

**In the National Company Law Tribunal
Mumbai Bench**

MA 1346 of 2018 in CP No.1554/I&BC/MB/MAH/2017

Application Under **Section 30(1) &(6)** and **Order under section 31** of Insolvency &
Bankruptcy Code 2016

In the matter of

State Bank of India

V/s

Calyx Chemicals & Pharmaceuticals Limited

Registered Office : Unit No. 110, Marwah's Complex, Krishnalal Marwah Marg, Off.
Saki Vihar Road, Andheri (East), Mumbai

Charu Desai

.....Applicant/ Resolution Professional

Order delivered on: 16.04.2019

Coram:Hon'ble Shri M.K. Shrawat, Member (Judicial)

For the Applicant : 1. Mr. Mustafa Kachwala,
2. Mr. Rakesh Misar

Per M.K. Shrawat, Member (Judicial).

ORDER

1. An Application has been moved on 02.11.2018 by the Learned Resolution Professional by invoking the Provisions of Section 30(6) of the Insolvency & Bankruptcy Code, 2016 read with Regulation 39(4) of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) 2016 for **approval of a Resolution Plan**. On receiving this Application along with Resolution Plan an **Order** is hereunder passed as prescribed **U/s 31(1) of The Code**.
2. The Financial Creditor State Bank of India **had filed a Petition by invoking the Provisions of Section 7 of The Code** read with Rule 4 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules 2016 on **31.10.2017**. After considering the merits of the case, the said Petition was **Admitted** vide an **Order dated 06.02.2018 (CP No.1554/I&BP/NCLT/MB/2017)**. Ms. Charu Desai was appointed as IRP.

3. The applicant submits that the resolution applicant is a consortium of two companies, namely M/s. Khilari Infrastructure Pvt. Ltd. and M/s Topnotch Chemicals Pvt. Ltd. M/s. Topnotch is the current supplier of the Corporate Debtor and M/s. Khilari is engaged in the business of solid waste management.
4. It is stated that the Resolution Plan submitted by the Resolution Applicant has been approved by the Committee of Creditors ('CoC') by a vote of 77.8% (being more than 66% as laid down in Sec.30(4) of the Code) of the voting shares, during e-voting held between 26-30 October, 2018. CoC consists of eighteen Financial Creditors. An Information Memorandum, was prepared by the RP and provided to all CoC members on 07.04.2018. Expression of Interest was invited from prospective Resolution Applicants for submission of Resolution Plans for the Corporate Debtor by way of an advertisement which was published in 'The Economic Times' newspaper on 12.04.2018 and was also put on the website of the Corporate Debtor. A revised EOI was published on 14.05.2018 in 'Business Standard' newspaper. Pursuant thereto, EOIs were received from 12 prospective resolution applicants out of which 9 were identified. Extension of 90 days U/s 12 of the Code was sought from this Bench for completion of CIRP of the Corporate Debtor.
5. On 31.08.2018, two Resolution Plans were received by the RP, one by Consortium of Khilari-Topnotch (*supra*) and other by Shamrock Pharmachemi Pvt. Ltd. (Shamrock). Both the plans were considered by the CoC in the various meetings conducted by the RP and pursuant to e-voting held on 26-30 October, 2018 on the revised resolution plan of Khilari-Topnotch Consortium, along with its latest commercial offer, the CoC approved the same by a vote of 77.08% voting share. The below table encapsulates summary of payments under the Successful Resolution Plan:

Nature of Creditor	Admitted Debt (₹ Crores)	Amount proposed (₹ Crores)	Percentage Haircut
Financial Creditors	1418.35 (approx..)	68.3	95.2%
Workmen & Employees	6.28 (approx.)*	4.83**	23.2%
Other Operational Creditors	21.45	0.7	96.7%
Statutory Dues	118.50***	2.5	97.5%

**Total amount includes admitted claims of ₹ 5.68 Crores for employees on payroll of the Corporate Debtor as on 06.02.2018 and ₹ 0.60 Crores for employees not on payroll of the Corporate Debtor as on 06.02.2018.*

***Gratuity of ₹ 2.56 Crores to be on accrual basis*

****Total amount of statutory liabilities of the Corporate Debtor as per the Successful Resolution Applicant. The claim amount admitted by RP is ₹ 100.18 Crores.*

6. The Resolution Applicants have submitted an affidavit as required under the Code in compliance with Section 29A of the Code. The RP submits that the Resolution Applicant is not disqualified U/s 29A of the Code. The Resolution Plan is discussed hereunder in detail:

a) Claims admitted against the Corporate Debtor

1. Financial Creditors (in INR Lacs)

S. No.	Particulars	Claim Submitted	Admitted Amount
1	State Bank of India	56,012.62	56,012.62
2	Punjab National Bank	15,533.19	15,532.64
3	EXIM	11,258.07	11,258.07
4	Allahabad Bank	9,420.85	9,420.84
5	Jammu & Kashmir Bank	8,361.84	8,359.51
6	Bank of India	7,119.84	6,973.51
7	Canara Bank	6,407.76	6,396.07
8	Corporation Bank	6,093.04	6,093.55
9	IDBI	4,564.43	4,564.44
10	Oriental Bank of Commerce	4,463.18	4,463.18
11	Bank of Maharashtra	4,383.39	4,371.10
12	UCO Bank	3,624.32	3,624.32
13	SBI Global Factors	1,061.50	1,061.50
14	Bank of Bahrain and Kuwait	924.90	924.90
15	Dena Bank	865.00	865.00
16	Indian Bank	870.38	800.83
17	Kotak Mahindra Bank	802.32	797.93
18	Can Bank Factors		

	(unsecured)	314.85	314.85
	Total	142,081.48	141,834.83

Note: This is as per the claim sheet given in the Data Room / Information Memorandum. The total amount given in the provisional balance sheet as on 31st March 2018 is INR 1,421.04 Crores.

2. Trade Payables (forming part of Operational Creditors) (in INR Lacs)

S. No.	Name of Vendors	Claim Submitted	Admitted Amount
1	CSPC OUYI Pharmaceutical Co. Ltd	1,871.43	1,488.67
2	Nexchem Pharmaceuticals Co. Ltd.	276.69	276.69
3	Aromatic and Industrial Chemicals Limited	233.39	59.18
4	AtulImpexPvt Ltd	164.18	24.99
5	Jiangsu Guotai International Group	104.41	103.00
6	Jivraj Chemicals Industries Pvt Ltd	49.10	38.84
7	Sequent Scientific Ltd.	33.45	17.15
8	Blossom Freight Forwarding (India) Pvt.Ltd.	24.53	13.57
9	Shree Ganesh Decorators And Caterers	17.95	14.47
10	Trig Guardforce Ltd.	12.17	10.38
11	SBICAP Trustee Company Ltd.	9.09	7.20
12	Tops Security Ltd.	6.39	6.39
13	Shreetech Associates	5.11	4.07
14	SpincotechPvt Ltd	4.31	3.84
15	Kalpesh Enterprise	4.00	3.60
16	Shree Aarti Enterprises	3.71	3.52
17	Meera Chemicals Industries	3.64	3.64
18	Fine Chem Corporation	3.63	3.63
19	Mruga Corporate Services Limited	3.53	2.55
20	Saini Bhojanalay	3.35	3.35
21	Ambavat Jain & Associates LLP	3.33	2.47
22	Laxmichand& Sons	2.82	0.17
23	Stanrose	2.49	2.17
24	Bhadresh Trading Co.	2.43	2.42
25	Technics Unlimited	2.31	2.25
26	Karrat Chemicals (India) Pvt. Ltd.	2.27	2.27
27	Sanjay H. Mehta	2.20	1.40
28	LDS InfotechPvt Ltd.	2.14	2.14

29	Shree Gaurav Rubber Products	2.07	1.83
30	Nishant Power Solution Pvt. Ltd.	2.04	-
31	KHUSHI SCIENTIFIC	1.99	1.99
32	K. G. N. Cool Centre	1.96	1.96
33	Shree Ganesh Fire Equipments	1.95	0.06
34	Sai Raj Tempo Service	1.91	1.91
35	Bhavani Electrical Engineering	1.83	1.83
36	Airmax Engineers	1.64	1.64
37	United Futuristic Trade Impex Pvt. Ltd.	1.58	1.05
38	Hym Brothers Analytical Solutions Private Ltd	1.34	0.30
39	TASC Chemical Industries Pvt. Ltd	1.33	0.39
40	Dhanashree Polymers Pvt. Ltd.	1.31	1.31
41	SUPER INDUSTRIAL GASES	1.28	0.62
42	Arihant Enterprise	1.27	0.77
43	Par Filters Pvt. Ltd	1.26	1.26
44	Kiran Steel Furniture	1.25	1.25
45	Icon Industries	1.23	1.23
46	New Aim Fire Services	1.22	1.22
47	D. H. Zaveri	1.19	1.19
48	Kan Power Rubber Industries	1.15	1.09
49	Zen Scientific Pvt. Ltd	1.08	1.03
50	Rajyog Fire Services Pvt. Ltd.	1.06	0.87
51	AIR SOURCE TECHNOLOGY	1.06	0.48
52	Shreeji Enterprises	0.99	0.99
53	Ambika Trading Co.	0.99	0.74
54	EPS WORLDWIDE	0.97	0.71
55	Transcreek Engineers Pvt. Ltd.	0.94	0.83
56	Painter & Painters	0.89	0.89
57	Mayur Enterprise	0.89	0.89
58	Educational Book Centre	0.82	0.82
59	Airtech	0.82	0.45
60	Promas Research Laboratories Pvt Ltd	0.77	0.60
61	Orion Scientific Suppliers Pvt Ltd	0.72	0.72
62	BadriprasadVishwakarma	0.67	0.67
63	ACCUMAN CAL-VAL SERVICES	0.65	0.60
64	Tushar Elevators	0.64	0.64
65	Gautam Trading Company	0.58	0.46
66	Perfect Pollucon Services	0.57	0.57
67	Mohit Chemical & Pharmaceuticals	0.57	0.57
68	Ash Traders	0.48	0.47

69	Daman Research & Testing Center	0.46	0.46
70	Gaurav Composite Containers	0.38	0.38
71	Petroleum Engineers	0.36	0.36
72	UNIPHOS ENVIROTRONIC PVT. LTD.	0.35	0.20
73	Suresh D Shenoy	0.34	0.29
74	MANAVI COMPUTER	0.33	0.32
75	UmapatiMahadev Transport Co.	0.32	0.32
76	Ambika Xerox Center	0.32	0.32
77	Adarsh Bearing Private Ltd.	0.30	0.30
78	Sonal Services	0.30	0.27
79	Numex Chemical Corporation	0.29	0.29
80	Ravindra J Agarkar	0.28	0.14
81	Rushabh Rent A Car	0.25	0.22
82	Snow White Power Laundry	0.23	0.18
83	Accurate Gases & Equipment	0.21	0.21
84	PRIMARK TRAVEL HOUSE PVT. LTD.	0.14	0.13
85	The Solution	0.13	0.13
86	Ion Exchange	0.10	-
87	Hazel Mercantile	0.05	-
88	Global Chromatography	0.05	0.05
	Grand Total	2,906.17	2,145.48

Note: This is as per the claim sheet given in the Data Room / Information Memorandum. The total amount given in the provisional balance sheet as on 31st March 2018 is INR 35.35 Crores.

3. Employee Dues forming a part of Operational Creditors

The total claims submitted by the employees have been classified under the following categories:

S. No.	Employee Dues forming a part of Operational Creditors	Total claims admitted (in INR Lacs)
1	Employees not on Payroll as on 6th Feb	60.08
2	Employees on Payroll as on 6th Feb	568.83
	Total	628.91

Note: This is as per the claim sheet given in the Data Room / Information Memorandum. The total amount given in the provisional balance sheet as on 31st March 2018 is INR 4.01 Crores (Employee expenses INR 2.24 Crores and provision for gratuity and leave encashment INR 1.77 Crores)

Details of employees under each of the above categories of claims is enclosed.

4. Related Parties

The total amount payable to related parties of the Company is provided herein below:

S. No.	Name of Related Party	Nature of Relation	Balance as on 6 February 2018 (in INR Lacs)	Type of Debt
	MSD Trading LLP	Enterprises influenced by Key Management Personnel	140.56	Unsecured loan payable
	Top Lifescience International Private Ltd	Enterprises influenced by Key Management Personnel	6,920.08	Unsecured loan payable
	Bharat Mehta	Key Management Personnel	785.14	Unsecured loan payable
	RajatDoshi	Key Management Personnel	230.31	Unsecured loan payable
	Smitesh Shah	Key Management Personnel	2,359.05	Unsecured loan payable
	AlpanaDoshi	Relatives of Key Management Personnel	31.63	Unsecured loan payable
	Parul Shah	Relatives of Key Management Personnel	1.05	Unsecured loan payable
	Saumini Shah	Relatives of Key Management Personnel	0.53	Unsecured loan payable
	Singind Life Sciences Pte. Ltd	Subsidiary Company	527.92	Advance received
	Singind Life Sciences Pte. Ltd	Subsidiary Company	424.85	Operational debt
	Total		11,421.17	

Note: This is as per the claim sheet given in the Data Room / Information Memorandum. The total amount given in the provisional balance sheet as on 31st March 2018 is INR 109.78Crores

5. Statutory Dues

The Company has the following statutory dues, summary is as below:

Sr. No.	Statute	Amount (in INR Lacs)
1	GST Claim	-
2	TDS Claim	57.93
3	CST and VAT Claim	2,112.49
4	Customs Claim	7,847.69

5	Income Tax	1,832.71
	Total	11,850.81

Note: This is as per the information given in the Data Room / Information Memorandum. The total amount given in the provisional balance sheet as on 31st March 2018 is INR 18.75Crores

6. Residuary Liabilities

Apart from the aforementioned, the Company has the following liabilities:

Other residuary liabilities		
S. No	Particulars	Amount (in INR Lacs)
1	Creditors for Fixed Assets	25.78
2	Security Deposit	1.50
3	Advanced received from customers	127.18
4	JB Khokhani & Co.(Bailor Bailee Arrangement)	92.21
5	Other outstanding expenses	104.10
	Total	350.78

Note: The above table is as per the provisional financials of FY 2017-18

DETAILS OF THE RESOLUTION APPLICANT

*The resolution applicant is a consortium formed by M/s Khilari Infrastructure Private Limited (“**Khilari**”) and M/s Topnotch Chemicals Private Limited (“**Topnotch**”) vide a consortium agreement dated August 27, 2018 (collectively, “**Resolution Applicant**”). Further details of each member of the consortium is being provided hereinbelow.*

1. **KHILARI:**

Khilari, is a private limited company incorporated under the (Indian) Companies Act, 1956 having its registered office at 101 Prabhat Centre, Sector-1A, Belapur, Mumbai 400614 with CIN U45200MH2005PTC152495. Khilari is registered as a civil contractor with the City and Industrial Development Corporation (CIDCO). Khilari is engaged in the business of solid waste management that, inter alia, includes operation and maintenance of dumping ground, operation of sewage treatment plant and other work related to hazardous waste management. Khilari is one of the leading players in providing and building sewage treatment plant, operation and maintenance of sewage treatment plant, scientific closure of dump yard as per MSW Rule-2000, Hazardous waste Management. Khilari operates at Government of Jammu & Kashmir, RUIDP-Udaipur, NMMC, CIDCO, Aurangabad Municipal Corporation, Shirdi Municipal Corporation, Pandharpur Municipal Corporation, Lucknow Jal Nigam, Government of Goa and Government of Punjab.

