase orders/work orders etc.

9.5 Assignment of Interest

In the event of any of the Creditors assigning its dues either partially or fully to any other Person/ entity at any time post the approval of COC, this Resolution Plan shall be binding on the assignee in the same manner.

9.6 Costs

Except to the extent expressly set forth in this Resolution Plan, all costs in relation to the satisfaction of the Conditions Precedent and obtaining other approvals and consents required for implementation of the Resolution Plan shall be borne by the Resolution Applicant and after the Effective Date, may be borne by the Corporate Debtor and the Resolution Applicant may at its sole discretion, recover costs paid by it from the Corporate Debtor. For the avoidance of doubt, it is clarified that the cost specified herein shall be over and above the Secured Financial Creditor Payments proposed to be paid in accordance with the terms of this Resolution Plan.

9.7 Termination and Consequences

Notwithstanding anything contained in the RFRP or any other document, this Resolution Plan shall terminate forthwith at the option of the Resolution Applicant:, (i) upon the occurrence of a Material Adverse Change before the receipt of the final approval of the Resolution Plan by the Adjudicating Authority and/or any final decision by the Appellate Authority in relation thereto, in accordance with the Code, unless otherwise agreed to in writing by the Resolution Applicant; or (ii) if there is an order resulting into increase in liability of the Resolution Applicant (other than as specified in the Resolution Plan) or for any material modification of the contents of the Resolution Plan (together (i) and (ii) referred as "**Termination**").

If the Resolution Plan is terminated or withdrawn in the manner set out herein, it shall stand revoked, cancelled and be of no effect and null and void. In such a case, the existing facilities of the Creditors (as mentioned hereof), the rights and remedies of the Creditors under their respective existing financing documents would continue as if they had not been waived, amended, modified, 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.

Notwithstanding anything contained in this Resolution Plan or any other document or instrument, if the Resolution Plan is terminated or withdrawn as above, the Resolution Applicant shall not be liable to make any payments to any persons, including to the Creditors of the Corporate Debtor or under any guarantee provided by, or on behalf of the Resolution Applicant or the Corporate Debtor, under contract, equity or otherwise. It is also clarified that upon Termination of this Resolution Plan, any payments made by the Resolution Applicant in accordance with this Resolution Plan or the RFRP shall be refunded to the Resolution Applicant and any performance security provided by the

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Resolution Applicant under the terms of the RFRP shall be returned to the Resolution Applicant within 7 days of such Termination, in a form and manner acceptable to the Resolution Applicant.

9.8 Definitive Documents

As required under the RFRP, parties (including the Corporate Debtor) shall enter into definitive agreements as required for implementation of the Resolution Plan, including agreements between the Corporate Debtor, and relevant creditors as necessary, if required and considered to be necessary, and the terms of such agreements shall be consistent with this Resolution Plan ("Definitive Documents").

9.9 Limitation of Liability

Subject to any obligations under Section 1.5 (*Indemnity and Undertaking*) arising prior to the COC Approval Date, the Resolution Applicant shall have no liability or obligation to any person under this Resolution Plan or under the RFRP, until the final approval of the Resolution Plan by the Adjudicating Authority and/or receipt of any final decision by the Appellate Authority in relation thereto, in accordance with the Code.

9.10 Stakeholders

All stakeholders shall be bound by the provisions of this Resolution Plan.

9.11 Comprehensive Plan

This Resolution Plan is a comprehensive proposal for all the Assets and liabilities (contingent or otherwise) of the Corporate Debtor, and provides a comprehensive insolvency resolution proposal for the Corporate Debtor basis the information, analysis, documents and estimates made available to us during the insolvency resolution process of the Corporate Debtor (including in the Virtual Data Room and the Information Memorandum).





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PRAYER

Any prayers required to be granted by the NCLT by the Resolution Applicant shall not be construed as conditionalities to the implementation of this Resolution Plan. In view of the facts mentioned above, the Resolution Applicant submits that, at the time of seeking approval from the NCLT, the prayers provided below shall be included, with such modifications as may be considered necessary by the NCLT:

1. To pass an order sanctioning the Resolution Plan submitted by the Resolution Applicant, being an exhibit to the petition, including sanction of the Resolution Plan with effect from the NCLT Approval Date, as defined in the Resolution Plan and making the Resolution Plan binding on the Corporate Debtor, all shareholders, Creditors, Government and Statutory Authorities, guarantors and all other stakeholders and persons, and ordering implementation of the Resolution Plan, without the requirement for any further act, deed, document or costs;
2. To pass an order directing that in accordance with Section 31(1) of the Code, that this Resolution Plan shall be binding on the Corporate Debtor together with its employees, members, Creditors, guarantors and all other stakeholders affected by the Resolution Plan and that accordingly, the approval of such employees, members, Creditors, Government and Statutory Authorities, guarantors and other stakeholders shall not be separately required to be undertaken, whether before or after the NCLT Approval Date, for implementation of various actions proposed to be taken pursuant to this Resolution Plan;
3. To pass an order confirming that this Resolution Plan for the Corporate Debtor has dealt with the interests of all the stakeholders in the Corporate Debtor, including the Financial Creditors (whether secured or unsecured, assenting or dissenting), Operational Creditors, Other Creditors and all other stakeholders in accordance with the Code;
4. To pass an order directing that the Corporate Debtor shall, after the date of receipt of the certified copy of the order to be made herein or within such other period as may be permitted by the NCLT, cause a certified copy thereof to be filed electronically with the Registrar of Companies, New Delhi for registration;
5. To pass an order granting a restraint on, and prohibition of, all Adverse Actions against the Corporate Debtor until the Effective Date;
6. To pass orders in respect of such incidental, consequential and supplemental matters as are necessary to ensure that the Resolution Plan is fully and effectively carried out, including orders that until the Effective Date, the board of directors and shareholders of the Corporate Debtor be restricted from voting in any manner or approving or undertaking any actions that may be prejudicial to the interest of Corporate Debtor or the Resolution Applicant;
7. That liberty be reserved to the Corporate Debtor and the Resolution Applicant, and to all persons interested in the Resolution Plan to apply to the NCLT for any direction(s) that may be necessary for the purpose of carrying out the Resolution Plan;
8. To pass an order that as time is of the essence of the Code, and to preserve the value of the assets of the Corporate Debtor, the speedy implementation of the Resolution Plan is of utmost importance, and therefore, all Government and Statutory Authorities are required to take all necessary actions (if required) for the implementation of the Resolution Plan approved by the NCLT, without delay;

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9. To pass an order that the approval of the Resolution Plan shall be deemed to have constituted adequate and final approval of NCLT for:
- (i) reduction/ cancellation/ consolidation of the existing pre-CIRP equity share capital of the Corporate Debtor, cancellation of the preference share capital of the Corporate Debtor in terms of Section 66 and other provisions of the Companies Act, 2013 and other Applicable Law;
 - (ii) the issuance of new equity shares/preference shares/ convertible debentures/ convertible securities in terms of Companies Act, 2013 and other Applicable Law and accordingly, no approval/ consent shall be necessary from any Person in relation to any of these actions including under any agreement binding on the Corporate Debtor or the constitution documents of the Corporate Debtor or any Applicable Law;
10. To pass an order approving the reliefs and waivers requested by the Resolution Applicant in Section 6 (*Reliefs and Waivers*) of this Resolution Plan, with such modifications as may be considered necessary by the NCLT;
11. For such further or other order/s be made and/or directions be given as the NCLT may deem fit and proper in the facts and circumstances of the case and in the interests of justice.

We further understand that the Resolution Professional shall examine our Resolution Plan as received by him to confirm its compliance with the Code, and in specific, Section 30(2) of the Code read with Regulation 38 of the CIRP Regulations. We understand that the COC have further right to renegotiate the contents of this Resolution Plan. We further understand that the decision of the COC in the selection of the Successful Resolution Applicant shall be final and binding on us.

Yours faithfully

Name: **Vipul Shah**
Date: **May 11, 2021**
Place: Ahmedabad



The common seal of Adani Power Limited has been affixed in my / our presence pursuant to the resolution of the board of directors of Adani Power Limited dated December 26, 2020.

..... (Signature)

Name: **ABHISHEK TYAGI**
Designation: **AUTHORIZED SIGNATORY**
Date: **May 11, 2021**

WITNESS:

1)
(Signature)

Name: **NITESH CHAWLA**
Designation: **AUTHORIZED SIGNATORY**
Date: **May 11, 2021**

Adani Power Ltd
Adani Corporate House,
Shantigram, S G Highway
Ahmedabad 382 421
Gujarat India
CIN: L40100GJ1996PLC030533

Tel +91 79 2555 4444
Fax +91 79 2555 7177
info@adani.com
www.adani.com

Registered Office: Adani Corporate House, Shantigram, Nr. Vaishnavi Circle, S.G. Highway, Khodiyar, Ahmedabad – 382421

ANNEXURE-14
IN THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH NEW DELHI

Company Petition No. (IB)863(PB)/2020

IA -2829, IA -3286,
 IA -3293, IA -3318,
 IA -3396, IA -3614,
 IA -3862, IA -3869
 IA -,4099, IA -3608,
 IA -3619, IA -3620,
 IA -3621, IA -3015,
 IA -2897, IA -2785,
 IA -4367 of 2021

IN THE MATTER OF:

ICICI Bank Ltd.

...Financial Creditor

Versus

Essar Power M.P. Ltd.

...Corporate Debtor

AND

IN THE MATTER OF I.A.2829 OF 2021:

Under Section:30(6) read with 31(1) of IBC,2016

Mr. Ashish Chhawchharia
Resolution Professional of Essar Power M.P Ltd.
Grant Thronton, 10C, Hungerford
Street, Kolkata-700017, West Bengal

...Applicant



AND

In the Matter Of I.A.3286 OF 2021

Under Section – 60(5) of IBC, 2016 r/w Rule 11 of NCLT Rules, 2016

Balaji Minerals
Through Authorised Signatory
1-B, Vidyut Vihar Colony, Shaktinagar,
Distt. Sonhabadra, UP-231222

...Applicant/Objector

Versus

Essar Power M.P. Ltd.
Through RP
Grant Thornton, 11th Floor, Tower II,
One International Centre, SB. Marg
Elphinstone (W), Mumbai-400013

...Respondent

AND

IN THE MATTER OF I.A.3293 OF 2021

Under Section – 60(5) of IBC, 2016 r/w Rule 11 of NCLT Rules, 2016

Pawan Associates
Through its Authorized Signatory
Ward No. 23, Amlori, Singrauli,
Madhya Pradesh-486886

...Applicant/Objector

Versus

Essar Power M.P. Ltd.
Through RP
Grant Thornton, 11th Floor, Tower II,
One International Centre, SB. Marg
Elphinstone (W), Mumbai-400013

...Respondent

AND

IN THE MATTER OF I.A.3318 OF 2021

Under Section – 60(5) of IBC, 2016 r/w Rule 11 of NCLT Rules, 2016

V2P Engineering Services Private Limited
 BC No. 118/124, Matrix Tower,
 Sector- 132, Noida-201301

...Objector/Applicant

Versus

Essar Power M.P. Ltd.
 Through RP
 Grant Thornton, 11th Floor, Tower II,
 One International Centre, SB. Marg
 Elphinstone (W), Mumbai-400013

...Respondent

AND

IN THE MATTER OF I.A.3396 OF 2021

Under Section – 60(5) of IBC, 2016 r/w Rule 11 of NCLT Rules, 2016

S.M. Automart Private Limited
 Through its Authorized Signatory
 1st Floor, Plot No. 322, Beside, B.N Shiksha Mandir,
 Maa Vishno Nagar. Chandpur,
 Lahratara, Varanasi, Uttar Pradesh-221106

...Objector/Applicant

Versus

Essar Power M.P. Ltd.
 Through RP
 Grant Thornton, 11th Floor, Tower II,
 One International Centre, SB. Marg
 Elphinstone (W), Mumbai-400013

...Respondent



AND

IN THE MATTER OF I.A.3614 OF 2021

Under Section – 60(5) of IBC, 2016 r/w Rule 11 of NCLT Rules, 2016

M/s Shree Enterprises
 Through its Partner
 House No. 719G, Tel Mill Gali, Gatu Road,
 Piska More, Hehal, Ranchi, Jharkand

...Applicant/Objector

Versus

Essar Power M.P. Ltd.
 Through RP
 Grant Thornton, 11th Floor, Tower II,
 One International Centre, SB. Marg
 Elphinstone (W), Mumbai-400013

...Respondent

AND

IN THE MATTER OF I.A3862 OF 2021

Under Section – 60(5) of IBC, 2016 r/w Rule 11 of NCLT Rules, 2016

M/s SK Construction
 Through its authorized signatory
 Transport Nagar, Shiva Park
 Renukoot, Sonebadhra
 UP-231217

...Objector/ Applicant

Versus

Essar Power M.P. Ltd.
 Through RP
 Grant Thornton, 11th Floor, Tower II,
 One International Centre, SB. Marg
 Elphinstone (W), Mumbai-400013

...Respondent




AND

IN THE MATTER OF I.A3869 OF 2021

Under Section – 60(5) of IBC, 2016 r/w Rule 11 of NCLT Rules, 2016

M/s J B Transport

Through its Authorised Signatory

Transport Nagar, Shiva Park,

Renukoot, Sonebadhra

UP-231217

...Objector/ Applicant

Versus

Essar Power M.P. Ltd.

Through RP

Grant Thorton, 11th Floor, Tower II,

One International Centre, SB. Marg

Elphinstone (W), Mumbai-400013

...Respondent

IN THE MATTER OF I.A 4099 OF 2021

Under Section – 60(5) of IBC, 2016 r/w Rule 11 of NCLT Rules, 2016

Central Transmission Utility

Of India Limited

Plot No. 2, Sector 29

Gurgaon, Haryana-122001

...Applicant

Versus

Ashish Chhawchharia

Resolution Professional of Essar Power M.P Ltd.

Grant Thronton, 10C, Hungerford

Street, Kolkata-700017, West Bengal

....Respondent No.1

Adani Power Limited

Resolution Applicant

...Respondent No.2



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AND

IN THE MATTER OF I.A 3608,3619,3620 AND 3621 OF 2021

Under Section – 60(5) of IBC, 2016 r/w Rule 11 of NCLT Rules, 2016

Committee of creditors of Essar M.P. Ltd.
Through ICICI Bank Limited
NBCC Place, Bhisma Pitamah Marg
New Delhi – 110 003

...Applicant

AND

IN THE MATTER OF I.A 3015 OF 2021

Under Section – 60(5) of IBC, 2016 r/w Rule 11 of NCLT Rules, 2016

Central Transmission Utility
Of India Limited
Plot No. 2, Sector 29
Gurgaon, Haryana-122001

...Applicant

Versus

1 Ashish Chhawchharia
Resolution Professional of Essar Power M.P Ltd.
Grant Thronton, 10C, Hungerford
Street, Kolkata-700017, West Bengal

....Respondent No.1

2 CoC of Essar Power M.P Ltd.
NBCC Place, Bhisma Pitamah Marg
New Delhi – 110003

...Respondent No.2

AND

IN THE MATTER OF I.A 2897 OF 2021

Under Section – 30(2)(a) of IBC

SHAARC Projects Ltd.

