

Detailed Invitation for Expression of Interest to Submit Resolution Plan(s) for KSK Water Infrastructures Private Limited

Background of the Corporate Debtor

KSK Water Infrastructures Private Limited (“**the Corporate Debtor**”) is a private company, having a corporate identification number of U41000TG2009PTC062890, registered with the Registrar of Companies, Hyderabad and incorporated on 26th February 2009, with its registered office at 8-1-293/82/A/431/A, Road No. 22, Jubilee Hills, Hyderabad – 500033. It is engaged in business of constructing, building, developing maintaining, operating, owning, treating, transferring or decommissioning water supply projects, water treatment systems and other facilities or similar nature including laying pipelines, building pumping stations, inter alia intermediate reservoirs for supply of water to power plant being established by KSK Mahanadi Power Company Limited (“KMPCL”). The Corporate Debtor has offered to transport water from river Mahanadi to the KMPCL power plant located at 60 Km from Basantpur Anicut and about 39 Km from Seorinarayan Anicut through its infrastructure. The Corporate Debtor draws water from river Mahanadi and transport it to the plant site by means of underground pipeline buried 2.7 meters below ground. The water project pipeline route runs through the Tehsil Champa, Navagadh, Akaltara, Janjgir Champa district of Chhatisgarh state, India. The Corporate Debtor is a special purpose vehicle promoted by the KSK Group, which is primarily engaged in the development, operation and maintenance of power projects in India.

The date of Commercial Operation Date is as follows:

Particulars	Commercial Operation Date
Water Supply	28 th February, 2015

The Corporate Debtor is currently undergoing Corporate Insolvency Resolution Process (“**CIRP**”) in accordance with the extant provisions of the Insolvency and Bankruptcy Code, 2016 (“**the Code**”) and other relevant rules and regulations notified thereunder, pursuant to the Order of the Hon’ble National Company Law Tribunal, Hyderabad Bench (“**NCLT**”) dated 1st January, 2021 (being the insolvency commencement date) wherein the Hon’ble NCLT has appointed Mr. B. Naga Bhushan as an Interim Resolution Professional (“**IRP**”) to manage the affairs of the Corporate Debtor in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016 (“**the Code**”) and rules and regulations made thereunder. Subsequently, pursuant to the Order of Hon’ble NCLT dated 8th April, 2021 (Order Copy uploaded on 16th April, 2021), I, V.Venkatachalam, was appointed and confirmed as the Resolution Professional (“**RP**”) of the Corporate Debtor.

Invitation for Expression of Interest to submit Resolution Plan

In accordance with the Section 25(2)(h) of the Code read with Regulation 36A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons), 2016 (“**the CIRP Regulations**”), the RP hereby invites Expression of Interest to submit a Resolution Plan(s) for the Corporate Debtor (“**EOI**”), from the interested and eligible prospective resolution applicants who fulfils such eligibility criteria, as approved by the CoC.

Eligibility Criteria

The eligibility criteria for prospective resolution applicants, as approved by the CoC in accordance with the Section 25(2)(h) of the Code is as follows:

1. Prospective Resolution Applicant

1.1. A prospective resolution applicant may include any individual (resident of India, foreign national, non-resident Indian or a person of Indian origin, as defined under Foreign Exchange Management Act, 1999 and any related amendments thereto), trust, co-operative society, private limited company, public limited company, sole proprietary firm or a partnership firm, whether registered in India or outside India, which is eligible to invest in India under the laws of India.

1.2. A prospective resolution applicant can be a strategic investor (“**SI**”) and / or a financial investor (“**FI**”). An SI being Body Corporates, Partnership Firms, High Net Individuals having experience in similar sectors. An FI including but not limited to Private Equity Funds, Venture Capital Funds, Investment Funds, Non-banking Finance Companies, Asset Reconstruction Companies (subject to relevant approval), Banks, Foreign Investment Institutions etc.

2. Financial Capacity

2.1. Financial Capacity of a SI being Body Corporates, Partnership Firms, High Net Individuals having experience in similar sectors:

Minimum Consolidated Tangible Net Worth* of INR 50 Crores (INR Fifty Crores) or more as of 31st March 2020 or based on the latest audited financial statements of the entity and as certified by a Chartered Accountant.