• Shareholding Pattern

The shareholding pattern of Khilari as on July 31, 2018, is as given below:

S. No.	Name of the shareholder	Percentage
	Mr. Aayush Khilari	50 %
	Mrs. Anjali Khilari	50 %
	TOTAL	100.00%

• Promoters and Directors of Khilari

The current directors and promoters of Khilari are (i) Mr. AayushSahebraoKhilari; and (ii) Mr. Anjali SahebraoKhilari.

The (i) certificate of incorporation and certificate of incorporation pursuant to name change;(ii) memorandum of association; (iii) articles of association of Khilari and (iv) certificate from a chartered accountant confirming the shareholding pattern of Khilari are hereto enclosed collectively as **Annexure 2**.

2. **TOPNOTCH:**

Topnotch, is a private limited company incorporated under the (Indian) Companies Act, 1956 having its registered office at Plot No. C-116, Pawana Village T.T.C Industrial Area, Thane, Belapur Road, Navi Mumbai – 400 703 with CIN U99999MH1988PTC049651. Topnotch is, inter alia, engaged in the business of manufacturing, developing, supplying and exporting highly effective range of chemicals. These chemicals are acknowledged for their accurate formulation, purity, stability and long shelf life. The expertise of Topnotch allows them to develop finest quality and safest range of chemicals in different grades, as per the application requirements of their clients. These chemicals are used as intermediates in pharmaceutical formulation and for developing specialty chemicals and other industrial applications.

A. Shareholding Pattern

The shareholding pattern of Topnotch as on July 31 2018, is as given below:

S. No.	Name of the shareholder	Percentage
(a)	Mr. KhanduVaral	26.84%
(b)	Mr. Vasant Jain	26.84%
(c)	Mr. Mohanlal Jain	10.56%
(d)	Mrs. SangeetaVaral	17.88%
(e)	Mrs. Pinky Jain	17.88%
	TOTAL	100.00%

B. Promoters and Directors of Topnotch:

The current directors and promoters of Topnotch are (i) Mr. KhanduVaral; and (ii) Mr. Vasant Jain.

The (i) certificate of incorporation; (ii) memorandum of association; (iii) articles of association of Topnotch and (iv) certificate from a chartered accountant confirming the shareholding pattern of Topnotch are hereto enclosed collectively as **Annexure 3**.

3. **DISCLOSURE WITH RESPECT TO RESOLUTION APPLICANT AND CONNECTED PERSONS**

In terms of Regulation 38(3) of the CIRP Regulations, following are the connected persons of the Resolution Applicants:

1.1.1 Khilari

S. No.	Name of Connected Persons	Legal Status	Relationship
1.	Mr. AayushSahebraoKhilari	Individual	Director in Khilari

2.	Mrs. Anjali SahebraoKhilari	Individual	Director in Khilari
3.	Mr. SahebraoSukhdeoKhilari	Individual	CEOofKhilari
4.	Labh Neo Age Developers Pvt. Ltd.	Private limited company	Mr. SahebraoKhilari is a director in Khilari as well as the Connected Person
5.	SiddharthMegahomes Pvt. Ltd.	Private limited company	Mrs. Anjali Khilari& Mr. SahebraoKhilari are directors in the Connected Person, and in the management of Khilari.
6.	BMS Enterprise	Partnership Firm	Mr. SahebraoKhilari is a partner in the Connected Person, and in management of Khilari.
7.	SS Khilari	Partnership Firm	Mr. SahebraoKhilari is a partner in the Connected Person, and in the management of Khilari.
8.	Siddharth Developers	Partnership Firm	Mr. SahebraoKhilari is a partner in the Connected Person, and in the management of Khilari.
9.	Siddharth Progressive	Partnership Firm	Mr. SahebraoKhilari is a partner in the Connected Person, and in the management of Khilari.
10.	SS Labhrati Developers	Partnership Firm	Mr. SahebraoKhilari is a partner in the Connected Person, and in the management of Khilari.
11.	K.K. Enterprise	Partnership Firm	Mr. SahebraoKhilari is a partner in the Connected Person, and in the management of Khilari.

1.1.2 Topnotch

S. No.	Name of Connected Persons	Legal Status	Relationship with Resolution Applicant
	Mr. KhanduVaral	Individual	Director in Topnotch
	Mr. Vasant Jain	Individual	Director in Topnotch
	AmrutTulsi Industries Pvt. Ltd	Private Company	Mr. KhanduVaral and Mr. Vasant Jain, who are directors in Topnotch, are also directors in the connected person
	Amrut Chemicals	Partnership Firm	Mr. KhanduVaral and Mr. Vasant Jain, who are directors in Topnotch, are Partners in the connected person
	Saj Vision Developers	Partnership Firm	Mr. KhanduVaral and Mr. Vasant Jain, who are directors in Topnotch, are Partners in the connected person

*The identity documents of the Resolution Applicant is already enclosed herewith as **Annexures 2 and 3** respectively. Identity documents for directors, shareholders and connected persons of Khilari and Topnotch is hereto annexed as **Annexure 4**.*

The Resolution Applicant confirms that:

- 1. The Resolution Applicant and connected persons have not suffered any conviction for any offence during the preceding five years;*
- 2. There are no criminal proceedings pending against the Resolution Applicant and connected persons;*

3. *The Resolution Applicant and connected persons are not disqualified under Companies Act, 2013, to act as a director (or under similar foreign law applicable to it);*
4. *The Resolution Applicant and connected persons are not identified as a wilful defaulter by any bank or financial institution or consortium thereof in accordance with the guidelines of the Reserve Bank of India (or under similar foreign law applicable to it);*
5. *The Resolution Applicant and connected persons are not debarred from accessing to, or trading in, securities markets under any order or directions of the Securities and Exchange Board of India (or under similar foreign law applicable to it); and*
6. *The Resolution Applicant and connected parties have not conducted any transactions with the Company other than supplying raw materials against purchase order in the preceding two years.*

FUNDING/ REPAYMENT/ RESTRUCTURING OF DEBT AND FUTURE PLANS

1. SUMMARY OF CLAIMS TO BE ADDRESSED UNDER THE PLAN

As per the Information Memorandum, the admitted claims of various classes of creditors are as follows:

S.No	Claimant	Claim Admitted (In INR Lacs)
1.	Financial Creditors	1,41,834.83
2.	Operational Creditors – Employee and Workmen	628.91
3.	Trade Payables (forming a part of operational creditors)	2,145.48
4.	Related Party Claims	11,421.17
5.	Statutory Claims and Dues	11,850.81
Total		1,67,881.20

Notes:

1. *The serial nos. at 1 to 4 in the table hereinabove is intended to include only those claims which have been submitted to the Resolution Professional and have been admitted by the Resolution Professional. Any other claim not admitted by the Resolution Professional will not form part of this Resolution Plan and shall stand waived on the NCLT Approval Date.*
2. *For serial no. 5, the amount mentioned herein includes all statutory claims against the Company, whether reflected in the provisional balance sheet of the Company or reflected in the Data Room, as the case may be.*

2. CAPITAL RESTRUCTURING, FUNDING AND UTILIZATION

*The Resolution Applicant proposes to invest into the Company by (i) subscribing (through their name as well as their nominees) to 1,00,000 equity shares of INR 10 each (“**New Equity Shares**”), for a total consideration of INR 10 Lacs (“**Share Subscription Consideration**”) as on the Closing Date and (ii) subscribing to unsecured optionally convertible debentures (“**OCDs**”) for a consideration (“**OCD Consideration**”), within a period of 60 (sixty) days from the Closing Date. The 60(sixty)day period is the maximum time period we envisage for completing issuance of OCDs. However, if the process is completed earlier, the funding and utilisation will also take place earlier. The utilisation of the Share Subscription Consideration and OCD Consideration shall be made in the manner set out hereinafter in this Chapter.*

On the Closing Date, the Equity Shares held by the erstwhile Shareholders would stand extinguished by way of reduction in capital of the Company. All 1,64,13,473 Equity Shares of the Company held by the erstwhile Shareholders shall stand cancelled and only

the New Equity Shares issued to the Resolution Applicants and their nominees shall remain in the Company.

3. SUMMARY OF PAYMENTS

The Resolution Applicant proposes to utilise the Share Subscription Consideration and OCD Consideration to pay and settle various claims as a part of the Resolution Plan, in the following manner:

Stakeholder	Admitted Claim as per IM (INR) Crore	Total Payment (INR) Crore	Upfront (INR) Crore	Balance Payment Crore
CIRP Costs(A)	NA	3.00* *(as per Resolution Professional)	Entire CIRP Costs (within 30 days from the NCLT Approval Date, in priority to any other payments)	Nil
Financial Creditors (B)				
Financial Creditors	1,418.35	68.30	68.30 1750% to be paid within 30 days from Closing date. 18 Balance 50% to be paid within 60 days from the Closing Date	Nil
Operational\ Creditors (C)				
Employee and Workmen	6.29	4.83	INR 1.16 (within 30 days from the NCLT Approval Date)	1. Gratuity Payment of INR 2.56 Crores to be paid on accrual basis 2. INR 1.11 towards outstanding salary shall be paid on discharge from Employment or within 2 years from Closing Date, whichever is earlier.
Statutory liabilities other than Statutory Liability towards Workmen and Employees	118.51	2.50	INR 2.50 (within 60 days from the Closing Date)	Nil
Liability towards Operational Creditors (Other than Employee Liabilities) and	24.95	0.70	INR 0.70 (within 60 days from the Closing Date)	Nil

Residuary Liabilities			
Sum to be infused by the Company (E)			
	Total sum to be introduced (INR in Crores)	Upfront (INR in Crores)	Balance payment (INR in Crores)
Working capital	37.00	A. 20.00 – brought in as Non Fund based limit by lead partner (Bank Certificate Attached) B. 17.00 – OCD Consideration	Nil
Capital expansion	10.00	10.00 – OCD Consideration	Nil
Share Subscription Consideration	0.10	0.10 Crore	Nil
GRAND TOTAL (A+B+C+D +E)	126.42	122.76	3.66

A performance guarantee of INR 10 Crores shall be deposited with the Resolution Professional (“Performance Guarantee”). The Bid Bond Guarantee of INR 2 Crores shall also be provided to the Resolution Professional. Hence in aggregate, banks guarantees of worth INR 12,00,00,000 (Indian Rupees Twelve Crore only) (collectively “Guarantees”) shall remain with the Resolution Professional post issue of Letter of Intent.

Further, once the payments envisaged to Financial Creditors in the table above are complete, the Guarantees (worth INR 12 Crores) shall be unconditionally released and returned to the Resolution Applicant. The Guarantees shall be provided by the banker of the Resolution Applicant being Oriental Bank of Commerce.

The Performance Bank Guarantee above would include the following language:

“If the Resolution Applicant commits default in adhering to any tranche of the payment terms as mentioned in the Resolution Plan i.e. the total upfront amount of INR 68.30 Crores within 60 days from Closing Date in the following manner:

- a) 50% of the amount within 30 days of Closing Date and*
- b) balance 50% of the amount within 60 days of Closing Date,*

State Bank of India has got absolute rights to invoke and encash this bank guarantee without recourse to us.”

Post-dated cheques of value not exceeding INR 68.30 crore issued in favour of a mutually agreed person, be provided by the Resolution Applicant one working day after the Closing Date. On full payment of the FC Payment (as defined below) to Financial Creditors within the timeline stipulated in the table above (related to Financial Creditors “B”), the Guarantees including the Performance Guarantee and Bid Bond Guarantee shall be unconditionally released and returned to the Resolution Applicant, and the post-dated cheques provided by the Resolution Applicant shall also be duly returned to the Resolution Applicant, within 5 (five) days of payment to Financial Creditors being completed.

For arranging funds for Share Subscription Consideration and OCD Consideration, the Resolution Applicants and its shareholders shall infuse the fund in following manner:

1. Funds available with banks – INR 44.84Crores
2. Non Fund limit available with banks – INR 20.00Crores

3. 'Clean' trade receivables available with Resolution Applicant – INR 49.37Crores
4. Mr. Sahebrao Khilari would infuse amount upto INR 24.91Crores (Net worth of Mr. Khilari as on 31st March 2017 is INR 24.91Crores)

Further, documents are enclosed as proof of funds collectively in **Annexure 5**.