....Operational Creditor/Applicant

Versus

Ashish Chhawchharia

Resolution Professional of Essar Power M.P Ltd.

Grant Thronton, 10C, Hungerford

Street, Kolkata-700017, West Bengal

....Respondent

AND

IN THE MATTER OF I.A 2785 OF 2021

Under Section – 60(5) of IBC, 2016 r/w Rule 11 of NCLT Rules, 2016

U.P. Jal Vidyut Nigam Limited

...Applicant

Versus

Essar Power M.P. Ltd.

Through RP

Grant Thorton, 11th Floor, Tower II,

One International Centre, SB. Marg

Elphinstone (W), Mumbai-400013

....Respondent

AND

IN THE MATTER OF I.A 4367 OF 2021

Under Section – 60(5) of IBC, 2016 r/w Rule 11 of NCLT Rules, 2016

Trikeya Township Private Limited

....Applicant

Date of Pronouncement – 01.11.2021


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CORAM:**SH. BHASKARA PANTULA MOHAN, HON'BLE ACTING PRESIDENT****SH. HEMANT KUMAR SARANGI, HON'BLE MEMBER (T)****PRESENT:**

IA 2829/2021 - For Resolution Professional - Mr Ramji Srinivasan, Sr Adv, Mr Abhijeet Sinha, Mr Diwakar Maheshwari, Mr Rajeev Vidhani, Mr Vishnu Shriram, Aditya V Singh, Mr Ashwij Ramaiah, Adv. Kairav Trivedi, -IA Nos. 3286 / 2021, 3318 / 2021, 3293 / 2021, 3396 / 2021, 3614 / 2021, 3869 / 2021, 3862 / 2021-Adv. Piyush Singh, Adv. Aditi Sinha, Adv. Akshay Srivastava for the Applicants/Operational Creditor, Mr. P.Nagesh, Sr. Adv. with Mr. Shubham Arya, Ms. Poorva Saigal, Ms. Tanya Sareen and Mr. Akshay Sharma, Advocates for CTU (I.A. Nos. 3015 and 4099 of 2021), Mr. Daksh Kadian, Advocates for CoC (Applicants in IA 3609/21; IA 3619/21; IA 3620/21; IA 3621/21)Mr. Kairav Trivedi, PCA for SHAARC In IA 2897 of 2021, Mr. Divyam Agarwal and Ms. Geetanjali Shahi Advocates for the Applicant in IA No. 2785/ 2021 for UP Jal Vidyut Nigam Ltd, Mr. Nakul Mohta, Applicant in IA No. 4367 of 2021

ORDER**PER: BHASKARA PANTULA MOHAN, ACTING PRESIDENT**

IA No. 2829/2021 has been filed by Ashish Chhawchharia, the Resolution Professional of the Essar Power M.P. Ltd. (hereinafter referred as 'Applicant/ Resolution Professional') for approval of the Resolution plan submitted by the Adani Power Ltd. (hereinafter referred as 'Successful Resolution Applicant').



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2. That the prayers made in the IA No. 2829/2021, which is taken up for consideration, are reproduced below :

(a) Allow the present application;

(b) Pass an order approving the Resolution Plan dated 11.05.2021 (read with addendum dated 12.05.2021) submitted by Adani Power Limited (as annexed at Annexure Y) under Section 31(1) of the IBC;

(c) Pass an order granting the reliefs and concessions sought in Section 9 of the Successful Resolution Plan dated 11 May 2021 (read with addendum dated 12 May, 2021) submitted by Adani Power Limited (as annexure Y); and

(d) Pass any such other order or orders it may deem fit and necessary in the interest of equity and justice;

3. To put succinctly, the facts of the case are that the Financial Creditor, ICICI Bank Ltd. filed an Application bearing No. IB-863(PB) 2020 under Section 7 of the I&B Code for initiation of Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor, Essar Power M.P. Ltd. The said Application was admitted by this Tribunal vide Order dated 29.09.2020 and the Applicant was appointed as the Interim Resolution Professional (IRP). It is added that the Applicant continued as the Resolution Professional of the Corporate Debtor.

4. In terms of the Regulation 6(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the said Interim Resolution Professional made a public announcement in Form-A on 10.10.2020. The public announcement was made in the newspaper namely Business Standard – Delhi- Hindi Edition,




Raj Express- Jabalpur- Hindi Edition and Financial Express- All India English Edition. The copy of the same is also uploaded on the website of Insolvency and Bankruptcy Board of India (IBBI).

5. The Interim Resolution Professional constituted a Committee of Creditors, which comprised of the following financial creditors with voting share given against each Financial Creditor:

S. No No.	Name of the Creditor	Voting Share%age
1.	ICICI Bank	29.19
2.	REC Limited	24.53
3.	Power Finance Corporation	24.26
4.	Punjab National Bank	15.98
5.	Edelweiss Asset Reconstruction Company Limited	6.04

6. That the 'Form-G' was published on 12.11.2020 in the newspapers namely, All India Edition of Financial Express (in English edition), Delhi Edition of Business Standard (English), Mumbai edition. That the last date for submitting EOI was initially decided for 27.11.2020, However the same was extended to 04.12.2020 and then again to 14.12.2020. That the last date for submission of Resolution Plan was fixed for 16.01.2020.

7. It is stated by the Applicant that the following participants in the EOI made it to the Final list of PRA –



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- a) Adani Power Limited;
- b) Vedanta Limited;
- c) Jindal Power Limited and
- d) NTPC Limited.

The same were reflected in the final list submitted by the Applicant dated 27.12.2020, which was in accordance with Regulation 36A (12) of the IBBI (Insolvency Resolution Process for Corporate Persons Regulations, 2016 (hereinafter referred as "CIRP Regulations").

8. It is stated by the Applicant from the above 4 PRA only 2 PRAs i.e Vedanta Limited and Adani Power Limited submitted their Resolution Plan.

9. That both the PRA made changes to their Resolution Plans and finally submitted their revised Resolution Plan alongwith addendum. The voting for the approval of Resolution plan was conducted in the 11th Meeting of CoC held on 21.05.2021.

10. It is stated by the Applicant that the plan of the Adani Power Ltd was approved by the CoC by 100% votes. The scanned copy of the voting sheet is reproduced below



ESSAR POWER M P LIMITED - Under CIRP										
Voting Results of the Eleventh Meeting of Committee of Creditors held on 17 May 2021 - adjourned and 21 May 2021										
E-voting Conclusion Date & Time: 15 June 2021 at 10:00 PM										
Sl. No.	Name of Financial Creditor	Voting Share (%)	Agenda Item Number (See Notes Below)							
			B-1(A)	B-1(B)	B-1(C)	B-1(D)	B-1(E)	B-1(F)	B-1(G)	B-1(H)
1	ICICI Bank Limited	29.19%	For	Against	For	For	For	For	For	For
2	Rural Electrification Corporation Limited	24.53%	For	Against	Against	For	For	Against	Against	For
3	Power Financial Corporation Limited	24.26%	For	Against	For	For	For	Against	Against	For
4	Punjab National Bank	15.98%	For	Against	Against	Against	Against	Against	Against	For
5	Edelweiss Asset Reconstruction Company Limited	6.04%	For	Against	For	For	For	For	For	For
TOTAL VOTES										
Total Percentage Voting FOR the Resolution(s)			100.00%	0.00%	59.49%	84.02%	84.02%	35.23%	51.22%	100.00%
Total Percentage Voting AGAINST the Resolution(s)			0.00%	100.00%	40.51%	15.98%	15.98%	64.77%	48.78%	0.00%
Total Percentage ABSTAINED from Voting on the Resolution(s)			0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
			Results	Carried	Not carried	Carried	Carried	Carried	Not carried	Carried
NOTES:										
Item B-1(A): Approval of the Resolution Plan submitted by Adani Power Limited										
Item B-1(B): Approval of the Resolution Plan submitted by Vedanta Limited										
Item B-1(C): Approval of Liquidation Cost in accordance with Regulation 39B of CIRP Regulations										
Item B-1(D): Assessment of sale as a going concern in accordance with Regulation 39C of CIRP Regulations										
Item B-1(E): Fee of the Liquidator in accordance with Regulation 39D of CIRP Regulations										
Item B-1(F): To approve appointment of legal advisors to the Committee of Creditors										
Item B-1(G): To approve authorization of sub-committee on behalf the Committee of Creditors to finalise the pleadings, affidavits, revisions and any other documents										
Item B-1(H): To approve appointment of authorized representative of the members of the Committee of Creditors on the Monitoring Committee/ Steering Committee										

11. It is further stated by the Applicant that subsequent to the Approval of the Resolution Plan, the Resolution Applicant has submitted Performance Guarantee dated 22.06.2021 worth Rs 150 Crores.

12. That the details of Payments given to the various stakeholders of the Corporate Debtor is given in Form H of the Resolution Plan. The extracts of the same are reproduced overleaf –

7. The amounts provided for the stakeholders under the Resolution Plan is as under:

(Amount in INR)

Sl. No.	Category of Stakeholder*	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount Provided to the Amount Claimed (%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Secured Financial Creditors	(a) Creditors not having a right to vote under subsection (2) of section 21	-	-	-	-
		(b) Other than (a) above:				
		(i) who did not vote in favour of the resolution Plan	-	-	-	-
		(ii) who voted in favour of the resolution plan	124,391,359,685	120,129,831,567	25,000,000,000	20.098%
	Total[(a) + (b)]	124,391,359,685	120,129,831,567	25,000,000,000	20.098%	

2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under subsection (2) of section 21	4,849,451,504	419,437,816	NIL	NIL
		(b) Other than (a) above:				
		(i) who did not vote in favour of the resolution Plan	-	-	-	-
		(ii) who voted in favour of the resolution plan	126,500,000	126,500,000	NIL	NIL
	Total[(a) + (b)]	4,975,951,504	545,937,816	NIL	NIL	
3	Operational Creditors	(a) Related Party of Corporate Debtor	547,055,623	546,408,891	NIL	NIL
		(b) Other than (a) above:				
		(i) Government	42,494,439,721	5,446,721,303	NIL	NIL
		(ii) Workmen	-	-	-	-
		(iii) Employees	176,425,856	137,393,857	NIL	NIL
(iv) Others	29,504,909,458	429,731,129	NIL	NIL		
	Total[(a) + (b)]	72,722,830,658	6,560,255,180	NIL	NIL	
4	Other debts and dues	-	-	-	-	
Grand Total			202,090,141,846	127,236,024,563	25,000,000,000	12.37%

Amount provided over time under the Resolution Plan and includes estimated value of non-cash components. It is not NPV.

13. That the Liquidation value of the Corporate Debtor is disclosed as Rs1733.4 Crores and the Fair Market Value of the Corporate Debtor is disclosed as Rs 2657.2 Crores in the Form H.

14. That the Resolution Applicant has also enclosed the Affidavit stated that they are not barred under Section 29A of IBC, 2016 to submit the Resolution Plan.

15. With respect to compliances made under the Resolution Plan. The Applicant has stated the following in Form H. The extracts of Form H are reproduced overleaf



9. The compliance of the Resolution Plan is as under:

Section of the Code / Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance (Yes / No)
25(2)(h)	Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the CD?	-	Yes
Section 29A	Whether the Resolution Applicant is eligible to submit resolution plan as per final list of Resolution Professional or Order, if any, of the Adjudicating Authority?	Covering Letter	Yes
Section 30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	An affidavit dated January 11, 2021 has been submitted	Yes
Section 30(2)	Whether the Resolution Plan-		
	(a) provides for the payment of insolvency resolution process costs?	Section 2.1	Yes
	(b) provides for the payment to the operational creditors?	Section 2.2	Yes
	(c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan?	Section 2.3.3	Yes
	(d) provides for the management of the affairs of the corporate debtor?	Section 7 read with Schedule 2	Yes
	(e) provides for the implementation and supervision of the resolution plan?	Section 3, Section 7 and Section 8	Yes
	(f) contravenes any of the provisions of the law for the time being in force?	Clause 5(e) of the Covering Letter	Yes (the resolution plan is in compliance)



Section 30(4)	Whether the Resolution Plan (a) is feasible and viable, according to the CoC? (b) has been approved by the CoC with 66% voting share?	Section 5 read with Schedule 2 The Resolution Plan has been approved by the CoC, by a vote of 100%	Yes Yes
Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	Section 7	Yes
Regulation 35A	Where the resolution professional made a determination if the corporate debtor has been subjected to any transaction of the nature covered under sections 43, 45, 50 or 66, before the one hundred and fiftieth day of the insolvency commencement date, under intimation to the Board?	The determination was made on January 31, 2021	Yes
Regulation 38(1)	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?	Section 2.2	Yes
Regulation 38(1A)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Section 2.14.1 read with Section 2	Yes
Regulation 38(1B)	(i) Whether the Resolution Applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any resolution plan approved under the Code. (ii) If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation?	Section 1.7.2 -	Yes (complied with) -
Regulation 38(2)	Whether the Resolution Plan provides: (a) the term of the plan and its implementation schedule? (b) for the management and control of the business of the corporate debtor during its term? (c) adequate means for supervising its implementation?	Section 1.6 and Section 8.8 Section 7 read with Schedule 2 Section 7 read with Section 8	Yes Yes Yes
38(3)	Whether the resolution plan demonstrates that – (a) it addresses the cause of default? (b) it is feasible and viable? (c) it has provisions for its effective implementation?	Schedule 2 Section 5 read with Schedule 2 Section 7 read with Section 8	Yes Yes Yes

	(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?	Section 8 read with Schedule 4 Section 5 read with Schedule 2	Yes Yes
39(2)	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	The application has been filed on May 21, 2021	Yes
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.	Performance Security in the form of a Bank Guarantee dated June 22, 2021 has been submitted	Yes

16. That the Applicant has also sought various reliefs and concessions as mentioned under Resolution Plan vide its Section 6. The scanned copy of the waivers sought are reproduced below

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SECTION 6 : RELIEFS AND WAIVERS

1. Any reliefs requested to be granted by the NCLT to the Resolution Applicant shall not be construed as conditionalities to the implementation of this Resolution Plan. The Resolution Applicant submits that, at the time of seeking approval from the NCLT, the reliefs provided below shall be included, with such modifications as may be considered necessary by the NCLT:
- (i) On and from the NCLT Approval Date, by order of the NCLT sanctioning this Resolution Plan, a restraint on, and prohibition of, all Adverse Actions shall be deemed to be declared until the Effective Date;
 - (ii) On and from the NCLT Approval Date, by order of the NCLT sanctioning this Resolution Plan, all counter-party(ies) to the Company Contracts shall be deemed to have given their approval for change in ownership of the Corporate Debtor (as specified in this Resolution Plan) with effect from the date of the Effective Date.
 - (iii) The Resolution Applicant considers the uninterrupted supply of water and use of land in terms of the Articles of Arrangement signed with Uttar Pradesh Jal Vidyut Nigam Limited ("UPJVNL") on December 23, 2009 ("UPJVNL Agreement") for permission for use of land and water draw, to be critical to preserve the value of the Corporate Debtor and to maintain its status as a going concern. Accordingly, the UPJVNL Agreement shall renew for a period of 12 months from the Effective Date in terms of this Resolution Plan and continue in full force and effect and shall remain valid and binding against the Corporate Debtor and UPJVNL.
 - (iv) On and from the NCLT Approval Date, by order of the NCLT sanctioning this Resolution Plan, the Township Lease Agreement dated May 16, 2011 entered with Trikaya Township Limited shall be deemed to be terminated, with such termination being effective from the NCLT Approval Date. Any claims or liabilities arising as a consequence of such termination shall be deemed to be relinquished, cancelled and written-off on the NCLT Approval Date.
 - (v) On and from the NCLT Approval Date, by order of the NCLT sanctioning this Resolution Plan, all Related Party contractual arrangements entered into by the Corporate Debtor shall be deemed to be terminated, with such termination being effective from the NCLT Approval Date. Any claims or liabilities arising as a consequence of such termination shall be deemed to be relinquished, cancelled and written-off on the NCLT Approval Date.
 - (vi) As the Resolution Applicant is required to take over the Corporate Debtor's Business on a 'going concern' basis, all consents, licenses, approvals, clearances, rights, entitlements, benefits and privileges whether under law, contract, lease or license, granted in favour of the Corporate Debtor or to which the Corporate Debtor is entitled or accustomed to, shall continue to remain valid, notwithstanding any provision to the contrary in their terms, and provided that in case of consents, licenses, approvals, rights, entitlements, benefits and privileges that have expired or lapsed, notwithstanding that they may have already lapsed or expired due to any breach, non-compliance or efflux of time, be deemed to continue without disruption for the benefit of the Corporate Debtor, for a period of 12 (twelve) months from the Effective Date or such other period

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as required under Applicable Law. Further, no coercive actions shall be taken against Resolution Applicant or Corporate Debtor post NCLT Approval Date towards lapse of any consents, licenses, approvals, clearances etc. under the Applicable Law during the CIRP Period.