** Net Worth shall be computed as per Companies Act, 2013*

2.2. Financial Capacity of FI including but not limited to Private Equity Funds, Venture Capital Funds, Investment Funds, Non-banking Finance Companies, Asset Reconstruction Companies (subject to relevant approval), Banks, Foreign Investment Institutions etc:

2.2.1. Minimum Asset Under Management (“**AUM**”) of INR 100 Crores (INR One Hundred Crores) as of 31st March 2020 or based on the latest audited financial statements of the entity and as certified by a Chartered Accountant; or

2.2.2. Committed funds available for investment/deployment in Indian companies or Indian assets of INR 100 Crores (INR One Hundred Crores) or more as of 31st March 2020 or any later date; or

2.2.3. Consolidated Tangible Net Worth* of INR 50 Crores (INR Fifty Crores) or more as of 31st March 2020 or any later date.

** Net Worth shall be computed as per financial reporting laws applicable to FI*

3. Prospective Resolution Applicants forming Consortium / Joint Ventures

3.1. The consortium shall consist of not more than 5 (five) members with shareholding of an individual member not being less than 10% (ten percent). Members having participation interest of at least 20% (twenty percent) in the consortium shall only be considered for evaluation and such members shall further commit that the combined participation interest of all the members whose experience have been evaluated for the purpose of submission of the EOI and / or the Resolution Plan shall be at least 26% (twenty-six percent) and further, shall have a lock-in period of 5 (five) years from the date of transfer of shares of the Corporate Debtor to the consortium. The lock-in shall not be applicable in One Time Settlement (OTS) proposals. The consortium would be required to have a lead consortium member having at least 26% voting share.

3.2. In the event the consortium is made up of body corporates, the net worth of the consortium shall be calculated as the weighted average of the consolidated net worth of the individual member (value of any negative parameter shall be considered as nil). Provided that only such portion of their net worth as is proportionate to their shareholding in the consortium will be considered towards this eligibility criteria.

3.3. In the event the Consortium is made up of FI / funds / private equity investors / non-banking financial companies / any other such applicants, the minimum AUM of the consortium shall be calculated as weighted average of individual member’s AUM or committed funds available for investment/deployment in Indian companies. Provided that only such portion of their AUM / committed funds as is proportionate to their shareholding in the consortium, will be considered towards this eligibility criteria.

3.4. In the event the consortium is made up of a mix of SIs and FIs viz. comprising body corporates, FIs / funds / private equity investors / non-banking financial institutions / any other applicants, the eligibility criteria applicable to the lead member shall be considered.

3.5. No change in the members of the consortium shall be allowed after the submission of the proposal by the consortium.

- 3.6. Any prospective resolution applicant can participate in only 1 (one) Consortium and / or can submit only 1 (one) EOI / resolution plan.
4. Any state entity / public sector undertaking having a consolidated Tangible Net Worth of at least INR 50 Crores (INR Fifty Crores) as of 31st March 2020 or later may also submit EOI.
5. Government promoted funds / Quasi sovereign wealth funds promoted by Government of India / State Governments in India having an AUM of at least INR 100 Crores (INR One Hundred Crores) or committed funds available for investment / deployment in Indian companies of at least INR 100 Crores (INR One Hundred Crores) as of 31st March 2020 or later date may also submit EOI.
6. The prospective resolution applicant including any member of a consortium / joint venture or a fund or a financial institution or a private equity investor or group company or affiliate or a chief executive officer or any of the directors / manager / key managerial personnel of the prospective resolution applicant or their affiliate should not have been charge-sheeted by any agency of the government or convicted by a court of law with regard to matters relating to security and integrity of the country.
7. Neither, the prospective resolution applicant including any consortium member, group company, affiliate, chief executive officer, any of the directors / manager / key managerial personnel of the interested party or their affiliate should have been convicted by a court of law or indicted nor any adverse orders should have been passed by a regulatory authority which could cast a doubt on the ability of the prospective resolution applicant to undertake the transaction or which relates to a grave offence that outrages the moral sense of the community in regard to matters, as may be determined in accordance with applicable law.

Disqualification Criteria

Without prejudice, a prospective resolution applicant may be disqualified and its EOI or Resolution Plan may be excluded from further consideration for non-compliance with the terms hereof or for any of the reasons (including without limitation) listed below. Where the prospective resolution applicant is a consortium, none of the members should be subject to disqualification under the terms of this document. The disqualification criteria shall include:

1. Ineligibility in terms of Section 29A of the Code;
2. Material mis-representation in the EOI or the proposal or failure to provide the information required to be provided in accordance with the terms of the detailed invitation or request for resolution plans;
3. The RP is of the view that the prospective resolution applicant has not satisfied the eligibility criteria approved by the CoC. Without prejudice to the generality of the above, the criteria may include among others, the track record (financial, operational strength, turnaround experience or otherwise) of the interested party, its financial strength, etc;
4. Any information regarding the prospective resolution applicant which becomes known to the RP or the CoC which is detrimental to the proposed transaction and / or to the interests of the Corporate Debtor and its stakeholders.