4. **DETAIL OF PAYMENTS TO BE MADE BY THE RESOLUTION APPLICANTS:**

a. **CIRP Costs**

The Resolution Applicant proposes that outstanding CIRP Costs be paid out of the Share Subscription Consideration and OCD Consideration, in priority to the repayment of any other claims. It is envisaged that CIRP Cost will be paid on actual basis.

b. **Payments to Financial Creditors**

- a. *As on Insolvency Commencement Date, the admitted claims of Financial Creditors is INR 1,418.35 Crores while the amount outstanding towards promoters and related parties is INR 106.41 Crores. The Resolution Applicant proposes to make a payment of INR 68.30 Crores (“FC Payment”) to settle the admitted claims of the Financial Creditors in the following manner:*

Financial Creditor	Admitted Claim as per Claim Sheet (INR in Crores)	Total Payment (INR in Crores)	OCD Consideration (INR in Crores)	Balance Payment (INR in Crores)
Financial creditors other than related parties	1,418.35	68.30	1. 50% to be paid within 30 days from Closing Date Balance 50% to be paid within 60 days from the Closing Date	Nil
Related Parties	114.21	Nil	Nil	Nil
TOTAL	1,532.56	68.30	68.30	Nil

- b. *The sum of INR 68.30 Crores as the payment to Financial Creditors (as per the above table) shall be paid to the Financial Creditors in full and final settlement of all their claims against the Company. Such payment shall be made as follows;*
- i. *50% of the FC Payment shall be paid within 30 days from the Closing Date; and*
 - ii. *Balance 50% of the FC Payment shall be paid within 60 days from the Closing Date.*
- c. *The Guarantees shall remain with the Resolution Professional post issue of Letter of Intent.*

- d. Further, once the payments envisaged to Financial Creditors in the table above are complete, the Guarantees (worth INR 12 Crores) shall be unconditionally released and returned to the Resolution Applicant. The Guarantees shall be provided by the banker of the Resolution Applicant being Oriental Bank of Commerce.
- e. Post-dated cheques of value not exceeding INR 68.30 crore issued in favour of a mutually agreed person, be provided by the Resolution Applicant one working day after the Closing Date. On full payment of the FC Payment (as defined below) to Financial Creditors within the timeline stipulated in the table above (related to Financial Creditors "B"), the Guarantees including the Performance Guarantee and Bid Bond Guarantee shall be unconditionally released and returned to the Resolution Applicant, and the post-dated cheques provided by the Resolution Applicant shall also be duly returned to the Resolution Applicant, within 5 (five) days of payment to Financial Creditors being completed.
- f. No amount is proposed to be paid to the promoters of the Company against their claims against the Company for any equity or debt, whether financial or operational or otherwise. Therefore, all liability of the Company towards the erstwhile promoters of the Company (including in respect of payment of principal, interest, delayed interest, default interest, damages and charges) shall stand extinguished pursuant to the NCLT Approval Order, without any further action on part of any Person, and neither the Company, nor the Resolution Applicant shall be liable or responsible for making any payments to them. All such claim, whether past, present or future shall stand waived, discharged and settled completely with effect from the NCLT Approval Date.
- g. Upon payment of the upfront amount to the Financial Creditors as stipulated in Part C of this Chapter IV, the entire liability of the Company towards Financial Creditors (including but not limited to in respect of payment of principal, interest, delayed interest, default interest, damages and charges) shall stand extinguished and satisfied, pursuant to the NCLT Approval Order, without any further action on part of any Person, and neither the Company, nor the Resolution Applicant shall be liable or responsible for making any payments to the Financial Creditors. The Financial Creditors shall be entitled to recover any part of the above debt, from the erstwhile promoters / personal guarantors of the Company.
- h. As far as the Company and Resolution Applicant are concerned, upon payment of the upfront amount to the Financial Creditors as stipulated in Part C of this Chapter IV, all claims, whether past, present or future shall stand waived, discharged and settled completely with effect from the NCLT Approval Date.
- i. In consideration of payments to the Financial Creditors, the Financial Creditors shall withdraw all enforcement actions, SARFAESI notices, suits and cases filed by them against the Company in various forums including courts, tribunals, NCLT, any Governmental Authority, or any other Person, a list whereof is annexed as Annexure 6. Notwithstanding the above, the Financial Creditors shall however be entitled to proceed with the enforcement actions, SARFAESI notices, suits and cases against the erstwhile promoters / personal guarantors of the Company.

Within 2 (two) weeks of, the later of, payment of the upfront amounts to the Financial Creditors as stipulated in Part C of this Chapter IV, the Financial Creditors shall make appropriate filings with the Ministry of Corporate Affairs/ Registrar of Companies for releasing the charges and satisfaction of all the charges (in terms of payments agreed to be made herein) on Company Securities and also issue a "Letter of Confirmation" to the Company, in the form set out at **Annexure 11**, confirming that no dues are pending from the Company towards Financial Creditors (including but not limited to in respect

of payment of principal, interest, delayed interest, default interest, damages and any other charges). Further the “Letter of Confirmation” to state that notwithstanding anything to the contrary stated in the Indian Contract Act, 1872 or in this Resolution Plan, the securities and guarantees/contractual comforts provided by erstwhile Shareholders/ erstwhile promoters in respect of the debt of the Company (except any Encumbrance on the Equity Shares) has not been extinguished. It is hereby clarified that the said Letter of Confirmation shall have no impact on the securities and guarantees/contractual comforts provided by erstwhile Shareholders/erstwhile promoters in respect of the debt of the Company (except any Encumbrance on the Equity Shares).

- j. Additionally, all the original documents pertaining to immovable assets currently in the custody of the Financial Creditors shall be duly handed over to the Company.
- k. The Resolution Applicant acknowledges that the Committee of Creditors may agree in a meeting to allocate FC Payment amongst the Financial Creditors, in a proportion which may not be as set out in this Resolution Plan. Any such allocation determined by Committee of Creditors vide a resolution passed with requisite majority and approved by NCLT shall be binding on the Resolution Applicant.
- l. Notwithstanding anything contained herein, payment to the Financial Creditors as per this Resolution Plan will not be reduced on crystallisation of any other contingent liability in respect of the Company.
- c. **Payment To Operational Creditors (Workmen and Employees)**
- a. The total liability of the Company towards Workmen and Employees as per the claim sheet above is INR 6.29 Crores (including Net Salary, Leave Encashment, Bonus, PT, PF, TDS and Gratuity) whereas, as per the provisional balance sheet of the Company as on March 31 2018, the estimated liability towards workmen and employees is INR 4.01 Crore.
- b. Out of the INR 6.29 Crores, INR 1.16 Crores is Statutory Liability towards PF, PT and TDS and INR 2.56 Crores is towards Gratuity and INR 1.11 Crores towards Net Salary. Break up given below as given below:

Liabilities Towards Workmen and Employees			
S.No.	Statute	Total Liabilities – as on CIRP Commencement Date (INR in Crores)	Share of Payment to be made (INR in Crores)
1	Employee and Workmen TDS**	0.38	0.38
2	Employee and Workmen PF**	0.74	0.74
3	Employee and Workmen Prof Tax**	0.04	0.04
	Total of Above	1.16	1.16*
4	Net Salary + Leave Encashment + Bonus *	2.57	1.11
5	Gratuity (Paid on accrual basis)**	2.56	2.56
	Total	6.29	4.83

Note

*:Net Salary + Leave Encashment + Bonus of all employees and workmen to the extent of amount allotted above shall be paid as per annexure 7, on discharge of relevant

Workman or Employee from Employment or within 2 years from Closing Date, whichever is earlier

****:** *The Statutory Liabilities towards the Workmen and Employees will be paid in full*

- c. *The Resolution Applicant proposes to pay an upfront sum of INR 1.16 Crores, (“**Workmen Payment**”) within 30 days from the Closing Date, towards PF, PT & TDS. Gratuity (currently provisioned for INR 2.56 Crores) will be paid as and when due, in accordance with the Applicable Law. Also, Net Salary, Leave Encashment, Bonus of all employees and workmen to the extent of INR 1.11 Crores shall be paid **as per Annexure 7**, on discharge of relevant Workman or Employee from Employment or within 2 years from Closing Date, whichever is earlier. The aforesaid amounts will be full and final amount and one time settlement of all workmen and employees dues as on Insolvency Commencement Date. While the Resolution Applicant is not aware of the liquidation value of the Company, for the purpose of this Resolution Plan, the underlying assumption of the Resolution Applicant is that the liquidation value due to the Operational Creditors (Workmen and Employees) in accordance with the liquidation waterfall under the Code is far less than the sum agreed to be paid to the Workmen and Employees hereinabove. Further, as per Regulation 38(1) of the CIRP Regulations, the amount due to the Operational Creditors are being given priority in payment over the Financial Creditors.*
 - d. *This Workmen Payment shall also include liability of the Company arising from payment of Provident Fund contribution and ESI contribution and any other liability of the Company, whether contractual, statutory or otherwise, towards its workmen, staff, employees and any other person working with the Company on its pay roll. The Workmen Payment shall be paid from the OCD Consideration, to be infused by the Resolution Applicant.*
 - e. *List of exact payment to Workmen and Employees is annexed hereto as **Annexure 7** till CIRP commencement date, and it shall constitute a full and final settlement of all workmen and employee dues (including pertaining to payment of salary, bonus, leave encashment, terminal benefits, statutory contributions and any other statutory liability) for the period prior to the CIRP commencement date. Except for Workmen and Employee Payment, the Company and the Resolution Applicant shall not be in any manner whatsoever at any point, present or future, be directly or indirectly responsible or liable for any claims with respect to workmen dues which relate to a period prior to CIRP commencement date. All balance dues, whether in past, present or future other than what is provided for in the clause 3.3 above, pertaining to the workmen and employee of the Company, for the period prior to the CIRP commencement date, shall stand settled in the manner set out above.*
 - f. *In consideration of Workmen and Employee Payment, all the litigations/proceedings by employees/ workmen or before any labour department for non-payment of any dues/ contribution or any other moneys shall be withdrawn and stand dismissed accordingly and the Company shall no longer be required to make any payments in relation to such litigations/proceedings.*
 - g. *In case any stock options or warrants or rights to Equity Shares have been granted to workmen/ employees pursuant to any employee stock option plan/policy of the Company, such options/ warrants/ rights, whether vested or unvested, exercised or un-exercised shall stand revoked with no claims or liabilities against the Company or the Resolution Applicant.*
- d. Payment To Other Operational Creditors (other than Workmen and Employee) and Residuary Liabilities**

- a. *As per the Information Memorandum, the admitted claims of the Operational Creditors (i.e. Trade Payables) other than workmen are INR 24.95 Crores. While the Resolution Applicant is not aware of the liquidation value of the Company, for the purpose of this Resolution Plan, the underlying assumption of the Resolution Applicant is that the liquidation value due to the Operational Creditors (Trade Payables) (other than the workmen) in accordance with the liquidation waterfall under the Code is NIL. Accordingly, the requirement of Section 30(2)(b) of the Code to pay atleast liquidation value to Operational Creditors does not apply in this case. In spite thereof, it is proposed that the claims of the Operational Creditors – Trade Payables (other than workman and statutory liabilities and Related Parties) shall be settled at Rs. 0.70 Crores proportionately among all such claims. Further, as per Regulation 38(1) of the CIRP Regulations, the amount due to the Operational Creditors shall be given priority in payment over the Financial Creditors.*
- b. *Therefore, all liability of the Company towards the Operational Creditors (other than the Workmen Payments and Statutory Payments (defined hereinafter) and payment to be made under Clause 4.1 above) shall stand extinguished in full, pursuant to the NCLT Approval Order on the NCLT Approval Date, without any further action or step on the part of any Person and the Company and the Resolution Applicant shall not be in any manner whatsoever at any point, present or future, be directly or indirectly responsible or liable for any claims by the Operational Creditors (other than for Workmen Payments and Statutory Payments) which relate to a period prior to the NCLT Approval Date.*

e. All Other Liabilities And Debts

a. Statutory Claims and Dues

Based on limited data available in the Data Room, we understand that there are on-going/pending tax and other statutory proceedings before the relevant Governmental Authority and /or before appellate authorities.

*While the Resolution Applicant is not aware of the liquidation value of the Company, for the purpose of this Resolution Plan, the underlying assumption of the Resolution Applicant is that the liquidation value due to the Operational Creditors (Statutory Liabilities) in accordance with the liquidation waterfall under the Code is NIL. Accordingly, the requirement of Section 30(2)(b) of the Code to pay atleast liquidation value to Operational Creditors (Statutory Liabilities) does not apply in this case. In spite thereof, the Resolution Applicants are ready and willing to pay a sum of INR 2.50 Crores within 60 days from Closing Date towards all statutory liabilities (Other than the Statutory Liabilities towards the Workmen and Employees), to be paid to each respective person proportionately to their respective dues (“**Statutory Payments**”). Further, as per Regulation 38(1) of the CIRP Regulations, the amount due to the Operational Creditors shall be given priority in payment over the Financial Creditors.*

Table setting out the details of all statutory liabilities of the Company as disclosed in the Data Room along with details of proportionate share for payment is below:

Summary of Statutory Liabilities			
S. No.	Statute	Total Liabilities including contingent liabilities (INR in Crores)	Proportionate share in payment (INR in Crores)
1	GST Claim	-	-

2	TDS Claim Other than TDS towards the Workmen and Employees	0.58**	0.01
3	CST and VAT Claim	21.12	0.45
4	Customs Claim	78.48	1.66
5	Income Tax*	18.33	0.39
	Total	118.51	2.50

* Payment towards income tax liability if and when, a Claim is submitted. If no claim is submitted till the NCLT Approval Date then no payment shall be made against Income Tax dues and this sum of money will be retained by the Resolution Applicant.

** Excluding the TDS amount towards Workmen and Employees.

The sum of INR2.50 Crores will be paid within 60 (sixty) days of Closing Date by the Company.

Notwithstanding anything else contained herein, all claims on the Company by ANY Governmental Authority for payment of ANY statutory dues or tax, and all liabilities of the Company towards such Governmental Authority, for the period prior to the NCLT Approval Date (including in respect of proceedings referred above), shall stand extinguished pursuant to the payments to be made as set out above. The Resolution Applicant or the Company shall not, in any manner whatsoever, at present or in future, be directly or indirectly responsible or liable for any additional statutory claims/liabilities. It is hereby clarified that all claims or liabilities towards Governmental Authorities shall stand extinguished even if no payment is made towards Income Tax liability as stipulated in the table set out in this Clause 5.1, on account of non-submission of claims by the NCLT Approval Date.

