



## **DETAILED INVITATION FOR EXPRESSION OF INTEREST FOR NSL NAGAPATNAM POWER AND INFRA TECH LIMITED**

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## 1. BACKGROUND/BASIC INFORMATION ABOUT CORPORATE DEBTOR

A brief overview of NSL Nagapatnam Power and Infratech Limited is set out below-

<b>Company Name</b>	NSL Nagapatnam Power and Infratech Limited
<b>Listing Status</b>	Unlisted
<b>Corporate Identification Number</b>	U45200TG2005PLC045511
<b>Incorporation Date</b>	02/03/2005
<b>Registered Office</b>	NSL Icon, Door No.8-2-648, Plot No. 1 to 4 Road No. 12, Banjara hills, Hyderabad, Telangana – 500034
<b>Constitution</b>	Public Limited Company
<b>Authorised Capital</b>	5000 Crores
<b>Paid Up capital</b>	377.26 Crores
<b>Name of the wholly owned subsidiary company</b>	Not Applicable

NSL Nagapatnam Power and Infratech Limited (hereinafter referred to as “NSL” or the Company) is engaged in the business of generation and sale of power and other infrastructure activities related to the business of thermal power.

The NSL has leasehold land of 455 acres approximately from Odisha Industrial Infrastructure Development Corporate (“IDCO”) for development of coal-based power plant. There is no significant installation/ construction on site.

### Financial Snapshot

Particulars	Year ended March 31, 2021 (in Lakhs)	Year ended March 31, 2022 (in Lakhs)	Year ended March 31, 2023 (in Lakhs)
Revenue from operations	-	-	-
Other Income	0.40	1.31	0.51
<b>Total Revenue</b>	<b>0.40</b>	<b>1.31</b>	<b>0.51</b>
<b>Liabilities</b>			
Total non-current liabilities (Lease liabilities)	384.51	384.61	384.91
Total current liabilities*	21,561.32	21,695.12	21,842.20
<b>Assets</b>			
Leasehold land	13,937.43	13,761.52	13,585.60
CWIP	26,626.52	26,746.83	26,858.96

Note: Assets mainly consists of leasehold land from IDCO and Capital Work in Progress.

\* this includes borrowing from PTC India Financial Services Limited

## 2. TRANSACTION PROCESS

The transaction process has been outlined below:

- a) Invitation for Expression of Interest (“EoI”) through publication of Form G (mentioning timelines and other details) in newspaper and website of Corporate Debtor and IBBI;
- b) EOI submission in requisite template (as annexed in Annexure- ‘A’) along with Undertaking in relation to submission of EoI (as annexed in Annexure-‘B’), confidentiality undertaking (as annexed in Annexure- ‘C’), 29A undertaking (as annexed in Annexure-‘D’) and other documents in support of EOI including the eligibility criterion;
- c) On confirmation of commercial eligibility of the RA and receipt of all documents as mentioned in above point ‘b’, the RA will be listed in the provisional list and thereafter once the RA qualifies in the final list he shall provided with:
  - The Information Memorandum prepared as per provisions of the Insolvency and Bankruptcy Code (“IBC”), 2016.
  - Access to the data to be provided for limited due diligence.
  - Request for Resolution Plan (‘RFRP’) outlining the next steps along with the evaluation matrix.

## 3. Eligibility criterion (CoC may amend the criterion at any time, before or after receipt of EOI per its commercial wisdom)

Minimum qualifications for applicants to approach the Resolution Professional of the Corporate Debtor for the purpose of participating in the process is as under:

### A. For Body Corporates (Any private limited company or public limited company registered under the Companies Act or Limited Liability Partnership (LLP)/Individuals/Firms:

- Minimum net worth of INR 300 Crores of its own or proportionate share of net worth of its group companies/associate companies/JV partner/JV’s share, or combination thereof, as per the latest available audited financial statements. Net worth shall include preference shares with repayment after 5 years and shall also include unsecured loans with repayments after 5 years;

**AND**

- minimum of one project should have been completed having capex of INR 500 crores in last seven (7) years (either itself or at group level).

### B. For Financial Institutions/ PE Funds / Trusts/ Asset Reconstruction Companies/ Non-Banking Finance Companies/ Other financial investors:

Minimum assets under management of INR 750 Crores per latest available audited balance sheet.

### C. For Consortiums/Any other such Joint applicant (more than one):

1. Net worth of the consortium shall be minimum of INR 300 Crore which will be calculated on the basis of weighted average of the net worth of the individual members. Weight shall be percentage participation of each member in the consortium; and
2. In case of consortium of applicants from clause A and clause B above, calculation of net worth shall be calculated on pro-rata basis in terms of their net worth and assets under management, and should be in accordance with the conditions as applicable on the respective minimum qualification criteria.