- (vii) The Resolution Applicant in the event of being declared successful shall be given an exemption of three (3) years from the Effective Date to correct, amend and remedy for (i) 100% utilization of fly ash; (ii) CSR Expenses, as required under the Environmental Clearance issued by the relevant Government and Statutory Authorities.
- (viii) The time period provided to Corporate Debtor to install flue gas desulfurization system (FGD) for Unit 1 and Unit 2 shall be extended to 31 March 2023 and no coercive action be taken against the Corporate Debtor or Resolution Applicant for non-compliance during such period.
- (ix) The Resolution Applicant and the Corporate shall be deemed to have received a waiver from all actions, Proceedings or penalties under any applicable Law for any Non-Compliance, including in connection with any prior transfer of assets, contracts or business by the Corporate Debtor.
- (x) All Assets whether leased or owned by the erstwhile Promoters, other individuals, Related Parties or affiliates of the erstwhile Promoters, which are integral to the operations of the Project shall vest with the Corporate Debtor.
- (xi) The implementation of the Resolution Plan by the Resolution Applicant and any change in control occurring pursuant thereto shall not impact or breach the validity of any such agreements, contracts (including but not limited to PPAs and FSAs) etc. to which the Corporate Debtor is a party to.
- (xii) The Ministry of Environment and Forest to waive all past non-compliances of the Corporate Debtor and an additional period of 36 months from the Effective Date to be provided for complying with all the emission norms for installation of FGD.
- (xiii) All permits, clearances and necessary approvals for transportation of coal by road which have been obtained by the Corporate Debtor shall be extended for 36 months from the Effective Date.
- (xiv) Any stamp duty liabilities or Tax liability arising pursuant to the transactions contemplated under this Resolution Plan shall be exempted or waived off.

It is hereby clarified that the non-grant of any of the aforementioned reliefs shall not be considered as modification of any of the other terms contained in this Resolution Plan, which shall continue to have the binding effect in terms of this Resolution Plan.

17 That before giving any observations on the Resolution Plan placed before this Adjudicating Authority, it is pertinent to mention that the Resolution Plan and objections were heard at length on 21.09.2021 and 25.09.2021. That all the counsels who appeared for the parties which objected the Resolution Plan, were present and have marked their presence. However inadvertently in the order dated 28.09.2021, it is mentioned that only IA 2829/2021 is reserved but the non mentioning of other IAs as

'reserved' was a clerical mistake. It is also pertinent to mention that no next date of hearing was given in any of the IAs listed on 28.09.2021. Further neither the matter was mentioned on any subsequent date, nor any fresh IA was filed after 28.09.2021 application. Even when matter was reserved on 28.09.2021 there was no objection whatsoever made by any of the parties asking time for further arguments because the matters were completely heard.

18 That in all the IAs filed as an objection, the pleadings are complete and even Written Submissions are filed in most of the IAs. Therefore all the objections are decided on the basis of the material available on record.

IA 3286, IA 3293, IA 3318, IA 3396, IA 3614, IA 3862 , IA 3869, IA 4099 of 2021

19. That the Resolution Plan is objected by the Operational Creditors and other entities. Therefore before adjudicating the resolution plan it is necessary to go through the objections made against the Resolution Plan. That **IA 3286, IA 3293, IA 3318, IA 3396, IA 3614, IA 3862 , IA 3869, IA 4099 of 2021** are filed by the Operational Creditors. Their main grievance is that the Operational Creditors are being paid 'NIL' value in the Resolution Plan.

20. It is further stated by the Applicants of these IAs that the Resolution Plan contravenes the provision of Section 30(2)(b) of IBC, 2016 and Regulation 38 of the CIRP Regulations. They further placed reliance on the **Judgement of Hon'ble Supreme Court passed in the matter of Essar**



Steel India Ltd. Committee of Creditors Vs Satish Kumar Gupta to submit that although the decision vests with the CoC to approve a resolution plan, however if the plan does not confirm to the mandatory contents which must be provided for in a resolution plan. The extracts of the Judgement are reproduced below –

44. The minimum value that is required to be paid to operational creditors under a resolution plan is set out under Section 30(2)(b) of the Code as being the amount to be paid to such creditors in the event of a liquidation of the corporate debtor under Section 53. The Insolvency Committee constituted by the Government in 2018 was tasked with studying the major issues that arise in the working of the Code and to recommend changes, if any, required to be made to the Code. The Insolvency Committee Report, 2018 (hereinafter referred to as "The Committee Report, 2018"), inter alia, deliberated upon the objections to Section 30(2)(b) of the Code, inasmuch as it provided for a minimum payment of a "liquidation value" to the operational creditors and nothing more, and concluded as follows:

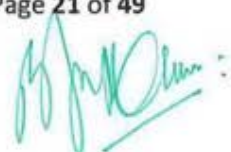
21. That in response to these objections it is stated by the RP and CoC that the Approved Resolution Plan complies with the provisions of the Code read with CIRP Regulations. It is stated that the approved resolution plan provides for the total payment of Rs 2500 Crores. It is added that that the total admitted claim received in regard to the Financial Creditors comes to the tune of Rs 12067,57,69,383 and the Total claim of the Operational Creditors comes to the tune of Rs 97,04,70,865. That the Liquidation value of the Corporate Debtor is around 1733 Crores. It is emphasized by the Applicant and the CoC that the Liquidation value of the Operational




Creditors in the Resolution Plan in "NIL". Therefore there is no illegality in the approved Resolution Plan.

22 That the Applicant has placed reliance on the Para 55 of the Judgement of **Hon'ble Supreme Court passed in the matter of Essar Steel India Ltd. Committee of Creditors Vs Satish Kumar Gupta that-**

"56. By reading paragraph 77 de hors the earlier paragraphs, the Appellate Tribunal has fallen into grave error. Paragraph 76 clearly refers to the UNCITRAL Legislative Guide which makes it clear beyond any doubt that equitable treatment is only of similarly situated creditors. This being so, the observation in paragraph 77 cannot be read to mean that financial and operational creditors must be paid the same amounts in any resolution plan before it can pass muster. On the contrary, paragraph 77 itself makes it clear that there is a difference in payment of the debts of financial and operational creditors, operational creditors having to receive a minimum payment, being not less than liquidation value, which does not apply to financial creditors. The amended Regulation 38 set out in paragraph 77 again does not lead to the conclusion that financial and operational creditors, or secured and unsecured creditors, must be paid the same amounts, percentage wise, under the resolution plan before it can pass muster. Fair and equitable dealing of operational creditors rights under the said Regulation involves the resolution plan stating as to how it has dealt with the interests of operational creditors, which is not the same thing as saying that they must be paid the same amount of their debt proportionately.



Also, the fact that the operational creditors are given priority in payment over all financial creditors does not lead to the conclusion that such payment must necessarily be the same recovery percentage as financial creditors. So long as the provisions of the Code and the Regulations have been met, it is the commercial wisdom of the requisite majority of the Committee of Creditors which is to negotiate and accept a resolution plan, which may involve differential payment to different classes of creditors, together with negotiating with a prospective resolution applicant for better or different terms which may also involve differences in distribution of amounts between different classes of creditors.”

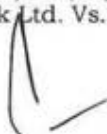
23 That the RP has further placed reliance on the Judgement of Hon'ble NCLAT in the matter of The Asst. Commissioner of **CGST & Central Excise Vs Kuresh Hatim Khambati, Company Appeal (AT) (Insolvency) No. 174/2021**

4....The Resolution Professional is pointing out that according to the Valuation Report it was clear that the amounts payable to the Appellant would be Nil in case of Liquidation and as has been set out in the approved Resolution Plan and when the Amounts payable to the Appellant as Operational Creditor were determined to be Nil, Regulation 38 of CIRP Regulations, 2016 to pay on priority would not be relevant. It is argued that the Resolution Plan was in compliance with Section 30(2) of the IBC read with Regulation 38 of CIRP, Regulations and thus it was placed before the CoC. Workmen and Employees as Operational




Creditors were the continuing stakeholders and on humanitarian grounds it was required that their dues should be paid to the fullest extent and hence Resolution Plan contains corresponding allocation to them. Other Operational Creditors (Other than Workman and Employees and Statutory Dues) who provide continuous support to the Corporate Debtor to ensure that in the future also their support is received to run the Corporate Debtor, the Resolution Plan provided for allocation ex gratia to such Operational Creditors. It is argued that although if the Company was to go in Liquidation the Operational Creditors would have got Nil, still the Resolution Plan made provisions for Workman and Employees and other Operational Creditors (Other than Workman and Employees and Statutory Dues) and thus the Resolution Plan was not bad in law. It is argued that the CoC has considered the Resolution Plan and approved the same in commercial wisdom and may not be interfered with. The Resolution Professional has also argued that Annexure 5 filed with the Resolution Plan gives a list of various litigations with regard to the claim made by the Appellant and in such factual background the claim made by the Appellant was admitted only on contingent basis and now with the Approval of Resolution Plan, the claim would not be enforceable. The claim made by the Appellant was less than 10 % of the aggregate debt of Corporate Debtor and thus the Appellant was not entitled to even notice under Section 24(3) of IBC.

8. Adjudicating Authority has considered the Revised Position of claims received as on 28th October, 2020 (Paragraph 4 of the Impugned Order) which showed that the amounts claimed by the Financial Creditors



admitted were Rs. 20,904,644,307/- and that the dues of Operational Creditors (Workman and Employees) admitted were of Rs. 82,253,253/-. It is recorded that amounts claimed by Operational Creditors (Statutory Dues, Liabilities including outstanding government authority dues, taxes, etc.) were Rs. 4,827,297,551/- (which includes amounts admitted on provisional as well as contingent basis). Then there are dues which were admitted by Operational Creditors (Other than Workmen and Employees and statutory dues) which were of R. 213,192,038/- (including amount admitted on/contingent basis). **Considering these amounts and the Liquidation Value, it is difficult to find fault with the Resolution Plan as has been approved. There is substance in the submissions made by the Resolution Professional that if the Corporate Debtor was to go in Liquidation, the Appellant would get Nil amount.**

(Emphasis Supplied)

REASONING

24 That after going through the objections made by the Operational Creditors, and examining the reply given by the RP and CoC, this bench observes that as per Section 30(2)(b) of IBC, 2016, the higher of the following amount is required to be paid to the Operational Creditors i.e the amount to be paid to such creditors in the event of a liquidation of the corporate debtor under section 53; or the amount that would have been paid to such creditors, if the amount to be distributed under the resolution plan had been distributed in accordance with the order of priority in sub-section (1) of section 53.



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25 Since the Liquidation value of the Operational Creditors is 'Nil' and the amount which shall be distributed to the Corporate Debtor in accordance with Section 53(1) would have been the Nil as well. Therefore we are of the considered view that the Resolution Plan is not in violation of Section 30(2)(b) of IBC, 2016.

26 Since the plan is approved by the 100% votes by the CoC. Therefore this bench cannot interfere in the Commercial Wisdom of the CoC, in absence of any contravention of any provision of law. Therefore we dismiss IA 3286, IA 3293, IA 3318, IA 3396, IA 3614, IA 3862 ,IA 3869 Of 2021, IA 4099 filed by the Operational Creditors.

27 That IA 3608, IA 3619, IA 3620, IA 3621 were the Applications filed by the CoC to intervene in the Applications filed by the Operational Creditors. Since the objections of the operational Creditors are already decided, therefore these IAs are dismissed as infructuous.

IA 3015/2021

28. That IA 3015/ 2021 has been filed by Central Transmission Utility of India Limited, claiming to be an Operational Creditor against the RP. That through this IA Central Transmission Utility of india Limited has sought admission of Rs 26,325,400,000 as an Operational Debt.

29. That the necessary of adjudicating the claim of the Operational Creditor in **IA 3015/2021** is not required since the all the Operational



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Creditors, irrespective of their claim amount, are awarded with 'Nil' amount in the Resolution Plan,. Therefore IA 3015/2021 is dismissed as infructuous.

IA 2897/2021

30. That IA 2897/2021 is also an objection the Resolution to the Resolution Plan filed by SHAARC Projects Ltd (hereinafter referred as SHHARC). That the SHAARC has made the following prayer in its application

- a. The Resolution Professional be directed to Include the balance portion of expenses of Rs 1,85,01,466.12*
- b. Alternatively, the Resolution Professional be directed to make this payment of Rs. Rs 1,85,01,466.12*
- c. Order cost of Rs 1 Lacs to the MSME unit for filing and defending this matter.*
- d. Since this matter is for objection to a proposed Resolution Plan, the same may be taken on Priority along with the hearings for Approval / Rejections of the proposed Resolution Plan.*
- e. Pass such other order / directions as this Hon'ble Bench may deem fit and proper in the facts and circumstances of the case*

31 That the main grievance of the SHAARC is that the Resolution Plan is in violation of Section 30(2)(a) of IBC, 2016 since the Resolution does not takes account the full expenses which were made during the CIRP as a part of the CIRP cost.

32 It is stated by the SHAARC that it had continued to supply goods/services after the date of CIRP i.e from 1.10.2020 till 30.04.2021. It is


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added that the value of goods/services provided during the CIRP was of Rs 6,77,11,154.37.