Consequently, the aforesaid proceedings pertaining to the said years and any other proceedings (ongoing or future) pending before any Governmental Authority shall stand withdrawn, dismissed and disposed of without any consequences and/or liability (tax, interest, fine, penalty, etc.) to the Company or the Resolution Applicant.

All ongoing tax dues incurred for the period from Insolvency Commencement Date upto NCLT Approval Date shall be dealt in due course. Any other government dues not dealt in this Chapter shall stand extinguished, waived and discharged with effect from NCLT Approval Date.

We have also been informed that the National Green Tribunal had ordered investigation of various companies for non-compliance of certain environmental laws. Pursuant to the order passed by the National Green Tribunal, the Company was investigated by the officers of the Maharashtra Pollution Control Board. Proceeding for closure of business of the Company has been initiated by the relevant authorities against the Company due to non-compliance of environmental laws by the Company (“**Environmental Proceeding**”). All claims and proceedings, orders, litigation or instructions issued by any Governmental Authority in respect of the Environmental Proceeding shall be withdrawn and stand dismissed accordingly and the Company shall no longer be required to make any payments in relation to such litigations/ proceedings.

b. Other Contingent Liabilities:

- i. All and any claims, interest, rights, liability, present or future, that may exist, or may arise upon the Company upto the NCLT Approval

Date, save and except the liabilities specifically dealt with in this Chapter, shall stand waived, discharged, released, extinguished and settled without any consequences and/or liability (tax, interest, fine, penalty, etc.) to the Company or the Resolution Applicant. The Resolution Applicant or Company shall not, in any manner whatsoever be directly or indirectly responsible or liable for any such claims, interest, rights or liability.

- ii. *All liabilities (statutory or otherwise) of the Company, arising from any contractual arrangements entered into by the Company, any claims against the Company, or liabilities of the Company, arising or having crystallized prior to the NCLT Approval Date and not specifically dealt with in this Chapter, shall be deemed to be waived, cancelled and extinguished on the NCLT Approval Date pursuant to NCLT Approval Order.*
- iii. *Further, any claim against the Company, arising from any contractual arrangements, whether set out herein or not, whether admitted or not, due or contingent, asserted or un-asserted, present or future, whether or not set out in the Information Memorandum and/ or Data Room, the balance sheet or the books of accounts of the Corporate Debtor, in relation to any period prior to the NCLT Approval Date, will be deemed to be **permanently extinguished by virtue of the NCLT Approval Order** and the Resolution Applicant and the Company or the Resolution Applicant shall, at no point, be made directly or indirectly responsible or liable for the same.*
- iv. *It is clarified that all shareholders' agreements, sale purchase agreements, share subscription agreements and any other agreements governing the affairs of the Company and/ or governing the inter-se rights of the existing Shareholders inter-se, or with the Company, shall stand terminated with effect from the Closing Date, without any recourse against the Resolution Applicant.*

c. New Claims:

Any new claim, interest, right, liability, whether submitted to the Company and / or the Resolution Professional by any creditor on or before the NCLT Approval Date or not submitted at all, not covered in this Resolution Plan, shall not be eligible for consideration and/or payment under this Resolution Plan. All such claims, interest, rights, liability, shall stand waived, discharged, released, extinguished and settled without any consequences and/or liability to the Company or the Resolution Applicant. The Resolution Applicant or Company shall not, in any manner whatsoever be directly or indirectly responsible or liable for any such claims, interest, rights or liability.

d. Treatment of Related Party Claims:

All claims on the Company by any Related Party and all liabilities of the Company towards any Related Party, as on and for the period prior to Closing Date, shall stand waived, discharged, released and extinguished automatically, as on the Closing Date, pursuant to the NCLT Approval Order, without any further action or step on the part of any Person. The Resolution Applicant or Company shall not, in any manner whatsoever, at present or in future, be directly or indirectly responsible or liable for such claims/liabilities.

e. Treatment Of Ongoing And New Litigation

- i. *All inquiries, investigations, notices, causes of action, suits, claims, disputes, litigation, arbitration or other judicial, regulatory or*

*administrative proceedings against the Company initiated by any Person (including contingent liabilities), whether forming part of admitted claims or not, present or future, in relation to any period prior to the NCLT Approval Date shall stand withdrawn, settled and extinguished qua the Company and accordingly, all such proceedings, inquiries, investigations, etc. against the Company shall be disposed of and all liabilities or obligations in relation thereto, whether or not set out in the balance sheets of the Company or the profit and loss account statements of the Company, will be **deemed to have been paid in full and permanently extinguished qua the Company by virtue of the NCLT Approval Order** and the Resolution Applicant or the Company shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto. The respective petitioners / applicants / claimants or any other person who has initiated such inquiries, investigations, notices, causes of action, suits, claims, disputes, litigation, arbitration or other judicial, regulatory or administrative proceedings against the Company would take all steps to ensure that these proceedings and inquiries stand withdrawn and disposed of accordingly.*

- ii. *By virtue of the NCLT Approval Order, new inquiries, investigations, notices, suits, claims, disputes, litigation, arbitration or other judicial, regulatory or administrative proceedings will not lie and be sustained if these relate to any period prior to the NCLT Approval Date or arise on account of the acquisition of control by the Resolution Applicant over the Company pursuant to this Resolution Plan, against the Company or any of its employees or directors who are appointed or who remain in employment or directorship after the acquisition of control by the Resolution Applicant over the Company or pursuant to the implementation of the Resolution Plan and all such claims shall stand waived and extinguished.*
- iii. *The concession granted in clause 5.5.1 and clause 5.5.2 shall not apply to the existing/ erstwhile promoters, Shareholders, managers, directors, officers, employees, workmen or other personnel of the Company prior to the NCLT Approval Date and these persons shall continue to be liable for all the liabilities, claims, demand, obligations, penalties etc. arising out of any (i) proceedings, inquiries, investigations, orders, show causes, notices, suits, litigation etc. (including those arising out of any orders passed by the Adjudicating Authority pursuant to the provisions of the Code), whether civil or criminal, pending before any authority, court, tribunal or any other forum prior to the NCLT Approval 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 Adjudicating Authority pursuant to the provisions of the Code), whether civil or criminal, that may be initiated or instituted post the approval of the Resolution Plan by the Adjudicating Authority on account of any transactions entered into, or decisions or actions taken by, such erstwhile promoters, Shareholders, managers, directors, officers, employees, workmen or other personnel of the Company, and the Company or the Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto.*

f. Dues of any person during CIRP:

The Resolution Plan has been made on the assumption that all dues incurred by the Resolution Professional (on behalf of the Company) or by the Company during the CIRP, apart from the CIRP Costs specified in Part C and Part D of Chapter IV above, have been or will be paid out of the cash flows of the Company. Therefore, except for CIRP Costs specified in Part C of Chapter IV, any liabilities and/ or claims that arise between the Insolvency

Commencement Date and the NCLT Approval Date shall stand waived, extinguished, abated, discharged in perpetuity as on the NCLT Approval Date, pursuant to the NCLT Approval Order, except any liability incurred strictly in the ordinary course of business. Further, except as specifically provided herein, no interest shall be paid on any claim against the Company (as on the Insolvency Commencement Date) be it of the Financial Creditor, Operational Creditor or any other claim arising on account of any financial liability, operational liability or any other contingent liability or dues, demands in connection with or against the Company.

g. Treatment of debts barred by limitation

Any debt owed by the Company to any Person, which is barred by limitation under Applicable Law as of the Closing Date, shall immediately, irrevocably and unconditionally stand extinguished, waived and withdrawn on and from the Closing Date, and no person shall have any further rights or claims against the Company in this regard.

h. Payments made during CIRP

Notwithstanding anything contained hereinabove, the dues incurred by the Resolution Professional (on behalf of the Company) or by the Company from the Insolvency Commencement Date to the NCLT Approval Date if incurred in the ordinary course of business of the Company so as to keep the Company a going concern and not already covered in CIRP Costs, shall be dealt with by the Resolution Applicant in accordance with the agreement with the corresponding counter party.

5. TREATMENT OF EXISTING SECURITY AND GUARANTEE

1. *We, understand that the Company has created a charge on its immovable assets, moveable fixed assets and its current assets in favour of the Financial Creditors. Details of such charges and securities created by the Company on its fixed assets is provided in Annexure 8 (“Company Securities”).*
2. *All Encumbrance on all Company Securities shall stand released forthwith on payment of the upfront amount to the Financial Creditors of INR 68.30 Crore agreed to be paid to Financial Creditors, in terms of Clause 2 of Part D of this Chapter.*
3. *Within 2 (two) weeks of, the later of, payment of the upfront amounts to the Financial Creditors as stipulated in Part C of this Chapter IV, the Financial Creditors shall make appropriate filings with the Ministry of Corporate Affairs/ Registrar of Companies for releasing the charges and satisfaction of all the charges (in terms of payments agreed to be made herein) on Company Securities and also provide a “Letter of Confirmation” to the Company confirming that no dues are pending and outstanding from the Company towards Financial Creditors (including but not limited to in respect of payment of principal, interest, delayed interest, default interest, damages and any other charges) and all such dues have extinguished. Further the “Letter of Confirmation” to state that notwithstanding anything to the contrary stated in the Indian Contract Act, 1872 or in this Resolution Plan, the securities and guarantees/contractual comforts provided by erstwhile Shareholders/ erstwhile promoters in respect of the debt of the Company (except any Encumbrance on the Equity Shares) has not been extinguished. It is hereby clarified that the said Letter of Confirmation shall have no impact on the securities and guarantees/contractual comforts provided by erstwhile Shareholders/ erstwhile promoters in respect of the debt of the Company (except any Encumbrance on the Equity Shares).*

4. *Additionally, all the original documents pertaining to immovable assets currently in the custody of the Financial Creditors shall be duly handed over to the Company.*
5. *After the payment to the Financial Creditors, necessary steps shall be taken by the Financial Creditors to update CIBIL and CRILC to show the account as "Standard Account" and brought out of NPA category.*
6. *Notwithstanding anything to the contrary stated in the Indian Contract Act, 1872, the securities and guarantees/contractual comforts provided by existing Shareholders/ erstwhile promoters in respect of the debt of the Company (except any Encumbrance on the Equity Shares, if any) SHALL NOT BE EXTINGUISHED by virtue of this Resolution Plan. It is clarified that no right of subrogation shall be available to Shareholders/ erstwhile promoters, in case of invocation of/ payment by Shareholders/ promoters under their existing securities or guarantees/contractual comforts and all such rights shall stand waived/ extinguished as on the NCLT Approval Date, pursuant to NCLT Approval Order. It is further stated that upon approval of this Resolution Plan by the NCLT, notwithstanding the provisions of the Indian Contract Act, 1872, the obligations of the existing Shareholders/ promoters in respect of such contractual comforts/ guarantees/ security shall continue and the existing Shareholders/ promoters will remain liable to pay the Financial Creditors under such contractual comforts/ guarantees/ security. Further, the Financial Creditors shall be free to initiate or continue proceedings against existing Shareholders/ promoters in respect of invocation/ enforcement of such contractual comforts/ guarantees/ security given by the Shareholders/ erstwhile promoters of the Company.*

6. **RELEASE OF CORPORATE GUARANTEE EXECUTED IN FAVOUR OF BANK MUSCAT (S.A.O.G)**

1. *The Company has issued a corporate guarantee for a sum of Rials Omani 3,850,000 in favour of Bank Muscat (S.A.O.G), Oman ("**Bank of Oman**") as security for the loans availed by the subsidiary of the Company namely, M/s. Calyx Chemicals LLC (FZC) ("**Calyx Guarantee**").*
2. *It is however noted that the demand under the Calyx Guarantee was first made on April 15, 2014. As per the information provided in the Data Room, certain proceedings have been initiated under the Calyx Guarantee in Muscat before the Muscat Primary Court wherein the Company has been impleaded as the second defendant.*
3. *We also note that as per the Information Memorandum, this claim under the Calyx Guarantee has not been admitted as a debt. Further, we note that the Calyx Guarantee was issued for debt of a Related Party.*
4. *In the larger scheme and for revival of the Company, it is proposed that all claims against the Company, with respect to or related to Calyx Guarantee (including by the Bank of Oman, its assignee, by any party claiming subrogation etc) and from any contractual arrangements with Bank of Oman, whether set out herein or not, whether admitted or not, due or contingent, asserted or unasserted, present or future, whether or not set out in the Information Memorandum, the balance sheet or the books of accounts of the Company, in relation to any period prior to the Closing Date, will be written off in full and will be deemed to be permanently extinguished by virtue of the NCLT Approval Order and the Resolution Applicant and the Company shall, at no point, be made directly or indirectly responsible or liable for the same. Accordingly, the Calyx Guarantee shall stand automatically released and discharged on the NCLT Approval Date.*

7. INTERESTS OF ALL STAKEHOLDERS

The Resolution Plan proposed by the Resolution Applicant adequately deals with the interests of all stakeholders, including Employees and Workmen, Financial Creditors and Operational Creditors, of the Company, in the following manner:

1. **Employees/Workmen:** *The workmen and employees shall be paid their dues as stated above. Apart from Net salary, this sum shall also include statutory liability of the Company arising out of payment of PT, PF, TDS and Gratuity. Further, the workmen/ employee will benefit from continued employment.*
2. **Financial Creditors:** *Financial Creditors shall be paid a sum of INR 68.30 Crores towards full and final settlement of their claims as stated above, against the Company. All existing securities, guarantees and comforts provided by the Company shall stand released and discharged upon payment of INR 68.30 Crore to the Financial Creditors, in accordance with Clause 2.1 of this Chapter and all encumbrances on the assets of the Company shall cease to exist in accordance hereof. All existing securities, guarantees and comforts provided by erstwhile Shareholders / erstwhile promoters of the Company, save and except any Encumbrance created on the Equity Shares (if any), shall continue and be available for recourse and enforcement by the Financial Creditors. Encumbrances, if any, on the Equity Shares shall cease to exist on the NCLT Approval Date.*
3. **Statutory dues:** *All statutory liabilities (Except the statutory liability towards Workmen and Employees as referred above) of the Company as of the NCLT Approval Date shall be settled, discharged, extinguished by payment of a sum of INR 2.50 Crores and all claims of any statutory authority /Governmental Authority against the Company upto the NCLT Approval Date, shall stand waived, settled and discharged with effect from NCLT Approval Date, except the liabilities incurred by the Resolution Professional in the ordinary course of the Company's business, between the Insolvency Commencement Date and the Closing Date.*
4. **Operational Creditors (Trade Payables), other than workmen and statutory liabilities and Residuary Liabilities:** *They shall be paid a sum of INR 0.70 Crores towards full and final settlement of their claims.*
5. **Payment to Related Parties of Shareholders or directors:** *No amount is to be paid to the Related Parties of the Shareholders or Directors of the Company against their claims against the Company for any debt, whether financial or operational or otherwise. Therefore, all liability of the Company towards the Related Parties of Shareholders or directors of the Company (including in respect of payment of principal, interest, delayed interest, default interest, damages and charges) shall stand extinguished pursuant to the NCLT Approval Order, without any further action on part of any Person, and neither the Company, nor the Resolution Applicant shall be liable or responsible for making any payments to them. All such claim, whether past, present or future shall stand waived, discharged and settled completely with effect from the NCLT Approval Date.*

8. CLAIMS BY THE COMPANY

All existing and future claims by the Company and all its existing and future rights, entitlement, etc. with Governmental Authorities or any other Person (including third parties) shall not be affected and shall continue to remain enforceable after the NCLT Approval Date. Nothing in this Resolution Plan shall be deemed to affect the rights of the Company to recover from and/or assert claims or rights against any Person and there shall be no set off of any such amounts recoverable by the Company. No liability of a third party towards the Company shall stand extinguished, settled, waived, reduced, or dealt with any manner to the prejudice of the Company, pursuant to this Resolution Plan.