**Explanation 1:** for the calculation of net worth as per clause C.2 above, if any applicants belongs to clause A and other from clause B, and their participation in the said

consortium is in the ratio of 70:30 respectively. In that instance, the calculation of net worth would be as follows:

- 70% of INR 300 crores = qualifying applicant as per clause A
- 30% of INR 750 crores = qualifying applicant as per clause B

**Explanation 2:** for the above clauses the joint venture means any participation, combination, arrangement or understanding or consortium wherein the lead members should hold at least 51% participation and each member shall hold at least 10% in terms of participation.

**D. For qualification, it would be mandatory for the bidders to submit along with annexures:**

- For all Bidders:
  - I. Cover letter on the letter head of the company/ Body Corporate/ Financial institutions, business profile along with Form G duly signed by person duly authorised in this regard
  - II. Notarized Affidavit of “Net Worth computations based on audited results” along with supporting documents and compliance of same with eligibility criterion specified
  - III. Last Audited available financial statements
  - IV. Income Tax Returns for the last two available financial years

**E. For all Bidders: Undertaking from a director or duly authorized signatory (along with proof of authority) that:**

- I. to the best of its knowledge, every information and records provided in the expression of interest is true and correct;
- II. Bidder is not ineligible to bid under section 29A of IBC 2016 (as amended) at the time of submission of this expression of interest, and shall inform RP as soon as bidder attracts any ineligibility till conclusion of the process under section 29A within 2 working days of occurrence of any such incidence
- III. subject to applicable laws, to forthwith notify the RP of any factor that may make the applicant ineligible to participate in the corporate insolvency resolution process;
- IV. and to furnish further information or documents to the RP as may be reasonably required to verify that the applicant meets the criteria set out in the EOI.
- V. Board Resolution / letter of authority / power of attorney, as the case may be, authorizing the signatory to sign and submit the EoI documents.”

**F. Other Terms and Conditions**

- If any false information or record has been submitted by the Potential Resolution Applicant, it will render the Potential Resolution Applicant ineligible to participate in the process;
- The fulfillment of eligibility conditions in the EoI does not automatically entitle the applicant to participate in the corporate insolvency resolution process which will be subject to applicable laws and further conditions stipulated by RP or Committee of Creditors (“COC”), in their sole discretion, including those in relation to access to Virtual Data Room (“VDR”) or as may be stipulated under the Request for Resolution Plan document. Further, RP and COC reserve the right to issue clarifications, amendments and modification to the EOI document or to waive or relax any term or condition, at any point in time or its application in any particular case, in

each case as they may deem fit in their sole discretion. The RP and COC reserve the right to reject any and all applications in their sole discretion without assigning any reasons.

- A Potential Resolution Applicant (RA) must be eligible to submit a Resolution Plan in accordance with the provision of Section 29A of IBC. For this purpose, the Potential RA should give a declaration supported by an affidavit hereto stating that it does not suffer from any of the disqualifications provided under Section 29A of IBC and he is not ineligible to submit resolution plan under section 29A. In case of any Resolution Applicants submitting a joint Resolution Plan, the declaration and affidavit needs to be submitted by each such Resolution Applicant. However, a Resolution Applicant(s) suffering from a disqualification under Section 29A(c) of IBC may submit a resolution plan, provided that it undertakes to make payment of all overdue amounts with interest thereon and charges relating to non-performing asset accounts before submission of resolution plan and that it will submit a written acknowledgement of such payment at least three days before the last day for submission of resolution plan
- A Prospective Resolution Applicant must be a fit and proper person, should not suffer from any legal disability to be a promoter under the applicable laws.
- No oral conversations or agreements with the RP or any official, agent or employee of the RP, or any member of the COC shall affect or modify any terms of this EoI.
- Neither the Potential Resolution Applicant nor any of representatives of the Potential Resolution Applicant shall have any claims whatsoever against the RP or its advisors or any member of the COC or any of their directors, officials, agents or employees arising out of or relating to this EoI.
- By submitting a proposal, each prospective Potential Resolution Applicant bidder shall be deemed to acknowledge that it has carefully read the entire EoI and has fully informed itself as to all existing conditions and limitations. Ignorance of law/s will not be treated as any excuse.
- The Potential Resolution Applicant acknowledges that the investment in the Corporate Debtor shall be made by the Potential Resolution Applicant on an “as in, where is” basis, “without any recourse basis” and the RP or the COC will not be providing any representations or warranties or assurances or advice or opinion about or for the Corporate Debtor or any of its assets.
- All the EOIs received will be reviewed by RP in consultation with its advisors and COC and a provisional and final list of eligible Potential Resolution Applicants shall be shared in accordance with IBC and CIRP Regulations.