Submission of EOI

Any interested prospective resolution applicant who is eligible in accordance with the eligibility criteria as specified by the CoC, may submit EOI in the format as set out in ‘**Annexure A**’ on or before **27th May 2021 (18:00 Hrs IST)**. The last date for receipt of expression of interest is subject to permissible extensions. It may be noted that the EOI shall be unconditional and accompanied by:

- a. All the details / information of the Applicant along with supporting documents set out in ‘**Annexure B**’ hereto.
- b. An undertaking by the prospective resolution applicant that it does not suffer from any ineligibility under Section 29A of the Code as set out in ‘**Annexure C**’ and relevant information and records to enable an assessment of ineligibility under Section 29A of the Code.
- c. An undertaking by the prospective resolution applicant that it meets the eligibility criteria specified by the

CoC as set out in ‘Annexure D’.

- d. An undertaking by the prospective resolution applicant that every information and records provided in expression of interest is true and correct and discovery of any false information or record at any time will render the applicant ineligible to submit resolution plan and attract penal action under the Code as set out in ‘Annexure D’.
- e. An undertaking by the prospective resolution applicant to the effect that it shall maintain confidentiality of the information and shall not use such information to cause an undue gain or undue loss to itself or any other person and comply with the requirements under sub-section (2) of Section 29 of the Code as set out in ‘Annexure D’.
- f. Executed Version of Confidentiality and Non-Disclosure Agreement as set out in ‘Annexure E’
- g. Other Relevant records in evidence of meeting the criteria specified herein.

The prospective resolution applicants shall submit the EoI along with the required documents in a sealed envelope in hard copy along with the relevant Annexures, to the following address by post or courier or deliver in person to:

Mr. V. Venkatachalam
Resolution Professional
No. 12-13-205, Street No.2,
Tarnaka, Secunderabad - 500017

Additionally, a soft copy of the EOI along with above-mentioned documents should also be mailed to ip.kskwipl@ibcpprofessionalsolutions.com. The RP may seek any clarification and additional information or document, in addition to material on record, from prospective resolution applicant for conducting due diligence to ensure compliance w.r.t. eligibility in accordance with the applicable provisions of the Code.

It may be noted that any EOI received after **27th May 2021 (18:00 Hrs IST)** shall be rejected without any prejudice.

Process post Submission of EOI

It may be noted that, pursuant to submission of Expression of Interest by the eligible prospective resolution applicant, the below mentioned process shall be followed as per the applicable time limit in accordance with the Code and the CIRP Regulations:

S. No.	Particulars	Time Limit
1	RP shall issue provisional list of eligible prospective resolution applicants to the CoC and the prospective resolution applicants who submitted the EOI	Within 10 days of last date of submission of EOI [29 th May 2021]
2	Any objection to inclusion or exclusion of a prospective resolution applicant in the provisional list to be made along with the supporting documents	Within 5 days of date of issue of provisional list [3 rd June 2021]
3	RP shall issue request for resolution plan which includes information memorandum, evaluation matrix and a request for resolution plans to: - Every prospective resolution applicant in the provisional list; and - Every prospective resolution applicant who has contested the decision of the RP against its non-inclusion in the provisional list.	Within 5 days of date of issue of provisional list [3 rd June 2021]
4	RP shall issue of final list of prospective resolution applicants to the CoC	Within 10 days of last date of receipt of objections [5 th June 2021]
5	Prospective resolution applicants in receipt of request for resolution plan shall submit the resolution plan to the RP	Within the date [specified in the Request for Resolution Plan], which shall not be less than 30 days from issue of request for resolution plan [25 th June 2021] (subject to permissible extensions)
6	Estimated date of submission of resolution plan by RP to the	30 th June 2021 (subject to

Note: The RP may, with the approval of the CoC, extend the timeline for submission of Resolution Plans.

On receipt of the Resolution Plans from the resolution applicants, the RP shall examine each resolution plan received by him in accordance with Section 30(2) of the Code read with Regulation 37 and 38 of the CIRP Regulations. The RP shall then present such resolution plans which conform to requirements under Section 30(2) of the Code read with relevant provisions of the CIRP Regulations, to the CoC for their approval under the Code.