9. HANDOVER OF ASSETS

All movable and immovable fixed assets and tangible inventories such as stocks and spares of the Company shall be reconciled, identified and provided for in the custody of the Company or Resolution Applicant, free of any Encumbrances (except as provided herein).

10. **EXISTING RELATIONSHIP AND FUTURE**

(i) Existing affiliation between the Resolution Applicant and the Company

- a. *Topnotch (one of the consortium member) is an existing supplier of raw materials to the Company for past 3 years and shares a cordial relationship with the existing management of the Company.*
- b. *It is to be noted that Topnotch had advanced INR 34.50 Lacs to the Company during a very critical situation when the electricity connection of the Company was to be disconnected. Additionally raw materials worth INR 53 Lacs were provided to Company on credit in good faith in the last six months which helped the Company to regularize their working cycle. This act of Topnotch has helped the Company to get out of liquidity crunch and operate business smoothly.*

(ii) Proposal Synopsis:

- a. *As per Pharma expert opinion and the experience of Resolution Applicant, the total funds required to set up and run a similar type of a company is around INR 40 Crores, inclusive of construction cost, license & registration acquisition cost, acquisition cost of plant and machineries. Apart from the above amount, working capital finance to be infused additionally.*
- b. *However, the Resolution Applicant is keen on buying an existing business on a premium due to the following reasons:*
 - i. *The Resolution Applicant will get a readymade business and immediate possession of the plant, whereas it will take at least 3 years for starting the commercial production.*
 - ii. *The Resolution Applicant will leverage the existing USFDA, WHO, EDQM, CDSCO and Korean FDA approvals with the Company to increase their market share into different geographic horizons.*
 - iii. *The Resolution Applicant will settle the existing employees and workmen dues and will continue to retain the employees of the Company. Thus, this will not impact the livelihood of these employees as they will not lose their job.*

(iii) Revival Plan:

- a. *Topnotch, the operating member of the consortium is already into the business of chemical manufacturing and has a set channel of networks / agents all over the consuming centres to market their production. The Resolution Applicant aims to leverage the existing networks and relationships; and to market the additional production after acquisition of the Company.*

- b. *Of the total product range, over 70% of the Company revenues are generated from following 3 product verticals: 1. Anti-Tuberculosis, 2. Anti-Malaria and 3. Antibiotics; which is already a forte for the Resolution Applicant as it has a combined experience of over 25 years in this field of business, thus possessing the requisite knowledge and experience required to succeed in the business of the Company.*
- c. *Moreover, the Resolution Applicant plans to retain all the existing employees from erstwhile management by settling their dues. This will help in seamless transition for reviving the Company.*
- d. *The Resolution Applicant would also infuse INR 10 Crores for refurbishment of fixed assets and additional INR 37 Crores towards meeting the working capital requirements.*
- e. *Topnotch is an existing supplier of intermediate chemicals to the Company and this acquisition will be a forward integration for the Resolution Applicant.*
- f. *This will in turn result in having cost synergies for both Company and the Resolution Applicant, which will help the Company in acquiring higher market shares and boosting revenues.*
- g. *The total revenue generated for the Company from February 2018 to June 2018 is INR 13.72 Crores and with additional working capital infusion, we project to reach a turnover of INR 165 Crores and EBITDA of INR 16.54 Crores (10.02%) in the 1 year of the takeover of the Company.*
- (i) *Also, we project the average Y-o-Y growth of turnover is 25% for next 5 years to reach turnover of INR 469.94 Crores. Also it will achieve average EBITDA margin of 15% over the period of next 5 years without incurring any additional research and development cost*
- (ii) *Topnotch is currently one of the major suppliers of Lumefantrine drug, and with the additional capacity in the Company, the Resolution Applicant aims to increase their share significantly in market over the next 5 years.*
- (iii) *The Resolution Applicant will not incur any major expenditure towards research and development as the management believes that there is immense potential to market the current product portfolio of the Company, without incurring further sunk costs. The revenue break up for the next five years for the Company is provided in **Annexure 9**.*

11. **SUBSIDIARY AND ASSOCIATE COMPANIES**

The Resolution Applicant and the Company will 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 Company, domestic or foreign that relate to the period prior to the Closing Date, including in relation to any undertakings or guarantees issued by the Company for or on behalf of such subsidiaries and associate companies, in any manner whatsoever.

CHAPTER V –CHANGE IN OWNERSHIP AND CHANGE IN MANAGEMENT

1. CURRENT STRUCTURE

As of the date of this Resolution Plan, the Company has an authorized share capital of INR 30,00,00,000 divided into Equity Shares of INR 10 each.

As of the date of this Resolution Plan, the Company has an issued, subscribed and paid-up share capital of INR 16,41,34,730 divided into 16,41,34,73 Equity Shares of INR 10 each.

2. PROPOSED ACQUISITION OF SHARES IN THE COMPANY BY THE RESOLUTION APPLICANTS

The Resolution Applicant shall takeover the control, management, assets, business of the Company and generally the Company in the following manner:

- 1. On the Closing Date, 1,00,000 New Equity Shares of INR 10 face value will be issued by the Company to the Resolution Applicant and their nominees, free from any Encumbrance, in the following manner:*

S.No	Shareholders	No. of shares (Face Value Rs. 10each)	% Holding
1.	Khilari	51,000	51%
2.	Topnotch	48,600	48.6%
3.	Mr. SahebraoKhilari	100	0.1%
4.	Mrs. Anjali S. Khilari	100	0.1%
5.	Mr. Aayush S. Khilari	100	0.1%
6.	Mr. Vasant Jain	100	0.1%
7.	Mr. KhanduVaral	100	0.1%
	TOTAL	1,00,000	100.00%

- 8. On the day of issuance of New Equity Shares as mentioned above and simultaneously with the issuance, the entire Equity Shares of the Company, held by the existing Shareholders shall stand cancelled.*
- 9. All the assets, properties, rights and interests of every kind, nature and description, tangible or intangible, and wherever situated and by whomsoever possessed or held, that are owned, used, occupied or held by or for the benefit of the business of the Company or even otherwise by or on behalf of the Company shall remain to be so owned, occupied or possessed, as the case may be, as on the Insolvency Commencement Date of the Company and during CIRP and as on the NCLT Approval Date, and shall continue to be so owned, occupied or possessed, as the case may be, until the Closing Date except as disposed of in the ordinary course of business of the Company.*
- 10. The Resolution Applicant are acquiring New Equity Shares in the Company and the business of the Company will continue to be carried on as usual during the process of such acquisition.*

1. Final Shareholding Pattern

As on the Closing Date, and upon completion of all actions envisaged to be undertaken on the Closing Date in accordance with Clause III of Part B of Chapter VI, the resultant shareholding of the Company shall be as follows:

S.NO.	SHAREHOLDERS	NO. OF SHARES (FACE VALUE RS. 10EACH)	% HOLDING
1.	Khilari	51,000	51%
2.	Topnotch	48,600	48.6%
3.	Mr. SahebraoKhilari	100	0.1%
4.	Mrs. Anjali S. Khilari	100	0.1%
5.	Mr. Aayush S. Khilari	100	0.1%
6.	Mr. Vasant Jain	100	0.1%
7.	Mr. KhanduVaral	100	0.1%
	TOTAL	1,00,000	100.00%

2. BOARD AND BUSINESS CONTROL OF THE COMPANY BY THE RESOLUTION APPLICANT

1. *The Resolution Applicant along with their nominees, collectively propose to hold 100% (One Hundred Percent) New Equity Shares in the Company, as elaborated in this Chapter V (Change in Ownership and Change in Management).*
2. *The following shall be appointed as directors after takeover of the company:*
 1. *Mr. KhanduVaral*
 2. *Mr Vasant Jain*
 3. *Mr. AayushKhilari*
 4. *Mrs. Anjali Khilari.*
 5. *The names of independent directors will be finalised post NCLT approval date.*
3. *The Shareholders shall not dispose of, their respective shareholding or any part thereof, in the Company after the submission of this Resolution Plan until the Closing Date.*
4. *On and from the Closing Date, the Resolution Applicant shall take over the management control of the Company, including its business activities. Between NCLT Approval Date and Closing Date, while the implementation of the Resolution Plan shall happen in parallel, the board of directors of the Company shall be reconstituted on the Closing Date and they shall take up the responsibilities of the day to day affairs of the Company and manage it in its regular course.*
5. *Erstwhile promoters will not be in control or promoters in the Company with effect from NCLT Approval Date, although the Equity Shares might be held by them till the Closing Date.*
6. *Between the NCLT Approval Date and Closing Date, the existing Board of Directors of the Company shall remain suspended and the Monitoring Agency shall manage the day to day affairs of the Company. The Monitoring Agency shall also have the responsibilities of the Board of Directors and shall be entitled to undertake corporate action/ pass resolutions for implementation of the Resolution Plan (including issuance and reduction of share capital and appointment of directors). On and from the Closing Date, all the existing Directors, shall vacate their respective offices. On the Closing*

Date, a new Board of the Company shall be formed by the Resolution Applicants in the manner provided in Chapter VI.

7. *On the Closing Date, the Resolution Applicant shall appoint the statutory and internal auditor of the Company, in accordance with the Applicable Law.*
8. *The Company will continue with the existing employees and may employ new employees /workmen to carry on the business of the Company after the Closing Date, in accordance with Applicable Law.*
9. *The Resolution Applicant shall provide to the Financial Creditors, Income statement for the 1st year after the NCLT Approval Date and thereafter for every quarter starting from completion of 1 year from NCLT Approval date, applicant shall provide an QIS (Quarterly Income Statement). Any further request from the Financial Creditors for information (not being confidential information) about the Company's business would be considered by the Resolution Applicant reasonably and responded to accordingly.*

CHAPTER VI - IMPLEMENTATION AND SUPERVISION

1. MANDATORY CONTENTS

1. *In accordance with Section 30(2) of the Code and Regulation 38 of the CIRP Regulations, and as required under paragraph 20.2 of the Process Memorandum, this Resolution Plan includes the following mandatory contents:*
 - a. *provides for the payment of CIRP Costs in priority to the repayment of any other debts of the Company (See Part C and D.1 of Chapter IV of this Resolution Plan)*
 - b. *provides for the repayment of atleast the liquidation value due to the Operational Creditors. (See Part D of Chapter IV of this Resolution Plan)*
 - c. *provides that the amount due to the Operational Creditors under a resolution plan shall be given priority in payment over Financial Creditors. (See Part D of Chapter IV of this Resolution Plan)*
 - d. *specifies the term of this Resolution Plan and its implementation schedule; (See Chapter V and Chapter VI of this Resolution Plan)*
 - e. *provides for the mechanism regarding management and control of the Company post the NCLT Approval Date; (See Part C of Chapter V and Part B and C of Chapter VI of this Resolution Plan)*
 - f. *provides for the manner of implementation and supervision of the Resolution Plan and adequate means for implementation and supervision of the Resolution Plan; (See Chapter VI of this Resolution Plan)*
 - g. *provides for the requisite details regarding the Resolution Applicant and its connected persons (See Chapter III of this Resolution Plan)*
 - h. *the Resolution Applicant confirms that to the best of the knowledge of the Resolution Applicant, the Resolution Plan is not in contravention of the provisions of Applicable Law and is in compliance with the Code and the CIRP Regulations; (See Part 3 of Chapter VIII of this Resolution Plan)*

- i. *the Resolution Applicant confirms that the Resolution Applicant and its connected persons are not disqualified from submitting a resolution plan under Section 29A of the Code and other provisions of the Code and any other Applicable Law; (See Format XIII attached with the Resolution Plan)*
- j. *addresses the interests of all stakeholders (including Financial Creditors, Operational Creditors and other creditors, guarantors, members, employees and other stakeholders of the Company. (See Part G of Chapter IV of this Resolution Plan)*

2. The Resolution Plan demonstrate that –

- a. *it addresses the cause of default*

The company went into stress owing to the following reasons:

1. *In order to succeed in the Contract Research and Manufacturing Services business, the Company made accumulated expenditure (capital expenditure and regular expenses) of more than INR 110 Crore during FY 2008-2009-FY 2012-2013 in its research and development infrastructure which did not yield the desired results.*
2. *In September 2012, the Company filed for an initial public offering (IPO) to raise fund which could not fructify due to continued subdued state of the IPO market and not getting the necessary permission from the erstwhile Foreign Investment Promotion Board (FIPB). It led to dependence on high cost debt to fund the business.*
3. *In FY2013, key customers of the Company like Arch Pharma, Avon Life Sciences, Unimark Remedies, Sharon, Ind-Swift, Unimark&Anjaneya came under financial distress. It made sizeable amount of Company's receivables uncertain and unrealized. Subsequently, in FY 2015-2016, the Company wrote off an aggregate debt of INR 233 Crore. In order to remain competitive, the Company had to offer increased payment period (more than 180 days in FY 2013- 2014 comparing 75-80 days in earlier period) leading to further liquidity crunch.*
4. *During 2014, due to continuous financial stress, corporate debt restructuring (CDR) scheme was envisaged to be implemented by the lenders of the Company. But due to various reasons the CDR scheme was not implemented, leaving the Company with unsustainable debt and further underutilized facilities due to liquidity stress.*
5. *The Resolution Applicant shall not incur any further research and development cost as there is an immense potential to market the existing portfolio. Also the Resolution Applicant will leverage the existing USFDA, WHO and other licenses to increase their geographical market*

- b. *it is feasible and viable because of the following reasons:*

1. *The operating member of the consortium (Topnotch) is already into the business chemical manufacturing and have a set channel of networks / agents all over the consuming centers to market their production. The Resolution Applicant aims to leverage the existing networks and relationships, to market the additional production after acquisition of the company*

2. *Of the total product range, over 70% of the Company revenues are generated from following 3 product verticals: 1. Anti-Tuberculosis, 2. Anti-Malaria and 3. Antibiotics; which is already a forte for the Resolution Applicant as have a combined experience of over 25 years, thus possessing the requisite knowledge and experience required to succeed in this business.*
3. *The Resolution Applicant is an existing supplier of intermediate chemicals to the CCPL and this acquisition will be a forward integration for the Applicant.*
4. *This will in turn result in having cost synergies for both the Company and the Resolution Applicant, which will help the Company in acquiring higher market shares and boosting revenues.*
5. *The Resolution Applicant is currently one of the major suppliers of Lumefantrine drug and with the additional capacity we aim to be the market leaders over the next 5 years.*
6. *The Resolution Applicant will not incur any major expenditure towards R&D over the next 5 years as the management believes that there is an immense potential to market the current product portfolio of the company, without incurring further sunk costs*
 - c. *it has provisions for its effective implementation; (See Part B and C of Chapter VI of this Resolution Plan)*
 - d. *it has provisions for approvals required and the timeline for the same; and (See Part D and E of Chapter VI of this Resolution Plan)*
 - e. *the resolution applicant has the capability to implement the resolution plan. (See Part C and J of Chapter IV of this Resolution Plan)*

7. IMPLEMENTATION OF THE PLAN

Under the Resolution Plan, all payments (as outlined in Chapter IV), shall be made within a period of 60 days from the Closing Date unless otherwise specified in this Resolution Plan. Hence, the term of the Resolution Plan shall be 60 (sixty) days from the Closing Date. The plan shall be implemented in the following phases:

1. *Prior to Closing Date;*
2. *On Closing Date; and*
3. *Post-Closing Date;*

Monitoring Agency

1. *In order to ensure that the Resolution Plan is implemented in accordance hereof and that the obligations undertaken herein are adhered to in letter and spirit, an appropriate monitoring agency/entity shall be constituted (“Monitoring Agency”) on the NCLT Approval Date.*
2. *Topnotch, Khilari, two lenders from the Committee of Creditors and the Resolution Professional shall constitute the monitoring agency, and may appoint a chartered accountant, to supervise and implement the Resolution Plan and to provide a regular update on the progress of the Resolution Plan to the Committee of Creditors.*
3. *Any decision by the Monitoring Agency shall not be taken without majority vote in favour of the decision and atleast one positive vote between Topnotch and Khilari.*

4. *The Monitoring Agency shall be governed and bound by the terms of the monitoring agency agreement to be executed after issuance of letter of intent in favour of the Resolution Applicant and be executed on NCLT Approval Date (“Monitoring Agency Agreement”).*
5. *The Monitoring Agency Agreement shall provide inter alia for the responsibilities of Monitoring Agency and shall include but not be limited to the following:*
 1. *To supervise the implementation of the Approved Resolution Plan and ensure that the Resolution Plan is implemented during the term as approved without any deviations;*
 2. *To take up functions of the Board of Directors between NCLT Approval Date till Closing Date when the Resolution Applicant shall be entitled to reconstitute the Board;*
 3. *To ensure timely disbursement of funds to the Financial Creditors and Operational Creditors, as per the payment terms set out above;*
 4. *To ensure that approvals, to the extent required for implementation of the Resolution Plan, are applied for and obtained in a timely manner.*
 5. *To bring to the notice of NCLT, any deviations/violations, of the Resolution Plan, by any person; and*
 6. *To provide regular updates to the NCLT, as and when required.*
6. *The Monitoring Agency shall supervise the implementation of the Resolution Plan, and shall be required and entitled to do all such acts, deeds, matters and things as may be necessary, desirable or expedient in order to implement and give effect to this Resolution Plan in accordance with its terms and shall act under the supervision of the Adjudicating Authority.*
7. *The powers of the board of directors of the Company shall remain suspended until the Closing Date, and shall be exercised by the Monitoring Agency.*
8. *It is clarified that until the Closing Date, the Company or the Monitoring Agency shall not make any payments (including interest) towards the claims of the Financial Creditors, Operational Creditors or the other creditors except those claims arising out of the liabilities incurred in ordinary course of business of the Company during the period from Insolvency Commencement Date to Closing Date.*
9. *The Company and all its facilities shall continue to receive supply of essential goods and services (as defined under the Code and the CIRP Regulations) on an uninterrupted basis, and shall not be for any reason shut down or restricted in activities in any manner. The Monitoring Agency shall be entitled to make an application to the Adjudicating Authority directing local law enforcement authorities and local district administration authorities to maintain law and order with regard to various premises owned and/ or used by the Company, and to assist in the implementation of the Resolution Plan. The Committee of Creditors, the Monitoring Agency, the Company, its existing management, employees, Shareholders and creditors shall provide all necessary cooperation as shall be required for obtaining the regulatory approvals. The erstwhile promoters and the current management team of the Company will undertake all such actions and shall do all such acts, deeds and things required by the Monitoring Agency, including executing any and all documents as may be required for the purposes of the implementation of the Resolution Plan.*

1. Prior to Closing Date

Prior to the Closing Date, following actions shall be completed:

1. *The audited financials of the Company for FY 2016-17 and FY 2017-18 shall be provided to the Resolution Applicant on or before the Closing Date; and*
2. *The income tax return of the Company for FY 2017-18 shall be filed on or before the due date as per Applicable Law and be provided to the Resolution Applicant, so that the Resolution Applicant can take benefit of losses incurred in that year.*

3. On Closing Date

1. *Closing shall take place at the offices of the Company or such other place as may be communicated in writing by the Resolution Applicant to the Monitoring Agency, within 7 (seven) Business Days from NCLT Approval Date or the completion of events stated in Clause I above (whichever is later), or on such date as may be agreed between Resolution Applicant and the Monitoring Agency.*
2. *The Company, Shareholders and Monitoring Agency shall take all endeavours to ensure that Closing Date shall in no event be later than 10 (ten) days from the NCLT Approval Date.*
3. *On the Closing Date, the Resolution Applicant shall acquire control over the Company (as set out in this Resolution Plan).*
4. *At Closing Date, various Persons shall undertake the following actions:*
 - 4.1 *The Company shall cause to be delivered to the Resolution Applicant and their nominees, duly stamped and executed letter of allotment in respect of the New Equity Shares;*
 - 4.2 *The Company shall:*
 - 4.2.1 *Hold a meeting through the Resolution Professional in exercise of the powers of the Board, at which inter alia:*
 1. *reduction of shareholding of erstwhile promoters as per Part B of Chapter V and cancellation of corresponding share certificate is approved;*
 2. *issuance and allotment of New Equity shares in favour of the Resolution Applicant and Share Subscription Consideration shall be taken on record;*
 3. *all documents necessary for the aforesaid issuance and allotment shall be executed;*
 4. *allotment letter of the New Equity Shares to be issued in favour of the Resolution Applicants and their nominees;*
 5. *the name of the Resolution Applicant and their nominees who are the new shareholders in the Company, is entered into the register of members of the Company;*
 6. *two independent directors nominated by the Resolution Applicants and (i) Mr. Aayush Khilari; (ii) Mrs. Anjali Khilari; (iii) Mr. Khandu Varal and Mr. Vasant Jain, shall be appointed to the Board of directors of the Company;*
 7. *the resignation of the existing directors from the Board of directors of the Company is taken on record;*
 8. *the amended memorandum of association and amended articles of association are approved and adopted, if any;*
 - 4.2.2 *The Company shall convene a meeting of its new shareholders and do all other acts as may be required to give effect to the terms of this Resolution Plan;*
 - 4.2.3 *All power of attorney/ies and/ or other corporate authorisations or mandates issued by the Company to any person to enable such person to carry out various functions of the Company, to sign and execute various documents and/ or represent the Company, and to operate the bank accounts of the Company shall stand revoked*

with immediate effect, and the re-constituted board of directors of the Company shall be entitled to authorise such persons as it deems fit to carry out such functions of the Company, sign and execute various documents and/ or represent the Company, and to operate the bank accounts of the Company.

- 4.3 *All transactions to be consummated at Closing on Closing Date as set out above, shall be deemed to occur simultaneously and no such transaction shall be consummated, or be deemed to be consummated, unless all such transactions are consummated.*

4. Post-Closing Actions

1. *Within 60 Days from the Closing Date, the Resolution Applicant shall undertake such further acts, and prepare, file, register, execute and deliver such further deeds, agreements, instruments and documents as may be necessary to give effect to the terms of this Resolution Plan and the Transaction Documents.*
2. *The Company to make necessary filings and notifications to relevant Governmental Authorities in respect of the foregoing actions.*
3. *Steps shall be taken to issue post-dated cheques in favour of the Financial Creditor for an amount and in the manner stipulated in Part C of Chapter IV of this Resolution Plan.*
4. *Steps shall be taken to issue OCDs and transfer OCD Consideration to the Company.*
5. *Thereafter all outstanding payments mentioned in Chapter IV shall be made, within 60 (sixty) days from the Closing Date.*
6. *Return and release of the Bid Bond Guarantee and Performance Guarantee and return of the post-dated cheques on full payment of the FC Payment to the Financial Creditors.*
7. Supervision of the Plan

The board of directors of the Company shall put in place an adequate mechanism for supervising the implementation of the Resolution Plan (to the extent outstanding) post the Closing Date. For this purpose a committee of board of directors of the Company (of which atleast two members will be an independent directors) will be constituted, which will be responsible for supervising the implementation of the Resolution Plan (to the extent outstanding) post the Closing Date.

5. CONDUCT OF BUSINESS

From the submission of this Resolution Plan until the Closing Date no liabilities other than in the ordinary course of business of the Company shall be incurred by the Company or on its behalf. Further, during the said period there shall be no disposal of asset or assets of the Company other than in the ordinary course of business of the Company.

6. APPROVALS REQUIRED FOR THE PLAN AND COMPLIANCE WITH LAW

1. *NCLT Approval*

The Resolution Plan of the Applicant shall be required to be approved by the Committee of Creditors, and thereafter, by the Adjudicating Authority under Section 31 of the Code.

2. *Companies Act 2013*

Pursuant to the Explanation to section 30(2)(e) of the Code, if any approval of shareholders is required under the Companies Act, 2013 or any other law for the time being in force for the implementation of actions under the resolution plan, such approval shall be deemed to have been given and it shall not be a contravention of that Act or law.