### **G. Consortium/Joint Applicant:**

Where the EoI is being submitted by a Consortium, the EoI, along with all documents including undertakings/affidavits submitted shall be signed by each member of the Consortium. Please further note that:

- a) A Person cannot be part of more than 1 (one) Consortium submitting the EoI for the Company. Further a Person shall submit only 1 (one) EOI, either individually as a Prospective Resolution Applicant or as a constituent of a Consortium;
- b) The Consortium shall submit the copy of Consortium agreement/MOU, if any, entered into between the Consortium members, setting out the respective obligations and share/participation of the Consortium members;
- c) Each member of the Consortium shall nominate and authorize a Lead Partner to represent and act on behalf of the members of the Consortium. Such Lead Partner shall be the single point of contact on behalf of the Consortium with the Resolution Professional and the CoC, their representative and advisors in connection with all matters pertaining to the Consortium;
- d) The members of the Consortium shall be and remain jointly and severally liable in respect of obligations under the EOI/ undertakings given to the Resolution Professional;
- e) If any 1 (one) member of the Consortium is disqualified under Section 29A of the Code, then the entire Consortium, i.e., all the members of such Consortium shall stand disqualified;
- f) The EOI must detail the members of the Consortium, the Lead Member and the proposed percentage holding of each member;
- g) Lead Member of the Consortium shall be identified at the time of submission of EOI and as per their participation the lead member should hold at least 51% in the consortium and each member shall hold at least 10% in the consortium; and
- h) No change of Lead Member or any member whose financials have been considered towards the eligibility criteria may be permitted post submission of EOI (except with approval of the CoC).

### **4. List of Ineligibilities:**

- a. Any non-compliance under section 29A - Sec 29A Undertaking (as per annexure 'D') has to be in the form of an affidavit on a stamp paper of appropriate amount as per the stamp act applicable to the state of execution
- b. Any other ineligibility as notified by RP or CoC subsequently, or any other ineligibility arising out of any judgment, or due to any sectoral laws/regulations/rules or change in law/regulations.



## 5. SUBMISSION OF EXPRESSION OF INTEREST:

- a) Expression of Interest (“EoI”) is invited through email and hard copy, in the format, as set out in **Annexure ‘A’**.
- b) Email has to be sent to [ciroofnnpail@minervaresolutions.com](mailto:ciroofnnpail@minervaresolutions.com) with copy to [navneet@minervaresolutions.com](mailto:navneet@minervaresolutions.com)
- c) Subject of email should be “**Expression of Interest (“EoI”) for submitting of Resolution Plan for NSL Nagapatnam Power and Infratech Limited (“NSL”) undergoing Corporate Insolvency Resolution Process (“CIRP”)**”
- d) Applicants should meet the Eligibility Criteria as set out above in point 3 and shall not attract any ineligibility under point 4 above
- e) Applicants should submit the EoI along with the supporting documents determining eligibility as mentioned in point 3 above
- f) Applicant is also required to submit the following undertakings as set out in **Annexure B, Annexure C and affidavit under section 29A stating eligibility** respectively along with the EoI
- g) Last date of EOI submission (email should be sent on or before) – 06<sup>th</sup> December 2023

### **Note:**

- *Any EoI submitted after the Last date shall be decided per commercial wisdom of CoC*
- *EoIs not fulfilling the above conditions are liable to be disqualified without any further communication.*
- *The RP/COC reserves the right to cancel or modify the process and or reject/ disqualify any Resolution Applicant/ EoI/ bid/ offer at any stage of the bid process without assigning any reason.*
- *This is not an offer document. Applicants should regularly visit the website(s) referred to above to keep themselves updated regarding clarifications, amendments, or extensions of time, if any.*

## 6. LAST DATE OF SUBMISSION OF EXPRESSION OF INTEREST:

The last date for submission of EoI is 06<sup>th</sup> December 2023, which may be extended by the Resolution Professional with approval/ratification of the COC. Further, any late submission by one or more bidder may be condoned by CoC per its commercial wisdom.

In case EOI is not submitted by the specified time period, then the participation can only be allowed if CoC approves/ratified the EOI as submitted.