33 It is further stated by the Applicant that The following amounts have been adjusted from this outstanding during CIRP of Rs. 6,77,11,154.37 to arrive at the Net Principal Outstanding balance of Rs 1,80,58,879.12 as follows:

- a. An amount of Rs. 8,84,748 has been deducted as TDS on the supplies made,
- b. Diesel Recovery of Rs. 57,70,462 has been recovered
- c. Rent Recovery Rs 96,000
- d. Part Payments received Rs 3,00,54,205
- e. The opening Credit balance of Rs1,28,46,060.25 payable to Essar Power MP Limited has also been adjusted
- f. An excel summary of all these workings have been enclosed for easy reference as separate Annexure

34 It is stated by the SHAARC that, the Bills under contentions in this application are leading to a net Principal Outstanding Amount of Rs 1,80,58,879 and these have been raised from 1st October 2020 till 30th April 2021, after the date of the Initiation of CIRP as per the above CIRP Order dated 29 September 2020.

35 It is further stated by the SHAARC that since it is a MSME, therefore MSME Interest of Rs 4,42,587 has been considered on the balance



outstanding, calculated 45 days from the bill dated. 28/02/2021 as per MSMDE Act.

36 That the RP has filed its reply and has stated that that consequent to the Public Announcement, the SHAARC vide its Form-B dated 20.10.2020 and submitted its claim for an amount of INR 2,71,53,207 (Indian Rupees Two Crores Seventy-One Lakhs Fifty-Three Thousand Two Hundred and Seven), claiming to be due and payable by the Corporate Debtor in consideration for the Job undertaken by the SHAARC ("Erstwhile Claim"). It is stated that that out of the total Erstwhile Claim, an amount of INR 2,66,08,356 (Indian Rupces Two Crores Sixty-Six Lakhs Eight Thousand Three Hundred and Fifty-Six) was admitted ("Admitted Claim) and hence, the SHAARC was duly admitted as the operational creditor of the Corporate Debtor.

37 It is stated by the RP that Since, the Applicant continued providing its services during the CIRP as per the Work Orders, it was incumbent upon it to complete the work as per the agreed schedule.

38 It is submitted by the RP that based on these discussions. RP Understood that despite sending several requests to the SHAARC for expediting the work process at the Plant by mobilizing and deploying additional resources, SHAARC maintained a lackadaisical attitude which put the ash dyke cells at the Plant in jeopardy. In view of the above position, the Corporate Debtor. vide its emails dated 08.10.2020 and 12.10.2020 once again requested the SHAARC to adhere to the completion schedule as per the



Work Order(s), for carrying out and completing the Job. However, SHAARC not only failed to do the needful, but also failed to even respond to the said emails. The copy of the emails dated 8 October 2020 and 12 October 2020 have been placed on record.

39 It is stated by the RP that various rounds of discussions were conducted with officials of the Applicant, wherein the company personnels informed about unsatisfactory work progress and also regarding its payment obligations towards the Corporate Debtor to the tune of INR 3,97,83,375.55 (Indian Rupees Three Crores Ninety-Seven Lakhs Eighty-Three Thousand Three Hundred Seventy-Five and Fifty-Five Paise only) under the Scrap Sale Agreement as on 29.09.2020.

40 It is added by the RP that In relation to the above mentioned dues, SHAARC vide its letter dated 11 January 2021 requested the Corporate Debtor to recover @35,00,000/ (approx.) per month against the amount payable by it.

41 It is stated by the RP Subsequently, based on mutual verbal discussions amongst the parties, a consensus was arrived that the SHAARC would discharge its dues towards the Corporate Debtor in a periodic manner by agreeing for an adjustment of INR 35.00.000 (approx.) per month against the invoices for work carried out under the Work Orders.

42 It is submitted by the RP While the dues of the Applicant under the Scrap Sale Agreement were agreed to be adjusted at the rate of INR



35,00,000 (approx) per months and thus, were likely to be resolved in a periodic manner, however, another issue arose qua Applicant's failure in making timely payment to the sub contractors and workmen/labourers engaged by it at the Plant. It is submitted that in view of the same. The Corporate Debtor also faced with the said unpaid claims of the sub contractors and workmen/labourers, who demanded immediate payment of their dues from the Corporate Debtor and further threatened to stall the ongoing work at the Plant by initiating a strike.

43 It is added by the RP that certain local vendors/ workmen engaged by the Applicant at the site ("Obstructors) continuously caused disruptions at the plant of the Corporate Debtor by way of inter-alia, forceful blockage of the Ash Dyke gate on account of non-payment of their dues by the Applicant. It is submitted that the smooth functioning and operation of the Plant is quintessential to continue the Corporate Debtor as a 'going concern'. Accordingly, considering that it was extremely necessary that all obstructions for the smooth functioning of the plant were removed, which were severely impacting the operations of the Corporate Debtor, RP made direct payments to the workmen (through the local vendors) engaged by the Applicant at the plant so that they may be persuaded to terminate their strike at the earliest and resume work. It is further submit that the Applicant vide its emails dated 06.05.2021 and 14.05.2021 expressed its inability to pay the dues of workmen and labourer engaged by it for the completion of the Job and requested the Corporate Debtor to make direct payments to the workmen and labourer..



44 It is submitted by the RP that during the course of the CIRP of the Corporate Debtor, the Applicant has raised invoices aggregating to a sum of INR 6.77.87,380 towards the Work Orders issued by the Corporate Debtor, which was further reduced to INR 6.69.25.676 after adjusting TDS towards this amount, the Corporate Debtor has made payment aggregating to a sum of INR 6,69,18,062 in the following manner:

(i.) an amount of INR 3,52,89,228 paid (to the Applicant as well as to its sub-contractors directly on Applicant's request);

(ii.) an amount of INR 2,44,76.462 withheld as part of the Adjustment of Applicant's dues against purchase of metal scrap from Corporate Debtor in terms of the mutual consensus: and

(iii.) an amount of INR 71,52,372, adjustment to the payables on account of High Speed Diesel supplied to the Applicant as per work order.

45 It Is further stated by the RP that so far only an amount of INR 2,44,76,462 has been adjusted as per mutual consensus, out of total dues of INR 3.97.83.375.55 (Indian Rupees Three Crores Ninety -Seven Lakhs Eight Three Thousand Three Hundred Seventy-Five and Fifty-Five Paise) under the Scrap Sale Agreement, the Applicant is still liable to make payment of an amount of 1,53,06,913 (Indian Rupees One Crore Fifty-Three Lakhs Six Thousand Nine Hundred and Thirteen Only).

46 Therefore, the Corporate Debtor does not have any outstanding amounts due and payable to the Applicant for the period during the CIRP, and in fact there is a receivable position. It is added that in view of the above, a total amount of INR 1,53,06,913.55 is due and pending to be received from the Applicant, after netting the during CIRP payables to with the receivables of the Corporate Debtor. I submit that as per the books of accounts of the Corporate Debtor, after due adjustments and set off, the Applicant is still liable to pay to the Corporate Debtor an amount of INR 1.53,06,913.55. Hence, it is evident that the present Application through which the Applicant seeks direction from this Hon'ble Tribunal for the admission of its claim is baseless and devoid of merit Further, any prayer that has been sought against the Resolution Professional has no basis in law, as the Resolution Plan voted for by the COC is already Sub judice before this Hon'ble Tribunal, which would ultimately decide the manner of payments.

47 After hearing submissions of both the parties this bench observes that the RP has given justification that the claim of the Corporate Debtor is higher in comparison to what SAARC has to recover form the RP during the CIRP period. It has been emphasized by the RP that the SHAARC has not paid its dues towards the purchase of scrap. That SHAARC has admitted its liability in its letter dated 11.01.2021 where they submitted that they shall pay Rs 25,00,000 per month. The scanned copy of the same is reproduced below



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SHAARC PROJECTS LIMITED

Regd. & Head Office : 209-C, 3rd Floor, Megh Malhar Complex, Sector-11, Gandhinagar - 382 011, Gujarat, INDIA.
 204, 2nd Floor, Megh Malhar Complex, Sector-11, Gandhinagar - 382 011, Gujarat, INDIA.
 Email : info@shaarc.co.in, splgnagar@gmail.com
 Phone : 079 - 232 48393,
 Website : www.shaarc.co.in
 CIN : U45201GJ2011PLC005822

SPL/GNR/ACS/2020-21/076
 Date : 11.01.2021

To,
The Project Manager
 Essar Power MP Limited,
 Vill, Bhandora, PO- Karsualal,
 Tal- Waidhan,
 Dist Singrol,
 Madhya Pradesh.

Subject : Payment of our dues for Ash Dyke work at EPMPPL, Mahan, M.P.

Dear Sir,

With reference to above subject, we wish to bring to your knowledge that we are working at Mahan site for Ash Dyke work.

We wish to bring to your kind attention that PRE-IRP our receivable from EPMPPL was 2.76 Crores and at the same time we have to pay Rs. 3.97 crores to EPMPPL.

We request you to recover @ Rs. 25,00,000/- per month against the amount payable by us.

We request you to kindly confirm the same so that we can get our payment regularly & timely and continue to work simultaneously.

Hoping for your co-operation in this regard.

Thanking you.

For Shaarc Projects Limited



Authorized Signatory

48 Further, it is apprised by the RP that the dues under the Scrap Sale Agreement were agreed to be adjusted at the rate of INR 35,00,000 (approx) per month and thus were likely to be resold in a periodic manner, however since the SHAARC failed to make payment to sub contractor/workmen labor. The Corporate Debtor was burdened with unpaid claims. The copy of the mail dates 06.05.2021 and 14.05.2021 has been placed by the RP which depicts inability of the Shaarc to Pay the dues of Sub Contractor, Labor. The mails further depicts that the SHAARC had requested the Corporate Debtor to clear their dues. The scanned copy of the mail dated 14.05.2021 is reproduced below

From: M.K.Mishra [mailto:mkmishra@shaarc.co.in]

Sent: 14 May 2021 12:01

To: Singh, Lallan - EP MPL - Maintenance (HAZ)

Cc: Sinha, Ajay K. - EP MPL - Waidhan; Sanyal, Sukanta- EP MPL-Mechanical- Mahan; Singh, Rajesh -

EP MPL - Head - HR, IR, Admin, R&R & CSR – Mahan; Thite, Anand - EP MPL - Mahan; R MISHRA

Subject: Re: FW: Payment of local vender

Dear sir,

Further to the trailing mails and our discussion in this connection.

Please find enclosed revised list of PRW Contractors and Local workers of Mahan site who are chasing for their payments to us as well as to you too and are creating nuisance at Mahan site.

You are requested to kindly look into the same and arrange to make direct payment to them on our behalf out of the net amount payable to us.

Thanks & Regards,

M. K. Mishra

Shaarc Projects Ltd.

309-C, Third floor, Megh Malhar Commercial Complex,

49 That the RP has adjusted the amount of Rs 6,77,87,380 towards the work orders issued by the Corporate Debtor, which was further reduced to Rs 6,69,25,676 after adjusting TDS. That the RP in its reply has stated that it has adjusted RS. 6,69,18,062 in following manner

(i.) an amount of INR 3,52,89,228 paid (to the Applicant as well as to its sub-contractors directly on Applicant's request);

(ii.) an amount of INR 2,44,76,462 withheld as part of the Adjustment of Applicant's dues against purchase of metal scrap from Corporate Debtor in terms of the mutual consensus: and

(iii.) an amount of INR 71,52,372, adjustment to the payables on account of High Speed Diesel supplied to the Applicant as per work order.

50 It is further pleaded by RP that an amount of INR 2,44,76,462 has been adjusted as per mutual consensus, out of total dues of INR 3,97,83,375.55 (Indian Rupees Three Crores Ninety -Seven Lakhs Eight Three Thousand Three Hundred Seventy-Five and Fifty-Five Paise) under the Scrap Sale Agreement, SHAARC is still liable to make payment of an amount of Rs. 1,53,06,913.

51 Therefore, in light of the events which happened during the CIR Process between SAARC and the Corporate Debtor and while note of the dues paid by the Corporate Debtor on behalf of SHAARC and liability of SAARC under Scrap Sale Agreement, we find no illegality in the actions of the RP. **Accordingly we are of the considered view that the SHAARC has no valid claim arising out of the CIR Process which is required to be paid as a part of the CIRP Cost. Hence IA 3015 is devoid of any merit. Hence the same is dismissed.**

IA 2785 of 2021

52. Now it is necessary to examine other IAs which have challenged the Resolution Plan. That **IA 2785 of 2021** is filed by one more Operational Creditor i.e U.P Jal Vidyut Nagar Limited.



53. That the U.P Jal Vidyut Nagar Limited has sought the following reliefs-

(i) *Direct the Resolution Professional of the Corporate Debtor to admit the entire amount claimed by the Applicant i.e. an amount of INR 12,08,64,637 (Rupees Twelve Crore Eight Lac Sixty Four Thousand Six Hundred Thirty Seven Only), being the total outstanding amount payable till September 29, 2020 i.e, the date of commencement of CIRP;*

(ii) *Direct the Resolution Professional to revise and update the list of creditors uploaded on the website of the Corporate Debtor as per Form B submitted to the Respondent; and*

(iii) *Direct the Resolution Professional to admit the outstanding claim amount of Rs. 5,17,21,063 (Rupees Five Crore Seventeen Lakhs Twenty One Thousand Sixty Three Only) for the period of October 2020 to May 2021 and immediately release payments for the same.*

(iv) *Direct the Resolution Professional of the Corporate Debtor to pay month to month charges to the Applicant towards the drawl of water; and*

(v) *Pass any other or further order(s) as this Hon'ble Tribunal may deem fit and necessary in the facts and circumstances of the given case.*

54. That the necessary of going into the Prayer (i) and (ii) made by U.P Jal Vidyut Nagar Limited is not required since undisputedly the U.P Jal Vidyut Nagar Limited, is falling under the category of the Operational Creditor. That irrespective of the claim amount the Operational Creditor are awarded 'nil' value in the resolution plan.



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55 That with respect to Prayer (iii) and (iv) the U.P Jal Vidyut Nagar Limited has raised its claim which as per it is arising during the CIRP Period.

56 That the RP in response to the same has stated that the Corporate Debtor was allocated 0.058 MAF per annum of water by Madhya Pradesh Water Resource Department ("MPWRD") from Rihand Reservoir on 27 July 2006, against Government of Madhya Pradesh's share of water in Rihand reservoir which is under the control of the Applicant. Therefore, in order to permit the Corporate Debtor to draw water from the reservoir by building an intake pump house in Uttar Pradesh, an Agreement dated 23 October 2009 was entered into by and between the Corporate Debtor and the U.P Jal Vidyut Nagar Limited.