3. INDICATIVE TIMELINE FOR IMPLEMENTATION

S. No.	Event	Timeline
	NCLT Approval Date	X
	Closing Date to include <i>inter alia</i> : I. Issuance of New Equity Shares II. Cancellation of existing Shares III. Re-constitution of the Board of Directors	X + 10 = Y
	Payment of CIRP Costs	X + 30
	Payment to Operational Creditors (workmen and employees, as set out herein)	X + 30
	Payment of 50% of the FC Payment to Financial Creditors	Within Y + 30
	OCD issuance and infusion of OCD Consideration	Within Y + 60
	Payment of the balance of the FC Payment to the Financial Creditors	Within Y + 60
	Payment to Operational Creditors (other than workmen and employees)	Within Y + 60

RELIEFS AND CONCESSIONS, DIRECTIONS AND KEY ASSUMPTIONS

1. **RELIEFS AND CONCESSIONS**

*The Resolution Applicant requests the Adjudicating Authority for the reliefs and concessions set out below **for the successful implementation** of the Resolution Plan. Regulation 37(1) of the CIRP Regulations provides that a resolution plan may provide for the measures required for implementing it, including but not limited to obtaining necessary approvals from the Central and State Governments and other authorities. Accordingly, the Adjudicating Authority is humbly requested to kindly consider the following reliefs and concessions for the effective implementation of this Resolution Plan for the benefit of all stakeholders:*

- (a) *Licenses and approvals held by the Company, which expire prior to the Closing Date or within a period of 6 months thereafter shall be renewed/ extended by the relevant Governmental Authorities, and the Company shall be permitted to continue to operate its business and assets in the manner operated prior to submission of this Resolution Plan until the renewal /extension of such licenses and approvals. The relevant Governmental Authorities will provide a reasonable period of time, after the Closing Date in order for the Resolution Applicant to; i) assess the status of licenses and approvals required by the Company and to procure that the Company applies for the same; and ii) regularize any non-compliances under the Applicable Law (including non-registration, inadequate/non stamping of documents under as required under Applicable Law) existing prior to Closing Date.*

- (b) *The relevant Governmental Authorities shall not initiate any investigations/actions or proceedings in relation to any non-compliance with Applicable Law by the Company during the period prior to the Closing Date. Neither shall the Resolution Applicant, nor the Company nor their respective directors, officers and employees appointed on and as of Closing Date be liable for any violation, liabilities, penalties or fines with respect to or pursuant to the Company not having in place the requisite licenses and approvals required to undertake its business as per Applicable Law, or any non-compliances of Applicable Law by the Company. Further, the relevant Governmental Authorities will provide a reasonable period of time after the Closing Date, for the Resolution Applicant to assess the status of any non-compliances under the Applicable Laws including and to procure that the Company regularizes such non-compliances under the Applicable Law existing prior to the Closing Date.*
- (c) *The Department of Registration and Stamps of the relevant state and the Ministry of Corporate Affairs shall exempt the Resolution Applicant and the Company, from the levy of stamp duty and fees applicable in relation to this Resolution Plan and its implementation including but not limited to reduction of share capital of the Company, issuance of Equity Shares, issuance of OCDs, and documentation in relation thereto.*
- (d) *The concerned State Revenue/Stamp Authorities are requested to waive penalties for non-registration any inadequate/non stamping of the documents executed by the Company included but not limited to the documents in connection with the implementation of this Resolution Plan.*
- (e) *Notwithstanding the terms of the relevant agreements with the suppliers/customers of the Company as the case may be, the Adjudicating Authority shall direct that the prior approval of the counter parties shall not be required to be separately obtained for change in control/constitution of the Company pursuant to the terms of the Resolution Plan and the counter parties shall not terminate or take any adverse actions against the Company of such change in control/constitution of the Company. The Adjudicating Authority shall also direct the customers/suppliers to waive all objections or liabilities of the Company, arising out of noncompliance by the Company for obtaining prior consent for appointment of the Resolution Professional and in respect of the implementation of this Resolution Plan.*
- (f) *The Adjudicating Authority shall direct relevant Governmental Authorities to: (i) refund all duties/ taxes paid under protest by the Company in respect of tax related litigations; and (ii) continue with tax credits and State incentives available to the Company.*

- (g) *The Adjudicating Authority shall direct termination of all agreements/ arrangements between the Company and the persons classified as related parties in accordance with Applicable Laws, with no liability to the Company. All claims of the Company against such related parties and liabilities of such related parties towards the Company shall remain outstanding, due and payable and survive such termination.*
- (h) *The relevant Governmental Authority shall waive the requirement of obtaining an approval for change in ownership/constitution/management of the Company and shall continue to grant state and other incentives.*
- (i) *The relevant Governmental Authority in relation to tax shall waive any tax or interest and shall not initiate any penal proceedings in case of non-fulfilment of any obligations of the Company in relation to which benefit has been claimed by the Company prior to the Closing Date, including in relation to non-fulfilment of export obligation in respect of customs incentive including but not limited to imports under specific import licenses or schemes, non-submission of forms for concessional duty rates, non-fulfilment of conditions relating to grant of state incentives etc.*
- (j) *The Adjudicating Authority shall direct the Ministry of Corporate Affairs to waive the requirements under Section 140 of the Companies Act, 2013 in respect of the removal of the existing auditors of the Company.*
- (k) *Waiver from the requirement of obtaining a no objection certificate under Section 281 of the Income-tax Act, 1961 and provisions of taking over predecessor's tax liability under Section 170 of the Income-tax Act, 1961 Act shall not be applicable.*
- (l) *The Company and the Resolution Applicant shall be granted an exemption from all taxes, levies, fees, transfer charges, transfer premiums, and surcharges that arise from or relate to implementation of the Resolution Plan, since payment of these amounts may make the Resolution Plan unviable.*
- (m) *To the extent not paid and settled under this Resolution Plan, waiver of any income-tax and Minimum Alternate Tax (MAT) liability or consequences (including interest, fine, penalty, etc) on the Company, Resolution Applicant and its shareholders on account of various steps as proposed in the Resolution Plan, including but not limited to liabilities if any under Section 56, Section 43, Section 28, Section 115JB and Section 79 of the Income-tax Act, 1961, including, without limitation (A) waiver of any Tax or MAT liability to the Resolution Applicant on account of purchase of Equity Shares of the Company from the Shareholders in accordance with Chapter V; (B) waiver of MAT and income tax implication arising due to hiving off of surplus/*

obsolete assets, sold for raising money to make Balance Payment; (C) waiver of MAT and income tax implication arising due to write back/write off of liabilities in the books of accounts of the Company without any impact on brought forward tax and book loss / depreciation, pursuant to this Resolution Plan.

(n) Any requirements to obtain waivers from any tax authorities including in terms of Section 79 of the IT Act is deemed to have granted upon approval of this Resolution Plan on the NCLT Approval Date.

(o) Upon reduction of share capital, the accrued losses of earlier years under IT Act shall be deemed to be carry forward and set off in future years as per the provisions under Section 79 of the IT Act

(p) Any approvals that may be required from Governmental Authorities (including tax authorities) in connection with the implementation of the Resolution Plan including on account of change in ownership / control of the Company shall be deemed to have been granted on the NCLT Approval Date.

(q) Upon approval of the Resolution Plan/ COC Approved Resolution Plan by the Adjudicating Authority, all non-compliances, breaches and defaults of the Company for the period prior to the NCLT Approval Date (including but not limited to those relating to tax), shall be deemed to be waived by the concerned Governmental Authorities. Immunity shall be deemed to have been granted to the Company from all proceedings and penalties under all Applicable Laws for any non-compliance for the period prior to the NCLT Approval Date and no interest/penal implications shall arise due to such non-compliance /default /breach prior to the NCLT Approval Date. This includes, without limitation, waiver/extinguishment of:

1.1 any liability, fees, penalties of any kind payable to any Governmental Authority by the Company for any non-compliance or default, breach, violation prior to the NCLT Approval Date, under Foreign Exchange Management Act, 1999, Foreign Trade Policy of the Government of India, 100% Export Oriented Unit related regulations, Companies Act, 1956 and Companies Act, 2013.

1.2 Liability under litigation for FY 2009-10 is pending with Appellate Authorities under Maharashtra Value Added Tax, 2005 and litigation for FY 2004-05 is pending with Appellate Authorities under Maharashtra Sales Tax Act;

1.3 Liability under on-going/pending income-tax proceedings before Assessing Officer and/or before Appellate Authorities as under:

Sr. No.	Financial Year	Assessment Year	Amount (in Lakhs)
1	2004-05	2005-06	0.11
2	2007-08	2008-09	7.37
3	2008-09	2009-10	47.11

4	2009-10	2010-11	69.65
5	2011-12	2012-13	77.67
6	2012-13	2013-14	1,583.89
7	2008-09	2009-10	3.62
8	2005-06	2006-07	43.29
		Total	1,832.71

(r) *From the NCLT Approval Date, all inquiries, investigations and proceedings, whether civil or criminal, suits, claims, disputes, proceedings in connection with the Company or affairs of the Company, including proceedings before Debt Recovery Tribunal and consumer courts or any other court, pending or threatened, present or future in relation to any period prior to the NCLT Approval Date, or arising on account of implementation of this Resolution Plan shall stand withdrawn and dismissed and all liabilities and obligations therefore, whether or not set out in the balance sheets of the Company or the profit and loss account statements of the Company will be deemed to have been written off fully, and permanently extinguished and no adverse orders passed in the said matters should apply to the Company or the Resolution Applicant. Upon approval of this Resolution Plan, all new inquiries, investigations, notices, suits, claims, disputes, litigations, arbitrations or other judicial, regulatory or administrative proceedings will be deemed to be barred and will not be initiated or admitted against the Company in relation to any period prior to the NCLT Approval Date.*

(s) *The Company shall be granted waiver/exemption from compliance of provisions of Companies Act, 2013 and other Applicable Laws for removal of both statutory and internal auditors of the Company and appointment of new auditors.*

(t) *Upon payment of OCD Consideration in accordance with Clause 2 of Part D in Chapter IV, the account of the Company with all the Financial Creditors shall be upgraded to standard category from NPA.*

(u) *In addition to the above reliefs and concessions, it is to be noted that the USFDA license of the Company is of utmost importance for the sustainability and smooth functioning of the Company. As set out in this Resolution Plan, the Resolution Applicant has proposed to invest at a premium in the Company as the said USFDA license is essential for the continuation of the business of the Company. The Resolution Applicant will leverage the USFDA approvals with the Company to increase their market share into different geographic horizons. Continued validity of the said license is of paramount importance of the viability and implementation of this Resolution Plan.*

KEY ASSUMPTIONS

- A.** *This Resolution Plan has been prepared on the basis of the (i) information provided in the Information Memorandum, (ii) information provided by the Resolution Professional to the Resolution Applicant in the Data Room, (iii) on the assumptions set out in this Chapter, (iv) acceptance and approval of this Resolution Plan in its entirety including but not limited to grant of approval for directions, reliefs and concessions by the Adjudicating Authority; (v) extinguishment of claims and liabilities in the manner detailed in this Resolution Plan.*
- B.** *Without prejudice to the generality of Clause C.1 above, this Resolution Plan has been prepared relying on some specific assumptions, set forth below:*
- 2.1** *The information provided by the Resolution Professional in connection with the affairs of the Company, including but not limited to the Information Memorandum and other documents available in the Data Room are true and correct;*
- 2.2** *This Resolution Plan is confidential, and the Resolution Professional, the Committee of Creditors, the Company and their respective Affiliates, directors, officers, employees, agents, advisors, and representative shall not, without the prior written consent of the Resolution Applicants, make any disclosure of any information pertaining to this Resolution Plan, or the Resolution Applicant, or any information which is provided by us or our representatives, to any person (except to their own representatives, who shall maintain confidentiality with respect to any such information), except where such disclosure or announcement is required under Applicable Law and prior written notice thereof has been provided to the Resolution Applicants.*
- 2.3** *The Company has not availed of any interim finance during the CIRP period;*
- 2.4** *All dues and payables arising in connection with the operations of the business of the Company during the CIRP Period were duly discharged in accordance with Applicable Law and agreed contractual terms pertaining to such dues and payables;*
- 2.5** *The details of dues to and claims submitted by Financial Creditors, Operational Creditors to the Resolution Professional, Workmen and Employees and Statutory Dues as intimated by the Resolution Professional in the Data Room, as of Insolvency Commencement Date are true, correct, complete, accurate and not misleading in any respect;*
- 2.6** *The Company shall incur no liabilities, directly or indirectly (including but not limited to debt servicing liabilities) other than to the extent specifically permitted in this Resolution Plan for liabilities incurred in the ordinary course of Company's business, for the period from the Insolvency Commencement Date until Closing Date. Further, the Company shall not be liable for any liabilities which relate to a period prior to the NCLT Approval Date except as otherwise agreed in this Resolution Plan and all such liabilities shall stand extinguished on the NCLT Approval Date.*
- 2.7** *No force majeure shall have occurred after the date of submission of the Resolution Plan by the Resolution Applicant, until the NCLT Approval Date.*
- 2.8** *All licenses, registrations, and approvals granted to the Company, and / or its*

subsidiaries prior to the NCLT Approval Date have been renewed in the ordinary course of business of the Company as and when they fell due for renewal and all such licenses shall continue to be valid in accordance with its terms after the NCLT Approval Date, without the requirement of any express consent or notification to any Governmental Authority, notwithstanding any terms contained therein, including change of control clauses;

2.9 All rights of the Company and in relation to the land owned by the Company shall continue to vest with the Company, notwithstanding the change in ownership and/ or management of the Company without the requirement for any express approval or consent of any Person;

2.10 There are no liabilities against the Company, present, or expected, apart from those disclosed in the Data Room;

2.11 Without prejudice to the extinguishment of liabilities set out in this Resolution Plan, all agreements/ arrangements / purchase orders/ work orders, etc. between the Company and any person shall continue in full force and effect and shall remain valid and binding against the Company and relevant counterparty(ies) (notwithstanding that corporate insolvency resolution proceedings have been initiated against the Company and/ or a change in control of the Company has been effected). However it is clarified that all claims of the Company against such counter parties (and all liabilities of such counter parties towards the Company) shall remain outstanding, due and payable in accordance with their terms.

It is clarified that any agreements, arrangements between the Company and any counterparty, including but not limited to banks/ Financial Creditors or Governmental Authorities, for payment relating to margin requirements or deposits shall continue in full force and effect and shall remain valid and binding against the Company and the relevant counterparty(ies). The benefit of any deposit amount, margin payments or any other payments made by the Company pursuant to the aforementioned arrangements or agreements shall continue to be available to the Company.

2.12 Pending occurrence of the Closing Date, no Financial Creditor shall be entitled to take, initiate or continue any steps or proceedings against the Company or its assets (whether by way of demand, legal proceedings, alternative determination process (including arbitration or an expert determination process), the levying of distress, execution of judgement or otherwise) in any jurisdiction whatsoever for the purpose of obtaining payment of any liability, or for the purpose of placing the Company into liquidation or any analogous proceedings;

2.13 Pending occurrence of the Closing Date, no Operational Creditor shall be entitled to take, initiate or continue any steps or proceedings against the Company or its assets (whether by way of demand, legal proceedings, alternative determination process (including arbitration or an expert determination process), the levying of distress, execution of judgement or otherwise) in any jurisdiction whatsoever for the purpose of obtaining payment of any liability, or for the purpose of placing the Company into liquidation or any analogous proceedings;

- 2.14 *The Company has no outstanding liabilities in relation to the period between the Insolvency Commencement Date and the Closing Date, apart from those disclosed in the Data Room and incurred in the ordinary course of business of the Company.*

MISCELLANEOUS

1. Governing law:

The terms of this Resolution Plan shall be governed by and construed in accordance with the laws of India.