### **NOTE**

- 1) *All Potential Resolution Applicants who are desirous of submitting a resolution plan in respect of the Corporate Debtor must read, understand and comply with all the requirements under IBC, CIRP Regulations and any other applicable regulations under IBC that are in force now or which may come into force subsequently, for resolution plan and all matters under, in pursuant to, in furtherance of or in relation to, this invitation.*
- 2) *The Prospective Resolution Applicants will be communicated further details related to the process and would also be required to (a) submit a duly executed non-disclosure agreement as per the requirements of IBC and CIRP Regulations as a condition for receiving the information memorandum and other relevant information in relation to the Corporate Debtor and (b) provide any other information as may be required by the RP. The Prospective Resolution Applicant shall*

*also state its independence vis – a – vis the RP, CoC, and any other professional/stakeholder in the process and disclose any relationship which should have been disclosed.*

- 3) *The consideration, evaluation and approval of resolution plan submitted by RP to the committee of creditors is within the powers of committee of creditors under the provisions of the IBC and CIRP Regulations. The committee may specify evaluation matrix separately for evaluation of the resolution plans.*
- 4) *For submitting the EoI, or for any information on the Corporate Debtor or further clarifications and other details, kindly write to “CIRPOFNNPAIL@minervaresolutions.com copy to navneet@minervaresolutions.com”*

## **7. DISCLOSURES:**

- 1) Any instance or any transactions where bidding company or any of the group company of the bidder had submitted the resolution plan under IBC 2016, which was duly approved by NCLT and failed to implement it.
- 2) Submit independence disclosure as per the circular no. IP/005/2018 issued by Insolvency and Bankruptcy Board of India, as applicable.

Regards

**Navneet Kumar Gupta**

**Resolution Professional of**

**NSL Nagapatnam Power and Infratech Limited**

**IBBI Reg. No.** IBBI/IPA-001/IP-P00001/2016-2017/10009

AFA Valid till 23<sup>rd</sup> January 2024

**Registered Address:** Unit 2, Block D1, Golf Link, Sector 23B, Dwarka, New Delhi 110077

Registered email id: [navneet@minervaresolutions.com](mailto:navneet@minervaresolutions.com)

Process email id (as per Regulation 4C of CIRP Regulation): [CIRPOFNNPAIL@minervaresolutions.com](mailto:CIRPOFNNPAIL@minervaresolutions.com)



## **ANNEXURE A**

[On the Letterhead of the Entity Submitting the EoI]

### **COVERING LETTER FOR EXPRESSION OF INTEREST FOR RESOLUTION PLAN OF NSL Nagapatnam Power and Infratech Limited**

**To,**  
**Mr. Navneet Kumar Gupta**  
**Resolution Professional (“RP”)**  
**In the matter of NSL Nagapatnam Power and Infratech Limited**

**Address: Unit 2, Block D1, Golf Link, Sector 23B, Dwarka, New Delhi 110077**  
**Email : [navneet@minervaresolutions.com](mailto:navneet@minervaresolutions.com) , [CIRPOFNPAI@minervaresolutions.com](mailto:CIRPOFNPAI@minervaresolutions.com)**

**Date :**

**Subject: FORM G - Expression of Interest (“EoI”) for submitting of Resolution Plan for NSL Nagapatnam Power and Infratech Limited (“NSL”) undergoing Corporate Insolvency Resolution Process (“CIRP”)**

Dear Sir/Madam,

In response to your public advertisement in the \_\_\_\_\_ and \_\_\_\_\_ dated <<date>> inviting EoIs for submission of resolution plans (“**Resolution Plan**”) as per the provision of Insolvency and Bankruptcy Code, 2016 (“**Code**”), we confirm that we have understood the requirements and the terms and conditions for filing this EoI and make our EoI for submission a Resolution Plan in respect of NSL.

In this regard, we hereby submit our EoI through FORM G.

We have attached necessary information requested and further undertake that the information furnished by us in this FORM G is true, correct and accurate to the best of our knowledge.

Based on this information we understand you would be able to evaluate our preliminary proposal / eligibility to shortlist us for the above-mentioned proposal. Further, we agree and acknowledge that:

- (a) The fulfillment of eligibility conditions in the EoI does not automatically entitle us to participate in the CIRP of NSL, which will be subject to applicable laws and further conditions and/or checks stipulated by the RP or the committee of creditors (“**COC**”), in their sole discretion, including those in relation to access to virtual data room (“**VDR**”) or as may be stipulated under the Request for Resolution Plan document. Further, the RP and COC reserve the right to issue clarifications, amendments and modification to the EoI document or to waive or relax any term or condition or its application in any particular case, in each case as they may deem fit in their sole discretion;
- (b) The EoI will be evaluated by the RP of Corporate Debtor along with the COC, based on the information provided by us in this EOI and attached documents to determine whether we meet eligibility criteria to submit the Resolution Plan for Corporate Debtor;