57 It is added that UPJVNL started raising invoices for the water drawn by the Corporate Debtor, purportedly exercising its rights under the 23 October Agreement. Additionally, MPWRD also started levying charges on the water drawn from Rihand Reservoir, under the terms of the Agreement For Supply of Water, To Industrial /Power Plant dated 16 February 2010 on the ground that the water drawn is from the share of the state of Madhya Pradesh

58 It is further stated by the RP that On 20 June 2013, the Corporate Debtor addressed a letter to the Applicant intimating that both the Applicant and the MPWRD have been raising invoices on the Corporate Debtor for the



same quantum of water drawn from the Rihand reservoir. Accordingly, the Corporate Debtor requested the UPJVNL to cancel the invoices raised on the Corporate Debtor in relation to the water drawn from the Rihand reservoir. Additionally, on 21 September 2013, the Corporate Debtor addressed a letter to the Applicant intimating that the Corporate Debtor has raised the same issue with MPWRD.

59 The Corporate Debtor filed Writ Petition No. 1724 of 2015 ("First Writ Petition") before the Hon'ble Madhya Pradesh High Court on 2 February 2015 challenging the UPJVNL right to levy water charges since the water is allocated from the share of the State of Madhya Pradesh and the charge for the same is also levied by the Government of Madhya Pradesh. The Hon'ble Madhya Pradesh High Court vide an order dated 30 March 2015 restrained the Applicant from taking any coercive steps pending the final hearing of the said Writ Petition. Subsequently, on 27 February 2020, the First Writ Petition was dismissed for lack of jurisdiction. Thereafter, the Corporate Debtor filed Writ Petition being WP No. 12331/2020 on 22 July 2020 before the Hon'ble High Court of Allahabad ("Second Writ Petition") challenging the Applicant's right to levy charges for supplying water. The Second Writ Petition is currently pending before the Hon'ble Allahabad High Court and has not been taken up for hearing.

60 With regard to the payment of month to month charge sought by UPJVNL for drawing of water it is stated by the Applicant that The Corporate Debtor has been drawing water from the state of Madhya Pradesh's share of the upstream of Rihand lake and has accordingly been making payments to



MPWRD since 2013 towards water usage charges, including during the CIRP period.

61 It is further stated by the RP that . It is an expressly admitted position of the Applicant that even after the expiry of the term of the 23 October Agreement, the arrangement by which the Corporate Debtor has been drawing water from the state of Madhya Pradesh's share of water from the Rihand reservoir and by utilising the pump house located under the control of the Applicant in Uttar Pradesh is continuing. In this regard, the Corporate Debtor has been duly making payments towards the lease rentals of the pump house to the Applicant. In fact, the claim of the Applicant in the present IA is in itself limited only to drawl of water.

62 In respect of the claim of the UPJVNL arising during the CIRP period it is stated by the RP that the In the Second Writ Petition, the Corporate Debtor has inter-alia challenged the right of the Applicant to levy and recover, charges for drawl of water and, costs for loss of power generation from the Corporate Debtor under the 23 October Agreement. Therefore, the question as to whether the charges for drawl of water are to be paid to the Applicant or to MPWRD is also pending consideration of the Hon'ble Allahabad High Court.

63 Per Contra the UPJVNL in response to the contention raised by the RP that it had paid the charges to the Madhya Pradesh Government, therefore it is not required to pay charges to UPJVNL has stated charges payable to it



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are over and other than what was required to be paid to UPJVNL. That reliance has been placed on Clause 6 and Clause 8 of the Agreement which are reproduced overleaf -

"6. MAXIMUM DEMAND AND UTILIZATION OF WATER

- a. Pursuant to the permission granted by state of Madhya Pradesh vide its letter no.4887/13/2006 dated 27.07.2006, maximum quantity of water to be drawn from the upstream of the Lake by the Consumer is limited to 0.058 MAF/annum (i.e. 15714.59904 million imperial Gallon per annum) ("Entitlement").

In case of non-observance of this clause by the Consumer, the Consumer as and when called upon by the notice from the Supplier, forthwith take all steps to reduce the intake to the above-mentioned quantity. The quantity of water drawn in excess of the above quantity shall be paid for by the Consumer with a surcharge of 50% calculated on the rate provided in clause 8 of this agreement. The right of the Supplier to disconnect the supply of water will not, however, in any case extinguish.

- b. *The Consumer shall utilize the water obtained under this agreement solely for the purpose of running its works and its appurtenant works and for distribution in their colony to their people employed or engaged on its works and shall neither utilize the same for any*

other purpose nor sell the same to any party, whatsoever, without the prior permission of the supplier. Any breach of these stipulations shall automatically entitle the Supplier to determine the agreement and to disconnect the supply and forfeit the security deposited by the Consumer.

“8. RATES

- a. The Consumer shall pay to the Supplier for the permission granted to it for pumping water from upstream of the Lake for the purposes mentioned in Clause 6 (b) at the rate specified in the O.M. No.186/JNL/CMD/03-(WC)/2001 dated February 3, 2001 issued by Deputy General Manager (HQ) based on the minutes of the meeting chaired by Hon’ble Minister of Energy, U.P. and participated by Secretary (Energy), Govt. of U.P., Chairman UPSEB and CMD, NTPC at Lucknow on April 03, 1999 to formulate “Principles for consumptive power charges for future” (The rate being 189.256198 Gallons per rupee for the period January 01, 2009 to December 31, 2013 to be revised upwards by 10% after every five years.)
- b. *No discharge will be made by the consumer in the Rihand reservoir. Consumer will have to follow pollution norms strictly.”*

64 That in our view the dispute with regard to the charges levied by UPJVNL existed between the Corporate Debtor, UPJVNL and State of Madhya Pradesh, much prior to the initiation of CIRP. Further the litigation went to the Hon’ble High Court of Madhya Pradesh, by filing Writ Petition, which got dismissed on the jurisdictional ground. Further the Writ Petition was filed before the Hon’ble Allahabad High before the commencement of the CIRP.



65 Here it is not the case where no payment, whatsoever made by the Corporate Debtor during the CIR Process for using the water, as the payment has been made to the Madhya Pradesh Government. Since the right of UPJVNL to levy charges for supplying water to the Corporate Debtor is already under challenge, prior to the initiation of the CIRP before the Hon'ble Allahabad High Court, therefore we are of the considered view that this Adjudicating Authority has no jurisdiction to adjudicate the dispute or any claim arising out of such transaction which is subject matter of Writ Petition before the Hon'ble Alahabad High Court.

66 That Accordingly we are of the view that Prayer (iii) and (iv) made in IA 2785 of 2021 requires no consideration. Hence IA 2785 of 2021 is dismissed.

67 That the UPJVNL has further objected towards the following concession sought in the Resolution Plan

"(iii) The Resolution Applicant considers the uninterrupted supply of water and use of land in terms of the Articles of Arrangement signed with Uttar Pradesh Jal Vidyut Nigam Limited ("UPJVNL") on December 23, 2009 ("UPJVNL Agreement") for permission for use of land and water drawl, to be critical to preserve the value of the Corporate Debtor and to maintain its status as a going concern. Accordingly, the UPJVNL Agreement shall renew for a period of 12 months from the Effective Date in terms of the Resolution Plan against the Corporate Debtor and UPJVNL."

68 It is stated by UPJVNL that a new contract or terms and conditions of the contract cannot be created by this Adjudicating Authority between the Corporate Debtor and the Applicant. That the UPJVNL placed reliance on the Judgement of Hon'ble Supreme Court in Jaypee Kensigton Boulevard Apartments Welfare Association & Ors V NBCC (India) Ltd. Civil Appeal no. 3395 of 2020 to support its contentions.



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69 On the other hand the Resolution Professional has stated in order to revive the Corporate Debtor and to keep the status of Corporate Debtor as going concern it is necessary to incorporate such clause.

70 After hearing submissions of the RP and UPJVNL on the concession sought in Section 6 of the Resolution Plan this bench observes that, it has been admitted by the UPJVNL in its written submissions that prior to initiation of CIRP, even after the date of expiry of the agreement on 22.10.2019. The UPJVNL has allowed the Corporate Debtor to continue to draw water, even when there was no agreement existed between the parties. Further the UPJVNL had allowed the Corporate Debtor during the moratorium.

71 That the revival of the Company depends upon this permission, if such relief is not granted then revival of the Corporate Debtor could be under threat which could also lead to Liquidation of the Corporate Debtor. That the Hon'ble Supreme Court in **Swiss Ribbons Pvt. Ltd. & Anr. Vs. Union of India & Ors. in Writ Petition (Civil) No. 99 of 2018**' by its judgment dated 25th January, 2019, has observed that

"11.What is interesting to note is that the Preamble does not, in any manner, refer to liquidation, which is only availed of as a last resort if there is either no resolution plan or the resolution plans submitted are not up to the mark. Even in liquidation, the liquidator can sell the business of the corporate debtor as a going concern."

72 Since the permission of UPJVNL to draw water and use its land pays a vital role in the revival of the Corporate Debtor, therefore, we



are of the view that in order to revive the Corporate Debtor and to keep it as going concern, it is necessary that UPJVNL shall allow the Corporate Debtor to draw the water and use its land, in terms of the arrangement followed during the moratorium period for a period of 12 Months or till the time any decision is taken by Hon'ble Allahabad High Court, whichever is earlier.

IA 4367 of 2021

73 That one more IA 4367 has been filed by Trikaya Township Pvt. Ltd as an objection to the concessions sought in Section 6 of the Resolution Plan.

74 That the by Trikaya Township Pvt. Ltd has presented its objection towards the proposal to unilaterally terminate and extinguish the 20 years lease deed entered between Trikaya Township Pvt. Ltd and the Corporate Debtor.

75 It is stated by Trikaya Township Pvt. Ltd (hereinafter referred as TTPL) that the lease deed is valid and subsisting till 31.12.2031

76 it is further submitted by TTPL there is no provision of unilateral termination of Contract under IBC 2016. Therefore the Resolution plan contravenes Section 30(2)(e) of IBC, 2016.

77 It is further stated by the TTPL that .the statement made in the Resolution Plan to the extent that the lease deed entered between the Applicant Trikaya and Corporate Debtor already stood terminated is misleading, false, and bereft of truth. It is submitted that as per letter dt. 29.12.2020, TTPL merely sought payment of the lease rent from the RP of the Corporate Debtor. In the said letter, TTPL had merely stated that in

absence of the payment of rent by the Corporate Debtor, it will have the right to terminate the said lease deed however the termination was never effected. It is submitted that even till date the Corporate Debtor has been making payment of the outstanding monthly rent in terms of the lease deed and the Corporate Debtor and its employees continues to occupy the leased property.

78 That the Resolution Professional filed to reply to the objections raised by TTPL. It is stated by the RP that the TTPL is related party to the Corporate Debtor.

79 It is further stated by the RP that The TTPL is seeking to rely upon purported Lease Deed dated. 16.5.2011, Supplementary Lease. Deed dated 10.2.2012 and Supplementary Lease Deed dated 1.6.2016 (together referred to as the "Lease Deeds") to contend that the said Lease Deeds cannot be terminated under the Corporate Insolvency Resolution Process (hereinafter referred to as "CIRP"). I state that all the aforesaid Lease Deeds are stated to have been executed in the State of Maharashtra in respect of the properties situated in the State of Madhya Pradesh. It is stated that no adequate stamp duty is paid on the purported Lease Deeds. Thus, under Section 35 of the Indian Stamp Act, 1899, as applicable in the State of Madhya Pradesh, the aforesaid Lease Deeds are inadmissible in evidence and are liable to be impounded by this Tribunal.

80 It is further stated by the RP that, any lease of immovable property for any term exceeding one year has to be compulsorily registered under the



provisions of Section 107 of the Transfer of Property Act, 1882 read with Section 17 of the Registration Act, 1908. As the purported Lease Deeds are not registered, it is submitted that the said Lease Deeds cannot be received in evidence under Section 49 of the Registration Act, 1908. Hence, it is submitted that, no valid lease has been created in favour of the Corporate Debtor and that the Corporate Debtor is not a lessee by virtue of the purported Lease Deeds. It is further submit that this Tribunal is disabled from using the purported Lease Deeds as evidence. It is further submitted that since the purported Lease Deeds does not and cannot be termed or seen as a valid and subsisting lease in the eye of law, therefore, any attempt to enforce the same cannot hold any ground.

81 It is further stated by the RP that Even otherwise, the purported arrangement between the Applicant and the Corporate Debtor is one sided, exorbitant, not in ordinary course of business and has been made to enable the Applicant to have a windfall gain at the expense of the other stakeholders of the Corporate Debtor. It is stated that as per the Annual Reports of the Applicant available on the portal of the Ministry of Corporate Affairs, the gross block of the township asset is about Rs. 110 Crores. Under the purported arrangement between the Applicant and the Corporate Debtor, the Applicant, till Financial Year 2019-20, has already received more than Rs. 119 Crores from the Corporate Debtor. From the aforesaid, it is evident that the Applicant, who is a related party, has made windfall gain from the purported arrangement.



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82 That the contents of the concession to which TTPL is objecting is reproduced below-

"On and from the NCLT Approval Date, by order of the NCLT sanctioning this Resolution Plan, the Township Lease Agreement dated May 16, 2011 entered with Trikaya Township Limited shall be deemed to be terminated, with such termination being effective from NCLT Approval Date. Any claims or liabilities arising as a consequence of such termination shall be deemed to be relinquished, cancelled and written-off on the NCLT Approval Date".

83 After hearing objections of TTPL and by perusing the reply of the RP this bench observes in regard to the concession sought by the Applicant in Section 6.1 (iv) of the Resolution Plan seeking termination of lease deed dated 16.5.2011. executed between the TTPL and the Corporate Debtor was for 20 years. It is observed that the Lease Deed annexed with the Application is an unregistered Deed. That leases of immovable property from year to year, or for any term exceeding one year requires compulsory registration to be held as valid. In our considered view the lease Deed having tenure of 20 years is in contravention of Section 107 of Transfer of Property Act 1882 and Section 17 of the Registration Act, 1908.

84 The Deemed termination which has been sought as a concession in Resolution Plan has to be considered positively. Infact, its within the domain of civil law, the aspects of the termination can be decided, if at all TTPL has any right.

85 Hence we dismiss the objections made vide IA 4367 of 2021.



ORDER

86 In the absence of any tenable objection made against the Resolution and keeping note that the Resolution Plan is passed by 100% votes of CoC. Therefore, this bench finds no impediment in allowing the Resolution Plan.

87 The order of the moratorium passed by this Adjudicating Authority under Section 14 of the IBC,2016 shall cease to have effect from the date of passing of this Order.

88 The Resolution Professional shall forward all the records relating to the conduct of the CIRP and the Resolution Plan to the IBBI for its record and database.

89. The approved Resolution Plans shall become effective from the date of passing of this Order.

90. The monitoring Committee shall be setup and shall take necessary steps for the implementation of the plan.

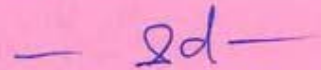
91. That in regard to the concessions sought in Section 6 of the Resolution Plan it is directed that there shall be uninterrupted supply of water and use of land in terms of Arrangement which was followed during the period of moratorium, for a period of 12 months or till the time any decision is taken by Hon'ble Allahabad High Court, whichever is earlier.



92 That all concessions asked in Section 6 of the Resolution Plan as mentioned in Para 16 of this order shall also be granted to the Corporate Debtor.