2. Accounting

On and after the NCLT Approval Date, to give effect to Resolution plan, the Resolution Applicant shall be permitted to draw up the financial statements of the Company, for a period ending on the NCLT Approval Date (or any date closest to that date as may be practicable) such that it truly reflects the claims verified and the realisable, fair value of the assets as may be determined by the board of directors of the Company. For this purpose, the Company shall be permitted to carry out necessary write off of assets, creation of additional liability or expenses or write back of liability or provision (as the case may be) in the books of accounts of the Company. Write back of liability or provision would be recorded in the books of accounts of Company once first payment is made towards any of the liabilities/debt, as per the Approved Resolution Plan.

Pursuant to the NCLT Approval Order, any debit or credit, being the balancing figure, arising as a result of giving effect to the Resolution Plan, shall be adjusted by the Company directly in the capital reserve account.

3. Compliance:

This Resolution Plan being submitted by the Resolution Applicant does not violate any provisions of the Applicable Law (including Code and the CIRP Regulations) to the best of the knowledge of the Resolution Applicant.

4. Negotiations and Modification of the Plan

1. *The Resolution Applicant would be happy to meet with the Resolution Professional and the members of the Committee of Creditors to discuss this Resolution Plan, and consider the Committee of Creditor's suggestions, recommendations and modifications with regard to the terms of this Resolution Plan and the financial proposal set out herein. We look forward to working with Resolution Professional and the Committee of Creditors to negotiate and finalise a resolution plan that ensures a successful insolvency resolution process in respect of the Company and delivers maximum value for the Financial Creditors and other stakeholders of the Company. In this regard, subject to discussions, the Resolution Applicant would consider matching any competing offer made by any other resolution applicant.*
2. *In the event that there is any change in Applicable Law after the date of submission of the Resolution Plan, relating to, or otherwise affecting in any manner, the CIRP under the Code or the provisions of this Resolution Plan, then the Resolution Applicant may be allowed by the Committee of Creditors, at any time prior to the Resolution Plan being approved by the Committee of Creditors, to modify the provisions of this Resolution Plan in order to incorporate such changes.*

5. Request for Attendance at the Meeting of Committee of Creditors

The Resolution Applicant is desirous of attending the meeting of the Committee of Creditors at which this Resolution Plan would be considered. Pursuant to Section 30(5) of the Code, the Committee of Creditors and the Resolution Professional are requested to provide prior written notice of such meeting(s) to the Resolution Applicant. Further, if

the Resolution Professional or Committee of Creditors intend to reject this Resolution Plan, then an opportunity may be provided to the Resolution Applicant to discuss the Resolution Plan prior to rejection of the same.

6. NCLT Approval Date and Failure of Approved Resolution Plan:

1. *The obligation of the Resolution Applicant to take any step towards implementation of this Resolution Plan, shall only arise after NCLT Approval Date. Till such time the Resolution Plan is made effective on the NCLT Approval Date, no past, present or future action, course of conduct or failure to act in relation to the implementation of this Resolution Plan will give rise to or serve as the basis for any obligation or other liability on the part of the Resolution Applicant.*
2. *This document constitutes a binding proposal of the Resolution Applicant in respect of resolution of insolvency of the Company. However, the proposal of the Resolution Applicant is subject to negotiation with the Resolution Professional and the Committee of Creditors and agreement between the Resolution Applicants and the Committee of Creditors. Therefore, the terms of the Approved Resolution Plan may be different from the terms proposed herein.*
3. *In case the COC Approved Resolution Plan is rejected or is not approved by the Adjudicating Authority, the Resolution Applicant will not be liable in any manner whatsoever under the COC Approved Resolution Plan.*

Provided further that the Resolution Applicant shall be entitled to withdraw the COC Approved Resolution Plan (without any liability) in case the Adjudicating Authority directs any material amendment to the COC Approved Resolution Plan, which results in an adverse effect or increased financial liability for the Resolution Applicant and / or affects the going concern of the company.

4. *In the above circumstances, the Performance Guarantee, deposited by the Resolution Applicant with the Resolution Professional shall stand revoked and be released unconditionally, without any deduction, to the Resolution Applicant.*

7. Assignment by Creditors:

If at any time before the NCLT Approval Date, any creditor transfers/assigns its loans/debts to any other person or third party, such assignee/ transferee shall be bound by the terms of this Resolution Plan.

8. Severability:

In the event it is determined that any provisions of the Resolution Plan is unenforceable either on its face or as applied to any claims or transaction and/or in the event any provision of the Resolution Plan becomes invalid for reasons other than by breach of any party, the Resolution Applicant may apply to the NCLT for appropriate modification of such provisions of the Resolution Plan, and such invalidity and/or unenforceability of the provision of the Resolution Plan shall not render the whole Resolution Plan ineffective, unless otherwise directed by the NCLT.

9. Modification:

No amendment or modification to this Resolution Plan by the Committee of Creditors shall be valid or binding unless is agreed to by the Resolution Applicants in writing.

1. *Notwithstanding anything contained under Applicable Law or otherwise, the amounts and payments contemplated and set out in this Resolution Plan have been arrived at solely on the basis of the (i) information provided in the Information Memorandum, (ii) information provided to the Resolution Applicant by the Resolution Professional (iii) on the assumptions set out in Part C of Chapter VII; (iv) acceptance of the Resolution Plan in its current form.*

2. **Binding Effect:**

1. *On and with effect from the NCLT Approval Date, the Approved Resolution Plan shall be binding on the Company and all stakeholders, including all holders of claims against the Company, including creditors, all Governmental Authorities, workmen and employees, promoters, Shareholders and guarantors, and all other parties in interest, and each of their respective successors, legal heirs and assigns notwithstanding, anything inconsistent contained herein with Applicable Law.*
2. *The Resolution Plan shall prevail over the provisions of all agreements/ arrangements/ purchase order/ work orders etc. entered into by the Company.*
3. *The terms of the Resolution Plan, including but not limited to the actions specified in Chapter V, Chapter VI and Chapter VII to give effect to the Resolution Plan shall be deemed to have been approved by the Company, its creditors, guarantors, members, employees and other stakeholders (including the erstwhile promoters) and shall not require any separate approvals or actions of such persons.*
4. *There shall be no interruption or stoppage in the supply of 'essential goods and services' (as defined under Regulation 32 of the CIRP Regulations) to the Company.*
5. *The Company shall be permitted to continue using the trademark (along with the logos or copyrights in relation thereto) after the Closing Date, including as a part of its corporate name, product branding letterhead and invoices, documentation, domain name and as may otherwise be required for the conduct of its business, and the exiting promoter has no objection to the same.*

3. **Right to share NCLT Approval Order and the Resolution Plan**

The Resolution Applicant, and the Company (only after Closing Date), shall be entitled to share a certified copy of the Approved Resolution Plan and the NCLT Approval Order with third parties, including Governmental Authorities.

4. **Standstill:**

From the time the Resolution Plan is approved by the Committee of Creditors upto and including Closing Date, the Company the Resolution Professional and the Committee of Creditors shall not, without consulting with the Resolution Applicant, take any action or decision which contravenes the provisions of this Resolution Plan."

8. The Resolution Plan, as reproduced above is discussed, however, certain concessions as demanded cannot be granted in toto at this moment because of either uncertainty/contingency or due to lack of corroborative evidence. Reliefs and concessions in respect of licenses, goodwill, permits etc. are required to be used and availed by the incoming management hence liberty is granted to take appropriate action for the transfer in the name of the incoming entity. About the outstanding tax demand the same is to be dealt with as per the respective provisions of law, however, subject to the provisions of the Insolvency Code.
9. The Procedure as prescribed under The Code is that a Resolution Plan is required to be submitted by a **Resolution Application U/s 30 of The Code**. On approval, the Resolution Professional is to submit U/s 30(6) the Resolution Plan, as

approved by the Committee of Creditors, to the AA. Thereafter, u/s 31, as reproduced *supra*, AA is to examine the contents of the Resolution Plan. The mandate of this section is that if the AA is “**satisfied**” that the Resolution Plan as approved by the Committee of Creditors meets the requirement as referred to in section 30(2), shall by an Order, approve the Resolution Plan. So the prerequisite is that recording of “**satisfaction**” by AA is a condition precedent. A “satisfaction” is to be recorded in writing in the Judgment approving the Resolution Plan. “Satisfaction” is required to be based upon a conscious decision on examination of the terms of the Resolution Plan. In our humble opinion a thorough study of a Resolution Plan is required before recording a “**satisfaction**” in writing by AA. The ‘**satisfaction**’ as mandated in the statute can either objective or subjective or both, but it is a condition precedent. Naturally ‘satisfaction’ is to be recorded in writing with reasons after proper application of mind. The **pros and cons** of the scheme is required to be studied before recording subjective satisfaction. If the CoC has submitted the scheme of Resolution after visualising the advantage and disadvantage then such proposal can be termed as just and equitable fit for according satisfaction. An ‘**objective satisfaction**’ revolves around the object of enactment of the Code as enshrined in the Preamble of the I & B Code i.e. to revive the financially stressed corporate body. And the ‘**subjective satisfaction**’ depends upon logical analysis of the Financial Data supplied so as to match with the business model of the Corporate Debtor. A methodical scrutiny of Financial Statement is expected before concurring with approval of the CoC. Per contra, absence of recording of subjective satisfaction may lead to situation that, being sanctioned without judicial analysis, thus may not be sustainable in the eyes of law. There are no two views, and must not be, that this I & B Code provides greater accountability both on the Insolvency Professional, as also on CoC, mainly comprise of lender Banks. Their approval of a Resolution Plan ought to be judged with due diligence. To sum up, in our humble interpretation the recording of an analytical ‘satisfaction’ is a condition precedent before granting of approval.

10. To sum up the above discussion, the Resolution Plan as approved by the Committee of Creditors is by and large hereby sanctioned by this Order in view of the recent judgment of the apex court in *K Sashidhar & Indian Overseas Bank & ors.*[Civil Appeal No. 10673/2018], Date of order: 05.02.2019. The Hon’ble Supreme Court in the said order has made the role of COC quite vital for deciding the fate of the company. It has been held that the Adjudicating authority is not required to go into the merits or reasoning of the decision taken by the COC for approval or rejection of a

resolution plan. The only benchmark which is set up to be determined by the AA is to see whether the plan has been approved by 75% voting of the CoC or not. Therefore, the commercial wisdom is not allowed to be interfered with. The relevant portion of the said judgment is reproduced herein below:

“As aforesaid, upon receipt of a “rejected” resolution plan the adjudicating authority (NCLT) is not expected to do anything more; but is obligated to initiate liquidation process under Section 33(1) of the I&B Code. The legislature has not endowed the adjudicating authority (NCLT) with the jurisdiction or authority to analyse or evaluate the commercial decision of the CoC muchless to enquire into the justness of the rejection of the resolution plan by the dissenting financial creditors. From the legislative history and the background in which the I&B Code has been enacted, it is noticed that a completely new approach has been adopted for speeding up the recovery of the debt due from the defaulting companies. In the new approach, there is a calm period followed by a swift resolution process to be completed within 270 days (outer limit) failing which, initiation of liquidation process has been made inevitable and mandatory. In the earlier regime, the Corporate debtor could indefinitely continue to enjoy the protection given under Section 22 of Sick Industrial Companies Act, 1985 or under other such enactments which has now been forsaken. Besides, the commercial wisdom of the CoC has been given paramount status without any judicial intervention, for ensuring completion of the stated processes within the timelines prescribed by the I&B Code. There is an intrinsic assumption that financial creditors are fully informed about the viability of the corporate debtor and feasibility of the proposed resolution plan. They act on the basis of thorough examination of the proposed resolution plan and assessment made by their team of experts. The opinion on the subject matter expressed by them after due deliberations in the CoC meetings through voting, as per voting shares, is a collective business decision. The legislature, consciously, has not provided any ground to challenge the “commercial wisdom” of the individual financial creditors or their collective decision before the adjudicating authority. That is made non-justiciable”.

11. To conclude, an observation can be made in a situation when a Resolution Plan is approved by the majority voting as per the prescribed percentage by the Members of the CoC the same is required to be accepted/approved by the

Adjudicating Authority. Now this view is taken, because of the latest decision of the Hon'ble Supreme Court, wherein the scope of any suggestion or alteration in the impugned resolution plan is discussed and directions issued. As far as the procedure is concerned, in this case, the same has been followed as per the provisions of the Insolvency Code, therefore, the Resolution Plan has to be approved. The Resolution Applicant has submitted an affidavit as required U/s 30(1) of the Code stating that he is eligible U/s 29A of the Code.

12. Regarding the exemptions sought, Government liabilities and statutory dues, it is worth to observe that the same should be restricted to those Government liabilities which are ascertained and crystallised as on the date when the CIRP commenced. Further, on commencement of CIRP, due to pronouncement of moratorium if any tax is levied, the same can be considered for waiver as held in the decision of NCLT, Chandigarh Bench, in the case of **“State Bank of India V. MOR Farms Pvt. Ltd.”** dated 15.06.2018 in CA No.s 71/2018 & 171/2018 in CP(IB)-51/Chd/Hry/2017 wherein waiver is granted in respect of tax dues.
13. The Resolution Plan is binding on the Corporate Debtor and other stakeholders involved so that revival of the Debtor Company shall come into force with immediate effect and the “Moratorium” imposed under section 14 shall cease to have any effect henceforth. The Resolution Professional shall submit the records collected during the commencement of the Proceedings to the Insolvency & Bankruptcy Board of India for their record and also return to the Resolution Applicant or New Promoters. Certified copy of this Order be issued on demand to the concerned parties, upon due compliance.
14. That the incoming Management shall not be personally responsible for any act, omission, commission and/or offence committed by the erstwhile Management of the Corporate Debtor till commencement of CIRP.
15. That liberty is hereby granted that if deem fit and legally permissible, can move Miscellaneous Application if required in connection with implementation of this Resolution Plan.
16. That in respect of stepping by the New Promoters/Resolution Applicant into the shoes of the erstwhile Company and taking over the business, the provisions of Companies Act, 2013 shall be applicable and because of this reason a copy of this Order is to be submitted in the Office of the Registrar of Companies, Mumbai.

17. The directions embodied and period of implementation provided hereinabove shall be effective from the date of receipt of this Order.

SD/-
M.K. SHRAWAT
Member (Judicial)

Date :16.04.2019
Js