- (c) The RP/ COC reserve the right to determine at their sole discretion, whether or not we qualify for the submission of the Resolution Plan for NSL and may reject the EOI submitted by us without assigning any reason at any point in time whatsoever and not include us in the provisional or final list of eligible prospective resolution applicants or remove our name from final list post inclusion in provisional list;
- (d) We, shall not have any vested right in to the process or the corporate debtor or any of its assets by virtue of submission of resolution plan, and CoC may, in its discretion/commercial wisdom shall have absolute right to select/reject our eligibility to submit resolution plan as well as accept or reject submitted resolution plan
- (e) The RP/ the COC reserve the right to conduct due-diligence on us and/or request for additional information or clarification from us for the purposes of the EOI and we shall promptly comply with such requirements. Failure to satisfy the queries of RP/ COC may lead to rejection of our submission pursuant to EoI;
- (f) We, including any connected persons of ours, singly or jointly, are not ineligible or disqualified in terms of provisions of section 29A of the code as amended till date;
- (g) We do fulfil the eligibility criterion as set out in point 3 of detailed invitation of EOI document, and meeting the qualification criteria set out in Invitation for EoI alone does not automatically entitle us to participate in the next stage of the bid process;
- (h) We, shall have no objection to any diligence, enquiry done by RP/CoC/their representatives about our affairs, including KYC documents, and shall be pleased to share the PAN/ADHAAR/Company documents and shall not contest/challenge any such action by the RP or CoC or any of their representative.
- (i) along with our EoI, we have also enclosed information/documents as required in the Invitation for EoI; and
- (j) If any false information or record has been submitted by us, it will render us ineligible to participate in the process.
- (k) The signatory to this EoI is duly authorised by the Board of \_\_\_\_\_ <<Name of the Entity>> to sign this EoI. (Kindly attach copy of authorization i.e. Board Resolution or Power of Attorney)

\_\_\_\_\_  
Sincerely yours,  
On behalf of (Insert name of the entity submitting the EOI)

Signature:  
Name of Signatory:  
Designation:  
Company Seal/stamp

**Enclosures: Annexure B, C and D**

## **ANNEXURE B**

### **FORMAT OF UNDERTAKING**

To,

**Mr. Navneet Kumar Gupta**

**Resolution Professional – NSL Nagapatnam Power and Infratech Limited**

Reg no IBBI/IPA-001/IP-P00001/2016-2017/10009

**Address: Unit 2, Block D1, Golf Link, Sector 23B, Dwarka, New Delhi 110077**

**Email : [navneet@minervaresolutions.com](mailto:navneet@minervaresolutions.com) , [CIRPOFNNPAIL@minervaresolutions.com](mailto:CIRPOFNNPAIL@minervaresolutions.com)**

**Subject: Undertaking in relation to submission of the EoI for NSL Nagapatnam Power and Infratech Limited (“Company”), currently undergoing Corporate Insolvency Resolution Process (“CIRP”)**

Dear Sir,

In respect of the expression of interest (“**EoI**”) submitted by us for submission of a resolution plan (“**Resolution Plan**”) for the Company, we hereby confirm, represent, warrant and undertake that:

- (a) We have understood the eligibility and other criteria mentioned in the Invitation for submission of EoI issued by the Resolution Professional of the Company on **21<sup>st</sup> November 2023**.
- (b) We meet the necessary networth threshold and any other criteria mentioned in the EoI;
- (c) We are not an ineligible/disqualified person in terms of provisions of Section 29A of the Code;
- (d) The Investment in the Corporate Debtor shall be made by us on an “as in, where is” basis and the Resolution Professional or the COC will not be providing any representations or warranties or assurances for the Corporate Debtor;
- (e) Neither we nor any of our representatives shall have any claims whatsoever against the Resolution Professional or its advisors or any member of the CoC or any of their directors, officials, agents or employees arising out of or relating to the resolution process or against any action of RP in good faith during CIRP period;
- (f) No oral conversations or agreements with the Resolution Professional or any official, agent or employee of the Resolution Professional, or any member of the COC shall affect or modify any terms of this EoI;
- (g) The Resolution Professional, post deliberations in the CoC, shall be entitled to reject /accept the EoI submitted after the last date prescribed by the Resolution Professional;
- (h) If, at any time after the submission of this EOI, we become ineligible to be a resolution applicant as per the provisions of the Code (and in particular Section 29A of the Code), the fact of such ineligibility shall be forthwith brought to the attention of the Resolution Professional and the COC;