93. The Resolution Professional shall forthwith send a copy of this Order to the CoC and the Resolution Applicant.

94. IA-2829 of 2021 is **allowed** accordingly.



BHASKARA PANTULA MOHAN
ACTG. PRESIDENT



HEMANT KUMAR SARANGI
MEMBER (TECHNICAL)



7345

Annexure-15

सत्यमेव जयते
GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS

Office of the Registrar of Companies
4th Floor, IFCI Tower 61, New Delhi, Delhi, India, 110019

Certificate of Incorporation pursuant to change of name
[Pursuant to rule 29 of the Companies (Incorporation) Rules, 2014]

Corporate Identification Number (CIN): U40100DL2005PLC201961

I hereby certify that the name of the company has been changed from ESSAR POWER M P LIMITED to MAHAN ENERGEN LIMITED with effect from the date of this certificate and that the company is limited by shares.

Company was originally incorporated with the name Essar Power M.P. Limited.

Given under my hand at New Delhi this Twenty fifth day of March two thousand twenty-two.



MANGAL RAM MEENA

Registrar of Companies
RoC - Delhi

Mailing Address as per record available in Registrar of Companies office:

MAHAN ENERGEN LIMITED

Lower Ground Floor, Hotel Conclave Boutique,, A-20, Kailash Colony,, New Delhi, New Delhi, Delhi,
India, 110048



ANNEXURE -16

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
PRINCIPAL BENCH AT NEW DELHI

Interlocutory Application No. of 2022

In

C.P. No. (IB)863(PB)/2020

Essar Power MP Limited,
a company incorporated under the provisions of the Companies Act, 1956, having its registered office at Ground Floor, Hotel Conclave Boutique, A-20, Kailash Colony, New Delhi – 110 048. (Through its Implementation and Monitoring Committee)

... Applicant

Versus

1. **MP Pollution Control Board,** through its Member Secretary, E-5, Arera Colony, Pariyavaran Parisar, Bhopal – 16, Madhya Pradesh.
2. **Adani Power Limited,** company incorporated under the provisions of Companies Act, 1956 having its Registered office at Adani Corporate House, Shantigram, Nr. Vaishnodevi Circle, S.G. Highway, Khodiyar, Ahmedabad – 382 421, Gujarat.

... Respondents

APPLICATION UNDER SECTION 60(5) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 READ WITH RULE 11 OF THE NATIONAL COMPANY LAW TRIBUNAL RULES, 2016.

1. The present application is filed under the provision of Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "**the Code**"), challenging the legality and validity of reason no.1 given by the Respondent No. 1 vide order dated 8.12.2021 and letter dated 24.12.2021 (hereinafter referred to as "**the Impugned**

For Essar Power M.P. Ltd.

Authorised Signatory

Orders”), which amounts to contravention of the terms of Resolution Plan dated 11.5.2021, read with addendum dated 12.5.2021 (hereinafter referred to as “**the Approved Resolution Plan**”) as approved by this Hon’ble Tribunal vide its order dated 01.11.2021, since it seeks to enforce / revive a debt that has been dealt with and subsumed under the Approved Resolution Plan.

2. The Applicant is a company incorporated under the provisions of Companies Act, 1956 and is engaged in the business of generation of electricity. The Applicant, currently, operates a 1200 MW (600MW x2) thermal power plant located near Singrauli town in Singrauli district in the State of Madhya Pradesh. Pursuant to an Order dated 29.9.2020 (hereinafter referred to as “**the Admission Order**”) passed by this Hon’ble Tribunal in Company Petition No. (IB) 863 (PB)/2020, the Applicant was admitted to Corporate Insolvency Resolution Process (“**CIRP**”, for short). Such insolvency has been successfully resolved by virtue of the approval of the Approved Resolution Plan by this Hon’ble Tribunal vide Judgement and Order dated 1.11.2021 (hereinafter referred to as “**the Approval Order**”) passed by this Hon’ble Tribunal in terms of Section 31(1) of the Code in Interlocutory Application No. 2829 of 2021 which was filed by Mr. Ashish Chhawchharia, who was then the Resolution Professional of the Applicant. Copy of the Approval Order passed by this Hon’ble Tribunal is annexed hereto and marked **Annexure – A**. The Applicant states that, presently, the Applicant is under the management of an Implementation and Monitoring Committee (“**IMC**”, for short) constituted under the provisions of clause 7.1.1 of the Approved Resolution Plan. The IMC

consists of a designated lender, namely ICICI Bank Limited, the erstwhile Resolution Professional of the Applicant and one nominee of the Resolution Applicant, i.e., the Respondent No.2.


3. The Respondent No. 1 is the Pollution Control Board for the State of Madhya Pradesh, constituted under the provisions of Section 4 of the Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as "**the Water Act**") and Section 5 of the Air (Prevention and Control of Pollution) Act, 1981 (hereinafter referred to as "**the Air Act**"). The Respondent No. 1 was an Operational Creditor of the Applicant for the purposes of its CIRP and had also lodged a claim as an Operational Creditor, which was duly verified by the Resolution Professional of the Applicant. Despite its claim having been dealt with under the Approved Resolution Plan, the Respondent No. 1 has issued the Impugned Orders, denying renewal for the Consent to Operate, *inter alia*, on account of non-payment of its operational debt which has been extinguished in terms of the Approved Resolution Plan.
4. The Respondent No. 2 is the Resolution Applicant, whose Resolution Plan came to be approved by this Hon'ble Tribunal vide the Approval Order, which is sought to be contravened by the Respondent No. 1.
5. Brief facts leading to the filing of the present Application are as under:

- 5.1. After being established, the Applicant was operating its power plant with all requisite statutory approvals, including a consent to operate granted under Section 21 of the Air Act and Section 25 of the Water Act, by the Respondent No. 1 and which was renewed from time to time.
- 5.2. Pursuant to an inspection conducted by the team of the Central Pollution Control Board and the Respondent No. 1 on 9.8.2019, the Applicant was served with a communication dated 14.8.2019 issued under Section 33A of the Water Act. In the said communication, it was alleged that the ash dyke No. 3 maintained by the Applicant had breached, resulting in damage to agricultural land and surface water of the nearby rivers. The Applicant was directed to, *inter alia*, deposit a sum of Rs. 10 Crores with the Respondent No. 1 as an interim environmental compensation, pending the assessment of actual damages. On 21.8.2019, the Applicant deposited a bank guarantee for a sum of Rs. 1 Crore, out of the demand of Rs. 10 Crores, which was encashed by the Respondent No. 1 on 13.3.2020. Copy of the Bank Guarantee is annexed hereto and marked **Annexure – B**.
- 5.3. The Respondent No. 1 by a letter dated 10.8.2020 called upon the Applicant to pay the balance amount of Rs. 9 Crores and submit a time bound programme with respect to disposal of fly ash, within 15 days. Copy of the communication dated 10.8.2020 is annexed hereto and marked **Annexure – C**.

5.4. It appears that the National Environmental Engineering Research Institute, Nagpur ("NEERI", for short), which was appointed for evaluating the financial impact of the alleged damage, as claimed by the Respondent No. 1, in its communication dated 14.8.2019, submitted its report in the month of September, 2020. In the said report while finding that the Applicant had expended a sum of Rs. 10.54 Crores (approx.) towards corrective measures, NEERI suggested that the monetary value of the estimated damage to the environment would be in the range of Rs. 54.21 Crores to Rs. 91.82 Crores. Copy of communication dated 14.8.2019 along with Report submitted by NEERI are annexed hereto and marked **Annexure – D** and **Annexure – E**, respectively.

5.5. On 29.9.2020, by virtue of the Admission Order, the CIRP in respect of the Applicant commenced and moratorium in terms of Section 14 of the Code also came to be imposed. Mr. Ashish Chhawchharia (who is also a member of the IMC) came to be appointed as the Interim Resolution Professional and was subsequently confirmed as the Resolution Professional in respect of the Applicant. The Resolution Professional by an email dated 2.11.2020 addressed to the Respondent No. 1 intimated the Admission Order and called upon the Respondent No. 1 to file its claim with supporting documents. Copy of order dated 29.9.2020 passed by this Hon'ble Tribunal is annexed hereto and marked **Annexure– F**. Copy of email dated 2.11.2020 addressed by

For Essar Power M.P. Ltd.


/ Authorised Signatory

- the Resolution Professional is annexed hereto and marked **Annexure – G.**
- 5.6. The Respondent No. 1, by a letter dated 28.11.2020 called upon the Resolution Professional to make payment of the balance amount of Rs. 9 Crores. Copy of communication dated 28.11.2020 is annexed hereto and marked **Annexure-H.**
- 5.7. By an email dated 11.12.2020, the Resolution Professional pointed out that the Respondent No. 1 would be an Operational Creditor of the Applicant and is, therefore, required to submit a claim with proof for dues arising before the commencement of CIRP. Copy of communication dated 11.12.2020 addressed by the Resolution Professional is annexed hereto and marked **Annexure – I.**
- 5.8. Thereafter, by Consent Order dated 17.12.2020, Respondent No. 1 granted renewal to the Consent to Operate up to 31.8.2021, while prescribing general conditions under the Water Act and the Air Act. It was further stipulated that the renewal application for the said consent would have to be made six months before the expiry of the consent. Copy of the order dated 17.12.2020 is annexed hereto and marked **Annexure – J.**
- 5.9. On 19.12.2020, the Resolution Professional replied to the Respondent No. 1's letter dated 28.11.2020, once again

requesting the Respondent No. 1 to submit a claim with proof. In response thereto, the Respondent No. 1 vide letter dated 24.12.2020 furnished its claim in terms of Form B, as prescribed under the provisions of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter referred to as "the **CIR Regulations**"). In the said Form B, the Respondent No. 1 made a claim of Rs. 9 Crores, pending actual assessment of environmental damage by NEERI. The receipt of Form B, tendered by the Respondent No. 1, was acknowledged by the Resolution Professional by its email dated 29.12.2020. Copy of communication dated 19.12.2020 along with Form B (without annexures) filed by the Respondent No. 1 and copy of email dated 29.12.2020 are annexed hereto and marked as **Annexure – K (Colly)**.

5.10. It is pertinent to point out at this juncture that the actual/final financial impact of the estimated environmental damage has not been assessed or intimated to the Applicant – which was acknowledged by Respondent No. 1 when it filed its Form B in accordance with the CIR Regulations. In its report submitted in September 2020, NEERI merely furnished the range within which the financial impact may be assessed. The Respondent No. 1, however, vide letter dated 23.1.2021 issued directions under Section 33 of the Water Act, claiming that as per the NEERI Report the financial impact of the estimated environmental damage is Rs. 91.82 Crores, and the Applicant is required to pay a balance sum of

Rs. 90.82 Crores within 15 days. Along with the said letter dated 23.1.2021, the Respondent No. 1 furnished a revised claim in Form B dated 8.1.2021 for a sum of Rs. 90.82 Crores (as net claim). Copy of communication dated 23.1.2021 along with the revised Form B (without annexures) is annexed hereto and marked **Annexure – L (Colly)**.

- 5.11. The aforesaid claim of Respondent No. 1 was duly verified and admitted as an operational debt in the CIRP of the Applicant by the Resolution Professional.
- 5.12. In terms of the requirement of the Consent Order dated 17.12.2020, the Applicant applied for renewal on 1.3.2021 i.e., before six months of the expiry of the consent on 13.3.2021. Further, on 3.03.2021, the Applicant paid a renewal fee of INR 50 Lakhs and generated the application number as 1068869. The said application came to be rejected by an order dated 19.5.2021 (hereinafter referred to as the "**First Renewal Rejection Order**"), *inter alia*, for various reasons. However, one of the reasons for rejection was the alleged failure of the Applicant to deposit a sum of Rs. 90.82 Crores towards environmental damage compensation. The said reason was cited as a basis for rejection of the request for renewal of the Consent to Operate despite Respondent No. 1 having filed a claim for the said amount in the CIRP of the Applicant which was duly verified. It is pertinent to point out here that the claim of the Respondent No. 1 had been already admitted for a sum of Rs. 90.82 Crores, by the Resolution Professional of the Applicant on 11.5.2021, i.e.,

prior to the First Renewal Rejection Order and there was no warrant whatsoever for Respondent No. 1 to have passed the First Renewal Rejection Order, by making the non-payment of Rs. 90.82 Crores as a ground for rejection. It is also relevant to note that despite the General Conditions of renewal of Consent to Operate specifically state that revocation, suspension or modification of the Consent to Operate would be only after providing notice and an opportunity of hearing to the Applicant, the Respondent No.1 passed the First Renewal Rejection Order without providing any opportunity of being heard to the Applicant. Copy of order dated 19.5.2021 passed by the Respondent No. 1 is annexed hereto and marked **Annexure – M**.

5.13. By a letter dated 3.6.2021, the Applicant gave a pointwise reply to the grounds for rejection stated in the First Renewal Rejection Order pointing out that the discrepancies raised by the Respondent No. 1 are non-existent. It was also pointed out that the claim of Rs. 90.82 Crores, which was one of the grounds for rejecting the renewal would be dealt through the resolution process. Copy of communication dated 3.6.2021 (without annexures) addressed by the Applicant is annexed hereto and marked **Annexure – N**.

5.14. In the 11th meeting of the Committee of Creditors of the Applicant held on 21.5.2021, the Approved Resolution Plan of the Respondent No.2 and a resolution plan submitted by one Vedanta Limited were considered by the Committee of

Creditors of the Applicant. Pursuant to the e-voting, which concluded on 15.6.2021, the Approved Resolution Plan of the Respondent No. 2 came to be approved unanimously by the Committee of Creditors of the Applicant. The relevant extract of the Approved Resolution Plan read as under:

"1.2.1 Government and Statutory Authorities

In the Resolution Applicant's assessment, the Liquidation Value is insufficient to even satisfy the claims of the Secured Financial Creditors in full and therefore, the amounts payable to Government and Statutory Authorities in compliance Section 30(2)(b) of the Code would be NIL.

The Admitted Government and Statutory Authority Debt shall be converted into equity shares of the Corporate Debtor and subsequently will be subject to Capital Reduction as specified in Section 3 (Acquisition as a Going Concern) of this Resolution Plan. Accordingly, the Resolution Applicant proposes to make NIL payment to Government and Statutory Authorities in compliance Section 30(2)(b) of the Code read with Regulation 38 of the CIRP Regulations ("Government and Statutory Authority Payments") in priority to any payment to any Financial Creditors.

Without prejudice to anything contained above, any other debt of Government and Statutory Authority appearing in the books of account of the Corporate Debtor, whether or not a claim has been filed in relation thereto, whether admitted or not, under verification, contingent or otherwise asserted or unasserted, secured or unsecured shall be converted into equity shares of the Corporate Debtor and subsequently will be subject to Capital Reduction as specified in Section 3 (Acquisition as a Going Concern) of the Resolution Plan.

It is expressly clarified that all Claims liabilities and demands against the Corporate Debtor shall be discharged under the Resolution Plan with the aforementioned payments and in the manner as proposed in this Resolution Plan and there shall be no further payments made by either the Corporate Debtor or the Resolution Applicant to any of the stakeholders of the Corporate Debtor under the Resolution Plan, the RFRP and/or any other document.