Sec 29A Undertaking ( to be provided separately) has to be in the form of an affidavit on a stamp paper of appropriate amount as per the stamp act applicable to the state of execution

- (i) There is no instance or transaction where we or any of our group company had submitted the resolution plan under IBC 2016, which was duly approved by NCLT and we failed to implement it.
- (j) All information and records provided by us to the Resolution Professional in EoI or otherwise are correct, accurate, complete and true and no such information, data or statement provided by us is inaccurate or misleading in any manner. We shall be solely responsible for any errors or omissions therein. Based on this information, we understand you would be able to evaluate our EoI in order to pre-qualify for the above-mentioned proposal.
- (k) We acknowledge that in case any information/record provided by us is false, incorrect, inaccurate or misleading, we shall become ineligible to submit the Resolution Plan and we shall also attract penal action under the Code.

Yours Sincerely,

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

**Signature:** \_\_\_\_\_

**Name of Signatory:**

**Designation:**

**Company Seal/Stamp**

**NOTE:**

- (a) The Undertaking should be stamped on a stamp paper of INR 600.
- (b) The person signing the Undertaking should be authorized signatory supported by necessary board resolutions/authorization letter.

## ANNEXURE C

### FORMAT OF CONFIDENTIALITY UNDERTAKING

#### CONFIDENTIALITY AGREEMENT

This confidentiality undertaking has been signed by \_\_\_\_\_, a prospective resolution applicant having its office at \_\_\_\_\_ acting through Mr./Ms. \_\_\_\_\_, the authorized representative, which expression shall, unless repugnant to the context, include its successors in business, administrators in business, administrators, assigns or legal representatives) in favour of Mr. Navneet Kumar Gupta, an insolvency professional having registration no. IBBI/IPA-01/IP-P00001/2016-17/10009, on \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**WHEREAS** CIRP of **NSL Nagapatnam Power and Infratech Limited** (“NNPAIL” or “Corporate Debtor”) was initiated by the order of the Hon’ble National Company Law Tribunal, Hyderabad Bench (“NCLT”) in the Company Petition CP (IB) No. 306/10/HDB/2017 in accordance with the section 10 of the Insolvency and Bankruptcy Code, 2016 read with the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process of Corporate Person) Regulations, 2016 vide its order dated 18th January, 2018 (“Insolvency Commencement Date”) and have appointed Mr. Venkateswarlu Kari (“Erstwhile RP”) as an Interim Resolution Professional and subsequently his appointment was confirmed as Resolution Professional.

Further, the members of the Committee of Creditor in its meeting have consented to replace the Resolution Professional with the undersigned i.e., **Navneet Kumar Gupta**, an Insolvency Professional having IBBI Registration Number IBBI/IPA-001/IP-P00001/2016-17/10009 in accordance with section 27 of the Insolvency and Bankruptcy Code, 2016 (“the Code”) and moved an application before the Hon’ble NCLT vide IA No. IA (IBC)/987/2023, wherein the Hon’ble NCLT was pleased allow the application and have sent the said proposal for the confirmation with IBBI, and the Board has confirmed our appointment vide its letter dated 04th October 2023 (copy of which was served to us through email on 05th October 2023), accordingly we have occupied the office w.e.f., 05<sup>th</sup> October 2023.

**WHEREAS** the term “**Confidential Information**” shall include the information memorandum, Valuation Report, Request For Resolution Plan (“**RFRP**”), bids/resolution plans, scoring per evaluation matrix, company operational information, proceedings during committee of creditors, minutes, voting results or any other relevant report/information in connection with the Company, comprising of all financial, technical, operational, commercial, management and other information, including all information relating to the business, assets, affairs, products, services, assets, costs, terms of trading, customers, suppliers, employees and financial statements (and /or copies thereof) which is disclosed, whether on or after the date of this undertaking, whether orally, in writing or in any other form (including magnetic or digital form) by the RP or their authorized representatives to us / any of our directors, officers, employees, associates, managers, consultants, advisers, attorneys or agents in connection with the Company.

**THEREFORE, the Prospective Resolution Applicant (“PRA”) hereby declares and undertakes as follows:**

The PRA shall at all times comply with the requirements under the Insolvency and Bankruptcy Code, 2016 and regulations thereunder and the PRA further unconditionally and irrevocably undertakes and declares that:

- (a) the Confidential Information shall be kept confidential by the PRA and shall be used, stored and retained solely in accordance with the terms of the Code;
- (b) the PRA shall not divulge the Confidential Information or any part thereof, to any person, in any manner, except in accordance with the provisions of the Code and the regulations made thereunder and the terms hereof;
- (c) the PRA shall not use the Confidential Information to cause any undue gain or undue loss to itself, the Company, the RP or any other person;
- (d) the PRA shall comply with all provisions of law for the time being in force relating to confidentiality and insider trading (if applicable) in relation to such Confidential Information;
- (e) the PRA shall protect any intellectual property of the Corporate Debtor which it may have access to;
- (f) the PRA shall ensure that all Confidential Information is kept safe and secured at all times and is protected from unauthorised access, use, dissemination, copying, theft or leakage;
- (g) the PRA shall take all necessary steps to safeguard the privacy and confidentiality of the information received and shall use its best endeavors to secure that no person acting on its behalf divulges or discloses or uses any part of the Confidential Information, including but not limited to the financial position of the Corporate Debtor, all information related to disputes by or against the Corporate Debtor and any other matter pertaining to the Corporate Debtor as may be specified; and
- (h) the PRA shall be responsible for any breach of obligations under this confidentiality undertaking (including any breach of confidentiality obligations by any employee or advisor of the PRA) and shall indemnify the Resolution Professional for any loss, damages and costs incurred by the Resolution Professional due to such breach of obligations by the PRA.

Notwithstanding anything to the contrary contained herein, the following information shall however not be construed as Confidential Information:

- (a) information which, at the time of disclosure to the PRA was already in the public domain without violation of any provisions of applicable laws;
- (b) information which, after disclosure to the PRA becomes publicly available without any breach of this confidentiality undertaking or violation of applicable laws;

- (c) information which was, lawfully and without any breach of this confidentiality undertaking, in the possession of the PRA prior to its disclosure, as evidenced by the records of the PRA;
- (d) information that is received by the PRA from a third party which is not in breach of its confidentiality obligations hereunder; and
- (e) information that is required to be disclosed by the PRA (and to the extent required to be disclosed) pursuant to the requirements of applicable laws, or order of a judicial, regulatory or administrative authority or the guidelines of the regulatory/administrative authority or the stock exchange.

The PRA agrees that the RP makes no representation, warranty or inducement, whether express or implied, as to the accuracy, completeness, authenticity or adequacy of the information (including but not limited to the Confidential Information) provided to the PRA.

The PRA further agrees that, the RP shall not be liable to the PRA for any damage arising in any way out of the use of the Confidential Information and the PRA shall not have any claim against the RP or the Corporate Debtor in relation to any information provided.

1. The PRA hereby represents and warrants that it has the requisite power and authority to execute, deliver and perform its obligations under this confidentiality undertaking.
2. This confidentiality undertaking and any dispute, claim or obligation arising out of or in connection with it shall be governed by and construed in accordance with Indian laws and the courts at New Delhi shall have exclusive jurisdiction over matters arising out of or relating to this confidentiality undertaking.

Signature and stamp of Prospective Resolution Applicant:

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Name:

Designation:

## ANNEXURE D

### SECTION 29A UNDERTAKING

This is in relation to the ongoing corporate insolvency process of NSL Nagapatnam Power and Infratech Limited.

I, [name of the chairman/managing director/director/authorized person of prospective resolution applicant], son of [\_\_\_\_], aged about [\_\_\_\_] years, currently residing at [Address to be inserted] and having Aadhaar / Passport number [\_\_\_\_], on behalf of [name of the prospective resolution applicant] having registered office at [\_\_\_\_] (“**Applicant**”) [pursuant to authorization of the Board of the Applicant dated [\_\_\_\_] (as enclosed herewith)]<sup>1</sup>, do hereby undertake and confirm, represent, warrant and undertake that:

1. That I am duly authorized and competent to make and affirm the instant undertaking for and on behalf of the Applicant in terms of [resolution of its board of directors/ power of attorney dated [\_\_\_\_]]. I hereby unconditionally state, submit and confirm that the document is true, valid and genuine.
2. I hereby unconditionally state, submit and confirm that the Applicant is not disqualified from submitting an expression of interest in respect of the Company, pursuant to the provisions of the Code.
3. I hereby state, submit and declare that neither the (i) Applicant nor (ii) any person acting jointly or in concert with the Applicant nor (iii) any person who is a connected person (as defined under the provisions of the Code) of (a) the Applicant or (b) any person acting jointly or in concert with the Applicant):
  - (a) is an undischarged insolvent;
  - (b) is a wilful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949;
  - (c) at the time of submission of the resolution plan has an account, or an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, classified as non-performing asset in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 or the guidelines of a financial sector regulator issued under any other law for the time being in force, and at least a period of one year has lapsed from the date of such classification till the date of commencement of the corporate insolvency resolution process of the corporate debtor:

Provided that the person shall be eligible to submit a resolution plan if such person makes payment of all overdue amounts with interest thereon and charges relating to nonperforming asset accounts before submission of resolution plan:

Provided further that nothing in this clause shall apply to a resolution applicant where such applicant is a financial entity and is not a related party to the corporate debtor.