The Resolution Applicant submits that this Resolution Plan is fair and equitable to all stakeholders of the Corporate Debtor and is fully compliant with Applicable Law including without limitation the Code and the CIRP Regulations. In the event that the COC, NCLT or the NCLAT or any court determines that the distribution under this Resolution Plan is not in accordance with Applicable Law or the orders issued by the NCLT or NCLAT, as the case may be, the amount payable under this Resolution Plan shall stand re-allocated to such extent as is necessary for compliance with the Applicable Law or the orders issued by the NCLT or NCLAT, as the case may be. Such re-allocation shall be in accordance with the directions of NCLT or NCLAT amongst the payments to the various classes of creditors, which may be considered by the COC in its commercial wisdom, such that the total amount remains the same. Upon such revision and re-allocation, if any, the revised Resolution Plan shall be binding on all the stakeholders of the Corporate Debtor. For the avoidance of doubt, the maximum amount payable to the stakeholders under this Resolution Plan (including pursuant to any reallocation or redistribution), shall not exceed the Secured Financial Creditor Payments."

"2.2 Treatment of Operational Creditor

2.2.2 All Government and Statutory Authority claims (whether filed or admitted or not or whether disputed or not or subject matter of any Proceedings or not) are Claims and Debt (as defined under the Code) as applicable and

would consequently qualify as Claims of Operational Creditors. Accordingly, the terms of this Resolution Plan applicable to Operational Creditors shall be binding on the Government and Statutory Authorities as well."

"2.2.4 As per Section 30(2)(b) of the Code and Regulation 38 of the CIRP Regulations, the Operational Creditors (including any Government and Statutory Authorities) are required to be paid in priority in payment over Financial Creditors, the higher of such amount as would have been paid to them: (a) in the event of a liquidation of the Corporate Debtor under Section 53 of the Code; or (b) if the amount to be distributed under the resolution plan had been distributed to them in the same order of priority in sub section (1) of Section 53 of the Code.

2.2.5 In the Resolution Applicant's assessment, the Liquidation Value is insufficient to even satisfy the claims of the Secured Financial Creditors in full and therefore, the amounts payable to the Operational Creditors in compliance with Section 30(2) (b) of the Code would be NIL. The Admitted Operational Creditors Debt shall be converted into equity shares of the Corporate Debtor and subsequently will be subject to Capital Reduction as specified in Section 3 (Acquisition as a Going Concern) of this Resolution Plan, as detailed below.

2.2.6 Following the payment, reduction, cancellation and extinguishment (as applicable) of the Admitted Operational Creditor Debt in accordance with this Resolution Plan, no amounts shall be payable to any Operational Creditors whether or not set out in the Information Memorandum, Virtual Data Room, balance sheets or the profit and loss account statements of the Corporate Debtor.

2.2.7 Further, any and all rights and entitlements of any actual or potential Operational Creditors

(including any person who may claim to be such a creditor by way of exercise of rights under Applicable Laws or equity) of the Corporate Debtor, whether such claims rights or entitlements (including any demand for any losses or damages, principal, interest, compound interest, penal interest, liquidated damages (including without limitation the demand for liquidated damages and any other charges made by MPTCL in terms of the PPA executed between the Corporate Debtor and MPTCL), and other charges already accrued/accruing or in connection with any third party claims) have been submitted to the Resolution Professional or not, whether admitted by the Resolution Professional or not, and whether or not set out in the Information Memorandum, the Virtual Data Room, the balance sheets of the Corporate Debtor or the profit and loss account statements of the Corporate Debtor, being due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, disputed or undisputed, whether the subject matter of any Proceedings or not, in relation to any period until the Effective Date shall be reduced to Nil and shall be deemed to be permanently extinguished with effect from the Effective Date, by virtue of the order of the NCLT approving this Resolution Plan. The Resolution Applicant shall at no point of time, directly or indirectly, have any obligation, liability or duty in relation thereto. For the removal of doubt, it is clarified that any Claim (as determined and verified in accordance with the Code) in respect of any debt that is in the nature of Operational Debt (as defined under Section 5 (21) of the Code), whether claimed or unclaimed, whether admitted, rejected or kept under verification, contingent or otherwise, whether crystallized or uncrystallised, on the Effective Date shall be deemed to constitute Admitted Operational Creditor Debt for the purposes of this Resolution Plan, and shall be accorded such treatment as is proposed under this sub-section 2.2 (Treatment of Operational Creditors) of the Resolution Plan."

**2.2.9 Treatment of Dues to Government and Statutory Authorities*

- (i) *As per the Information Memorandum and information available in the Virtual Data Room, Government and Statutory Authorities have submitted Claims for an amount aggregating to INR 42,494,439,721 out of which claims aggregating to INR 5,446,721,303 have been verified and admitted by the Resolution Professional ("Admitted Government and Statutory Authority Debt") and INR 36,403,311,332 has been admitted as contingent claims.*
- (ii) *In the Resolution Applicant's assessment, the Liquidation Value is insufficient to even satisfy the claims of the Secured Financial Creditors in full and therefore, the amounts payable to Government and Statutory Authorities in compliance Section 30(2)(b) of the Code would be NIL.*
- (iii) *The Admitted Government and Statutory Authority Debt shall be converted into equity shares of the Corporate Debtor and subsequently will be subject to Capital Reduction as specified in Section 3 (Acquisition as a Going Concern) of this Resolution Plan.*
- (iv) *Accordingly, the Resolution Applicant proposes to make NIL payment to Government and Statutory Authority in compliance Section 30(2)(b) of the Code read with Regulation 38 of the CIRP Regulations (i.e., the Government and Statutory Authority Payments).*
- (v) *Without prejudice to anything contained above, any other debt of Government and Statutory Authority appearing in the books of account of*

the Corporate Debtor, whether or not a claim has been filed in relation thereto, whether admitted or not, under verification, contingent or otherwise, asserted or unasserted, secured or unsecured shall be converted into equity shares of the Corporate Debtor and subsequently will be subject to Capital Reduction as specified in Section 3 (Acquisition as a Going Concern) of this Resolution Plan."

"(x) For abundant clarity, any and all dues payable to Government and Statutory Authorities shall be treated as follows:

- (a) all Claims or demands made by, or liabilities or obligations owed or payable to or assessed by, any Government and Statutory Authority, in relation to any dues, direct Taxes (including for any previous or current assessment year(s)), indirect Taxes, duties (including stamp duties), penalties, fees, interest, fines, levies, cesses, assessments or additions or any other charges or payments whatsoever on the Corporate Debtor or in relation to the Corporate Debtor, whether or not such Claims or demands are admitted, due or contingent, asserted or unasserted, crystallised or uncrystallised, assessed or unassessed, known or unknown, secured or unsecured, disputed or undisputed,*
- (b) any liabilities in relation to any consent, permission, privilege, entitlement, exemption, benefit, license or approval granted to the Corporate Debtor, or in relation to the Corporate Debtor, whether or not such consent, permission, privilege, entitlement, exemption,*

benefit, license or approval is subsisting, lapsed or expired,

(c)

whether or not such Claim, demand, liability is set out in the Information Memorandum, Virtual Data Room, the balance sheets or the profit and loss account statements of the Corporate Debtor, in relation to any period up till the Effective Date shall be reduced to Nil and shall be, and be deemed to be, permanently extinguished by virtue of the order of the NCLT approving this Resolution Plan and the Resolution Applicant or the Corporate Debtor shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto."

"2.16 Binding Effect of the Resolution Plan

Without prejudice to the generality of the foregoing, on and from the NCLT Approval Date, the Resolution Plan shall be binding on all Stakeholders of the Corporate Debtor and shall have the following binding legal effect with effect from the Effective Date:

- (i) The Resolution Plan shall be binding on all stakeholders and on and from the Effective Date, the Corporate Debtor shall start running the business and operations on a "fresh- slate" without any risk of payments or liabilities for past acts and omissions of the Corporate Debtor.
- (ii) Following the Effective Date, no liability would lie on the Resolution Applicant, any of its Affiliates, directors, employees and executives of the Resolution Applicant and/or its Affiliates, the directors and/or employees and/or executives of the Corporate Debtor appointed and/or continuing on and from the Effective Date. Without prejudice to the foregoing,

following the Effective Date, no Creditor, shareholder and/or member of the erstwhile Promoter Group would be entitled to initiate or continue any Proceeding, including those under criminal law against the Corporate Debtor and/or any of the persons noted above.

- (iii) *Subject to the provisions of the Applicable Law, all Non-Compliances of the Corporate Debtor for the period prior to the Effective Date (including but not limited to those relating to Tax), shall be deemed to be waived by all the Government and Statutory Authorities. In relation to any Non-Compliance arising under any foreign exchange regulations, Tax and duty benefit / subsidy scheme, the relevant Government Authority shall subject to the Applicable Law be deemed to have waived all such non-compliances by the Corporate Debtor without levying any fee, penalty or additional duty or impacting the benefits/subsidies available."*

**7.1 Implementation and Monitoring Committee*

- 7.1.1 Upon the occurrence of the NCLT Approval Date, a committee shall be constituted which shall comprise of one nominee on behalf of the Designated Lender, the Resolution Professional and one nominee of Resolution Applicant ("Implementation and Monitoring Committee"). On and from the NCLT Approval Date and till the Effective Date, the management and affairs of the Corporate Debtor shall be managed by the Implementation and Monitoring Committee. The Implementation and Monitoring Committee shall stand dissolved on and from the Effective Date without any further action or deed required from the Corporate Debtor. No financial liability shall arise on the*

Designated Lender, on account of its nominee member of the Implementation and the Monitoring Committee."

"7.3 Support from the Resolution Applicant prior to Effective Date

Post the NCLT Approval Date and prior to the Effective Date, the Resolution Applicant may at its discretion, undertake necessary steps and / or extend cooperation to the Resolution Professional / Implementation and Monitoring Committee for the expeditious resolution of any issues faced by the Corporate Debtor, subject to the approval of the COC / Implementation and Monitoring Committee as applicable. Any cash infused by the Resolution Applicant into the Corporate Debtor between the NCLT Approval Date and the Effective Date for the purpose of maintaining the Corporate Debtor as a going concern shall be treated as loan and shall be paid in priority to all payments under the Resolution Plan."

"9.2 Binding Effect

.... The Resolution Plan, once approved by the COC and the NCLT, shall be binding on 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 authorities to whom statutory dues are owed. Any such debt shall be deemed to be was provided for in the Resolution Plan."

Copy of the Approved Resolution Plan is annexed hereto and marked **Annexure – O**.

- 5.15. On a bare perusal of the terms of the Approved Resolution Plan, extracted hereinabove, it is apparent that all Operational Creditors, including Government and Statutory

Creditors, whose claim has been admitted by the Resolution Professional are proposed to be paid NIL amount, in light of the fact that liquidation value due to operational creditors, calculated is NIL/ insufficient to require any mandatory payment in terms of Section 30 (2) (a) of the Code. Further, under the terms of the Approved Resolution Plan, no claims or liabilities are permitted to be fastened on the Corporate Debtor, after the approval of the Approved Resolution Plan by this Hon'ble Tribunal and all such claims, including those not filed or verified or admitted stand extinguished. Accordingly, in respect of the claim of the Respondent No. 1 for a sum of Rs. 90.82 Crores, the Respondent No. 1 is not entitled to any payment and such claims stand extinguished by virtue of the Approved Resolution Plan.

5.16. The Resolution Professional of the Applicant, thereafter, filed Company Application No. 2829 of 2021, under the provision of section 30(6) of the Code before this Hon'ble Tribunal for seeking approval of the Approved Resolution Plan. During the pendency of such application, the Applicant on 26.7.2021 once again applied for renewal of consent (hereinafter referred to as the "**Second Renewal Application**") before the Respondent No. 1. The Applicant placed voluminous details with respect to the steps taken in respect of compliance with the provisions of the Air Act and the Water Act and also the steps that the Applicant proposed to take for continued compliance. The Applicant craves leave to refer to

and rely upon the Second Renewal Application, at the time of hearing of this application.

5.17. Though the Second Renewal Application was pending and the Respondent No. 1 had been made aware that its claim for a sum of Rs. 90.82 Crores would be dealt with in the CIRP, the Respondent No. 1, once again by a letter dated 12.08.2021, made a demand for payment of Rs. 90.82 Crores, which the Resolution Professional of the Applicant replied to by its letter dated 23.8.2021, pointing out that such demand cannot be made during the CIRP of the Applicant and the same would as such be dealt under the resolution plan. Copy of communication dated 12.8.2021 and copy of communication dated 23.8.2021 are annexed hereto and marked **Annexure – P (Colly)**.

5.18. To the shock and surprise of the Applicant, the Respondent No. 1, without considering the data and details furnished by the Applicant with the Second Renewal Application, and without providing any opportunity for hearing, by an order dated 25.09.2021 (hereinafter referred to as the "**Second Renewal Rejection Order**") rejected the Second Renewal Application, once again making the non-deposit of the sum of Rs. 90.82 Crores as one of the grounds of rejection. Copy of the order dated 25.9.2021 passed by the Respondent No. 1 is annexed hereto and marked **Annexure – Q**.

5.19. The Second Renewal Rejection Order along with the First Renewal Rejection Order came to be challenged by the Applicant before the Hon'ble High Court of Madhya Pradesh, Principal Seat at Jabalpur by filing Writ Petition No. 21774 of 2021. During the pendency of the said petition the Applicant made a fresh application for renewal of consent dated 22.10.2021 (hereinafter referred to as the "**Third Renewal Application**"). The said petition came to be disposed of by an Order dated 29.10.2021, with a direction to the Respondent No. 1 to consider the Third Renewal Application, filed by the Applicant on 22.10.2021, in accordance with law, after giving an opportunity of hearing to the Applicant, and after considering the material placed by the Applicant. The relevant parts of the Order dated 29.10.2021 are reproduced hereinbelow:

- "7. *Learned counsel for the respondents submits that the fresh application would necessarily be considered by them in accordance with law and the facts involved. That, they will look into every aspect of the compliance as narrated by the petitioner and thereafter, would pass an appropriate order in accordance with law.*
8. *In view of the submissions made, we do not find it expedient to entertain the present writ petition. It is suffice to direct the respondent No.1 - M.P. Pollution Control Board to consider the renewal application dated 22.10.2021 filed by the petitioner. Such a consideration shall be made by the respondent No.1 within a period of 30 days from the date the*

petitioner submits the compliance, and an appropriate order shall be passed after giving an opportunity to the petitioner of being heard in the matter and considering the material placed by the petitioner in support of his plea of compliance. The petitioner is also permitted to produce any additional material in support of his case with the respondents.

9. *The writ petition is disposed off accordingly."*

[Emphasis supplied]

Copy of the memo of Writ Petition No. 21774 of 2021 (without annexures) filed by the Applicant before the Hon'ble High Court of Madhya Pradesh and order dated 29.10.2021 are annexed hereto and marked **Annexure – R, Annexure – S**, respectively.