Explanation I.- For the purposes of this proviso, the expression "related party" shall not include a

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<sup>1</sup> To be retained only for body corporates.



financial entity, regulated by a financial sector regulator, if it is a financial creditor of the corporate debtor and is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares or completion of such transactions as may be prescribed], prior to the insolvency commencement date.

Explanation II.— For the purposes of this clause, where a resolution applicant has an account, or an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, classified as non-performing asset and such account was acquired pursuant to a prior resolution plan approved under this Code, then, the provisions of this clause shall not apply to such resolution applicant for a period of three years from the date of approval of such resolution plan by the Adjudicating Authority under this Code

- (d) has been convicted for any offence punishable with imprisonment –
- (i) for two years or more under any Act specified under the Twelfth Schedule; or
- (ii) for seven years or more under any law for the time being in force:

Provided that this clause shall not apply to a person after the expiry of a period of two years from the date of his release from imprisonment:

Provided further that this clause shall not apply in relation to a connected person referred to in clause (iii) of Explanation I;

- (e) is disqualified to act as a director under the Companies Act, 2013:

Provided that this clause shall not apply in relation to a connected person referred to in clause (iii) of Explanation I;

- (f) is prohibited by the Securities and Exchange Board of India from trading in securities or accessing the securities markets;

(g) has been a promoter or in the management or control of a corporate debtor in which a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been made by the Adjudicating Authority under this Code:

Provided that this clause shall not apply if a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place prior to the acquisition of the corporate debtor by the resolution applicant pursuant to a resolution plan approved under this Code or pursuant to a scheme or plan approved by a financial sector regulator or a court, and such resolution applicant has not otherwise contributed to the preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction;

(h) has executed a guarantee in favour of a creditor in respect of a corporate debtor against which an application for insolvency resolution made by such creditor has been admitted under this Code and such guarantee has been invoked by the creditor and remains unpaid in full or part;

- (i) is subject to any disability, corresponding to clauses (a) to (h), under any law in a jurisdiction outside India; or

- (j) has a connected person not eligible under clauses (a) to (i).
4. That the Applicant unconditionally and irrevocably represents, warrants and confirms that it is eligible under the terms and provisions of the Code and the rules and regulations thereunder to submit an expression of interest and that it shall provide all documents, representations and information as may be required by the RP or the CoC to substantiate to the satisfaction of the RP and the CoC that the Applicant is eligible under the Code and the rules and regulations thereunder to submit an expression of interest in respect of the Company.
  5. That the Applicant unconditionally and irrevocably undertakes that it shall provide all data, documents and information as may be required to verify the statements made under this undertaking.
  6. That the Applicant understands that the CoC and the RP may evaluate the expression of interest to be submitted by the Applicant or any other person acting jointly with it and such evaluation shall be on the basis of the confirmations, representations and warranties provided by the Applicant under this undertaking.
  7. That the Applicant agrees that each member of the CoC and the RP are entitled to rely on the statements and affirmations made in this undertaking for the purposes of determining the eligibility and assessing, agreeing and approving the expression of interest submitted by the Applicant.
  8. That in the event any of the above statements are found to be untrue or incorrect, then the Applicant unconditionally agrees to indemnify and hold harmless the RP and each member of the CoC against any losses, claims or damages incurred by the RP and / or the members of the CoC on account of such ineligibility of the Applicant.
  9. That the Applicant agrees and undertakes to disclose/inform forthwith, to the RP and the members of the CoC, if the Applicant becomes aware of any change in factual information in relation to it or its connected person (as defined under the Code) which would make it ineligible under any of the provisions of Section 29A of the Code at any stage of the corporate insolvency resolution process of the Company, after the submission of this undertaking.
  10. That this undertaking shall be governed in accordance with the laws of India and the relevant courts of India shall have the exclusive jurisdiction over any dispute arising under this undertaking.

Yours Sincerely,

On behalf of [Insert the name of the entity submitting the EOI] Signature: \_\_\_\_\_

**Name of Signatory:**

**Designation:**

**Company Seal/Stamp**

**Note:** The person signing the EOI and other supporting documents should be authorized signatory supported by necessary board resolutions/authorization letter.