- 5.20. Despite placing the relevant material before the Respondent No. 1 by the Applicant, to the shock and surprise of the Applicant, the Respondent No. 1 passed the Impugned Order dated 8.12.2021 refusing to renew the Consent to Operate in respect of the Applicant. Such refusal is premised only on two grounds, one of which is the non-deposit of Rs. 90.82 Crores, as assessed by NEERI towards environmental damage compensation. Copy of the Impugned Order dated 8.12.2021 is annexed hereto and marked **Annexure – T**. For the completion of record, the Applicant states that it also submitted an online application on 22.12.2021 with Respondent No.1 for reconsidering the Impugned Order

dated 8.12.2021. The said request has been declined by the Respondent No.1 vide its Impugned letter dated 24.12.2021, copy whereof is annexed hereto and marked **Annexure – U**.

6. The Applicant submits that the action of the Respondent No.1 of continuing to demand the sum of Rs. 90.82 Crores is *ex facie* illegal, inasmuch as, the said claim does not survive under the Approved Resolution Plan, approved vide the Approval Order. The Applicant submits that once a resolution plan is approved by an Adjudicating Authority, it is, by virtue of Section 31(1) of the Code binding on all stakeholders, including the Central Government and State Government or any other statutory body. This position has been reaffirmed by the Hon'ble Supreme Court of India in the judgment reported in 2021 SCC OnLine SC 313 in the matter of *Ghanshyam Mishra and Sons Private Limited v/s Edelweiss Asset Reconstruction Company Limited and Others*. Further, it is pertinent to note that the Respondent No. 1 has not intervened before the this Hon'ble Tribunal in I.A. N. 2829 of 2021 at the time of considering the application for approval of resolution plan, or challenged the Approved Resolution Plan and, therefore also, it is precluded from making a demand for the sum of Rs. 90.82 Crores or make such a demand the basis of rejecting the application for renewal of the Consent to Operate.
7. The Applicant submits that the demand of Rs. 90.82 Crores by the Respondent No. 1, as a precondition to grant of renewal for the Consent to Operate, is clearly *non est* in law, since the debt / due itself does not survive by operation of law.

8. The Applicant submits that foisting such demand on the Applicant will also fall foul of the principle enunciated by the Hon'ble Supreme Court of India in the judgment reported in 2020 (8) SCC 531 in the matter *Committee of Creditors of Essar Steel India Limited v/s Satish Kumar Gupta*, which mandates that a resolution applicant takes a corporate debtor as if on a clean slate and all claims pertaining upto the CIRP date would come to an end in terms of the resolution plan. The Applicant submits that the stand of the Respondent No. 1 of demanding a sum of Rs. 90.82 Crores, for which it had lodged its claim during the CIRP of the Applicant, to deny the renewal of the Consent to Operate, is clearly contrary to the law declared by the Hon'ble Supreme Court and will result in derailment of the implementation of the Approved Resolution Plan. As a matter of fact, the Respondent No. 1 is liable to punishment under Section 74(3) of the Code for contravention of the Approved Resolution Plan for knowingly and wilfully contravening the terms of the resolution plan as approved by this Hon'ble Tribunal.
9. The Applicant further submits that the action of the Respondent No.1 of demanding payment of Rs. 90.82 Crores, as a pre-condition for renewal of the Consent to Operate of the Applicant, is ex facie illegal and militates against the objectives of the Code, inasmuch as the same would deprive the Applicant, the erstwhile Corporate Debtor, from being revived and rehabilitated. This would not only endanger the interests of all stakeholders in the Applicant and adversely affect employment opportunities and economic activities that the Corporate Debtor would generate, but will also lead to a

situation where the objective of maximization of value of assets may be defeated in case the Respondent No.2 seeks restitution on account of its inability to derive business returns from the acquisition of the Applicant.

10. The Applicant submits that this Hon'ble Tribunal has the jurisdiction under Section 60(5) to grant relief prayed for in the present Application, as the issue raised herein is clearly a question of law and fact arising out of and in relation to the insolvency resolution process of the Applicant and also pertains to contravention and/or disregard of the Approved Resolution Plan approved by this Hon'ble Tribunal, by an entity which is bound by such plan under Section 31(1) of the Code. This is further affirmed by the judgment of the Hon'ble Supreme Court of India reported in (2021) 7 SCC 209 in the matter of *Gujarat Urja Vikas Nigam Limited v/s Amit Gupta & Ors* whereby the Supreme Court held that the residuary jurisdiction granted to the Adjudicating Authority under Section 60(5)(c) of the IBC confers the Adjudicating Authority with a wide discretion to adjudicate questions of law or fact arising from or in relation to the insolvency resolution proceedings.
11. The Applicant craves leave to add, alter, modify or amend any plea and/or file additional documents to the aforesaid facts and pleading contained herein, if necessary.
12. In the aforesaid facts and circumstances, the Applicant prays that:

- A) This Hon'ble Tribunal be pleased to hold and declare that the Respondent No. 1 is not entitled to demand any sums, much less a sum of Rs. 90.82 Crores from the Applicant in light of the fact that the sum of Rs. 90.82 Crores was made as a claim in the CIRP of the Applicant and stands extinguished under the Approved Resolution Plan of the Respondent No.2;
- B) Pending hearing and final disposal of the present Application, this Hon'ble Tribunal be pleased to stay the operation and implementation of reason no.1 given in the Impugned Order dated 8.12.2021 and letter dated 24.12.2021 for rejecting the application for renewal of the Consent to Operate filed by the Applicant;
- C) Pending hearing and final disposal of the present Application, this Hon'ble Tribunal be pleased to restrain Respondent No. 1 and its officers from taking any coercive steps against the Applicant including its power plant, officers, employees, authorised representatives and personnel;
- D) Ex parte interim and/or ad-interim relief in terms of Prayer (B) and (C) be granted;
- E) For Cost;

- F) Such other and further orders as may be considered fit and expedient in the facts and circumstances of the present case be granted.

For Essar Power M.P. Ltd.


 / Authorised Signatory
 APPLICANT

FILED THROUGH

**GARIMA BAJAJ &
 RAGHAVENDRA M BAJAJ**
 Advocates
 D-256, LGF DEFENCE COLONY
 NEW DELHI-110024
 Enrol. No.D/1330/2009
 D/1524/2010
 9810279504
 garimabajajoffice@gmail.com
 off.rmb@gmail.com

Date: 01.2022
 Place: New Delhi

DECLARATION BY APPLICANT

The Applicant above named hereby solemnly declare(s) that nothing material has been concealed or suppressed and further declare(s) that the enclosures and typed set of material papers relied upon and filed herewith are true copies of their original.

Verified at WAIDHAN (M.P.) on this 3rd day of January, 2022.

For Essar Power M.P. Ltd.


 / Authorised Signatory
 APPLICANT

**GARIMA BAJAJ &
 RAGHAVENDRA M BAJAJ**
 Counsel for Applicant
 D-256, LGF DEFENCE COLONY
 NEW DELHI-110024
 Enrol. No.D/1330/2009
 D/1524/2010
 9810279504
 garimabajajoffice@gmail.com
 off.rmb@gmail.com

VERIFICATION

I, Rajeev Ranjan, son of Shri Nawal Kishore Singh, aged 52 years, Indian inhabitant, Authorised Signatory of the Applicant, having my address at E II B 304, Essar Township, Bilaunji, Waidhan, Singrauli, Madhya Pradesh – 486 886, do hereby verify that the contents of the Application are based on the record of the Applicant, maintained in the ordinary course of business and believed by me to be true.

Date: 03.01.2022

Place:

For Essar Power M.P. Ltd.


Authorised Signatory
Applicant/Authorized Officer

**GARIMA BAJAJ &
RAGHAVENDRA M BAJAJ**
Counsel for Applicant

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
PRINCIPAL BENCH AT NEW DELHI



Interlocutory Application No. of 2022

In

C.P. No. IB-863(PB)/2020

IN THE MATTER OF:

Essar Power MP Limited ... Applicant


Versus

M.P. Pollution Control Board and Ors. ... Respondents

AFFIDAVIT

I, Rajeev Ranjan, son of Shri Nawal Kishore Singh, aged 52 years, Indian inhabitant, Authorised Signatory of the Applicant, having my address at E II B 304, Essar Township Bilaunji, Waidhan, Singrauli, Madhya Pradesh – 486 886, do hereby solemnly affirm and state as under:

1. I am authorised by Implementation and Monitoring Committee of the Applicant Company. Being conversant with the facts leading to filing of the present application, I am duly authorized by the Applicant Company to make this affidavit on its behalf.
2. I say that I have read the contents of the above Application filed by the Applicant Company and I have understood the contents of the same.
3. I say that the contents of paragraph no. 1 are true to my knowledge, the contents of paragraph nos. 2 to 4, 5, 5.1 to 5.14, 5.15 (part), 5.16 to 5.20, 6 (part) and 11 of the above Application filed by the Applicant Company are based on the information available with Applicant Company and are believed by me to be true and the

For Essar Power M.P. Ltd.

Authorised Signatory


Ramashankar Shah
Advocate/NOTARY
Waidhan, Dist.-Singrauli (M.P.)

4. I say the annexures to the Application are true copies of their originals.



For Essar Power M.P. Ltd.
[Signature]
Authorized Signatory
DEPONENT

VERIFICATION

I, Rajeev Ranjan, do hereby verify the contents of the above affidavit to be true to the best of my knowledge, no part of it is false and nothing material has been concealed there from.

Verified at **Waidhan (M.P.)** on this 3rd day of January 2022.

Sig. Of *[Signature]*
Executive
For Essar Power M.P. Ltd.
[Signature]
Authorized Signatory
DEPONENT



[Signature]
Ramashankar Shah
Adv.
Waidhan, Dist. Singhauli (M.P.)

Identified by.

ANNEXURE-17**IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH****ITEM No. 10
(IB)-863(PB)/2020****IN THE MATTER OF:**

ICICI Bank Ltd.

Vs.

Essar Power M.P. Ltd.

.... Petitioner/Applicant

.... Respondent

Order Under Section 7 of Insolvency & Bankruptcy Code (CIRP)**Order delivered on 11.01.2022****CORAM:****DR. P.S.N. PRASAD,
HON'BLE MEMBER (JUDICIAL)****SH. HEMANT KUMAR SARANGI
HON'BLE MEMBER (TECHNICAL)****PRESENT:**

For the Petitioner

Mr. Ramji Srinivasan Sr. Adv., Mr. Garima Bajaj, Adv,
Rajshree Chaudhry**ORDER****IA-83/2022:**

This is an application filed under Section 60(5) of IBC, 2016 read with Rule 11 of NCLT, Rules, 2016. We have heard the submissions made by the Ld. Counsel for the Implementation and Monitoring Committee and also having noted the urgency in the matter. Respondent No. 1 is directed not to take any coercive steps against the applicant including in power plan till the next date of hearing.

Notice be served on the Respondents to file their reply, two weeks time is granted for Respondent to file their reply.

List the matter on 18.02.2022

-sd-

**HEMANT KUMAR SARANGI
MEMBER (TECHNICAL)**

-sd-

**(P.S.N. PRASAD)
MEMBER (JUDICIAL)**

**BEFORE THE NATIONAL GREEN TRIBUNAL (PRINCIPAL
BENCH), NEW DELHI**

ORIGINAL APPLICATION NO. 164 OF 2018

BETWEEN

Ashwani Kumar Dubey

...Appellant

VERSUS

Union of India & Ors.

...Respondents

VAKALTNAMA

KNOW ALL to whom these presents shall come that I, Tanmay Vyas, S/o Shri R.K. Vyas, aged about 44 years, having office at Adani Group, National Council of YMCA of India, Bharat, Yuvak Bhawan-1, Jai Singh Road, Gate No.5, New Delhi- 110 001, authorized representative of Respondent No. 39 ('**MAHAN ENERGEN LIMITED**'), do hereby appoint **MR. MAHESH AGARWAL, MR. RISHI AGRAWALA, MR. ANKUR SAIGAL, MR. ARSHIT ANAND, MRS. GEETIKA SHARMA, ADVOCATES, M/S. AGARWAL LAW ASSOCIATES, MERCANTILE HOUSE, GROUND FLOOR, 15 K.G. MARG, NEW DELHI-110001**" hereinafter called the Advocate to be My/our Advocate's in the above noted case and authorise him :

To act, appear and plead in the above noted case in this court in any other court in which the same may be tried or heard and also in the appellate courts.

To sign, file, verify and present pleading, applications, appeals, cross-objections or petitions for execution, review, revision, withdrawal, compromise or other petition, replies, objections affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages.

To file and take back documents.

To withdraw, or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case.

To take out execution proceedings.

To deposit, draw and receive moneys, cheques and grant receipts therefor and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.

To appoint and instruct any other Legal Practitioner authorising him to exercise the powers and authorities hereby conferred upon the Advocate whenever he may think fit to do so and to sign the power of attorney on my/our behalf.

And I/we the undersigned do hereby agree to ratify and confirm acts done by the Advocate or his substitute in the matter my/our own acts as if done by me/us to all intents and purposes.

And I/we undertake that I/we or my/our authorised agent would appear in the court on all hearings and will inform the Advocate for appearance when the case is called.

And I/we the undersigned do hereby agree not to hold the Advocate or his substitute responsible for the result of the said case in consequence of his absence from the court when the said case is called up for hearing, or for any negligence of the said Advocate or his substitute.

And I/we the undersigned do hereby agree that in the event of the whole or any part of the fee agreed by me/us to be paid to the Advocate remaining unpaid, he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. If any costs are allowed for an adjournment, the Advocate would be entitled to the same.

IN WITNESS WHERE OF I/we do hereunto set my/our hand to these presents of which have been understood by me/us this 12th day of September, 2025

Signature
13772/18
1/1001/97
DLK5792
 (MAHESH AGARWAL) (RISHI AGRAWALA)
 ADVOCATES
 MERCANTILE HOUSE, GROUND FLOOR,
 15, K.G. MARG, NEW DELHI-110001
 (Ph: 011 42200000 / 9910483627
 Email: mail@aglaw.in



RE: SERVICE REPLY: ORIGINAL APPLICATION NO. 164 OF 2018 BETWEEN ASHWANI KUMAR VERSUS UNION OF INDIA & ORS.

From Geetika Sharma <geetika.sharma@aglaw.in>

Date Fri 9/12/2025 5:49 PM

To officeornthakur@gmail.com <officeornthakur@gmail.com>

Cc Rajesh Chauhan <raju@aglaw.in>; Arshit Anand <arshit@aglaw.in>; Kaustubh Singh <kaustubh.singh@aglaw.in>

Dear Sir,

Please find attached the reply filed by R-39, MAHAN ENERGEN LIMITED_as and advance service upon you.

 [Ashwani Kumar Vs UOI Reply in OA 164 of 2018 Vol-I.pdf](#)

 [Ashwani Kumar Vs UOI Reply in OA 164 of 2018 Vol-II.pdf](#)

 [Ashwani Kumar Vs UOI Reply in OA 164 of 2018 Vol-III.pdf](#)

 [Ashwani Kumar Vs UOI Reply in OA 164 of 2018 Vol-VI.pdf](#)