The consideration, evaluation and approval of the resolution plans submitted by the RP to the CoC is within the power of the CoC under provisions of the Code and the CIRP Regulations. The CoC may separately specify evaluation / other criteria for resolution applicants for evaluation of the resolution plans. The CoC shall have the right to approve or reject any resolution plan presented by the RP.

The RP / CoC reserves the right to cancel, amend or modify the invitation without assigning any reason and without incurring any liability of whatsoever nature. Any amendment or modification shall be posted on the website of the Corporate Debtor – <http://www.ksk.co.in/kwipl>. The prospective resolution applicants are requested to regularly visit the website for updates.

RP / CoC reserve the right to withdraw the invitation for EOI and also reserve the right to disqualify any prospective resolution applicant, should it be so necessary at any stage.

No oral conversations or agreements with the RP or any official, agent, advisor or employee of the RP, or any member of the CoC shall affect or modify any terms of this invitation for EOI.

Neither any prospective resolution applicant nor any of representatives of such prospective resolution applicant shall have any claims whatsoever against the RP or any official, agent, advisor or employee of the RP, or any member of the CoC or any of their directors, officials, agents or employees arising out of or relating to this invitation for EOI.

All prospective resolution applicants must read, understand and comply with all requirements under the Code or any other applicable regulations that are in force now or that may come into force subsequently, for resolution plans and all matters thereunder in relation to this invitation.

By submitting an EOI, each prospective resolution applicant shall be deemed to acknowledge that it has carefully read the entire invitation for EOI and has fully informed itself as to all existing conditions and limitations.

For any other further clarifications, kindly write to ip.kskwipl@ibcpprofessionalsolutions.com and / or to the following address:

Mr. V. Venkatachalam
Resolution Professional
No. 12-13-205, Street No.2,
Tarnaka, Secunderabad - 500017

For KSK Water Infrastructures Private Limited



V. Venkatachalam
Resolution Professional

IP Reg No. : IBBI/IPA-002/IP-N00267/2017-18/10780
Address : R/o No. 12-13-205, Street No. 2,
Tarnaka, Secunderabad - 500017
E-mail : vaaranasivkchalam@gmail.com
Date : 12th May, 2021
Place : Hyderabad

Annexure A
Format for EOI

{ On the Letterhead of the Prospective Resolution Applicant }

Date: [●]

To,
Mr. V. Venkatachalam
Resolution Professional
R/o No. 12-13-205, Street No. 2,
Tarnaka, Secunderabad – 500017

Subject: Submission of Expression of Interest for Submitting Resolution Plan for KSK Water Infrastructures Private Limited undergoing Corporate Insolvency Resolution Process (“CIRP”)

Dear Sir,

With reference to the advertisement in the {name of the newspaper / website} dated {date of advertisement} inviting Expression of Interest (“EOI”) for submission of resolution plans by the [Resolution Professional (“RP”)] as per the provisions of the Insolvency and Bankruptcy Code, 2016 (“**the Code**”) and rules and regulations made thereunder, we hereby submit our EOI for the submission of Resolution Plan for KSK Water Infrastructures Private Limited (“**Corporate Debtor**”).

We confirm that we have understood the requirements and the terms and conditions for submission of this EOI for submission of Resolution Plan for the Corporate Debtor.

Further, we agree, acknowledge and confirm as follows:

- a. This EOI will be evaluated by the RP on behalf of the Committee of Creditors (“**CoC**”) of the Corporate Debtor based on the information provided in this EOI and the Annexures and other documents attached herewith to determine if we are eligible to receive a request or invitation for submission of a resolution plan in relation to the Corporate Debtor under the CIRP (“**Resolution Plan**”) and to submit a Resolution Plan;
- b. The RP and / or the CoC reserve the right to determine, at their sole discretion, if we are eligible for the submission of the proposal and may reject the EOI submitted by us without assigning any reason and without any liability whatsoever;
- c. The RP and / or the CoC reserve the right to 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 and / or CoC may lead to rejection of our submission pursuant to EOI;
- d. Any change in consortium or any material change affecting the consortium members’ ability to perform in consortium shall be intimated within 3 (three) business days (means a day other than a Saturday or a Sunday) of such change to the CoC and the RP. Allowing such change will be at the sole discretion of the CoC and the RP, however any change to the lead member of the consortium will not be allowed, further no change in the members of the consortium shall be allowed after the submission of the proposal by the consortium;
- e. Meeting the eligibility criteria set out in the detailed invitation for expression of interest to submit resolution plan(s) for KSK Water Infrastructures Private Limited dated 12th May 2021 (“**Detailed Invitation**”) alone does not automatically entitle us to participate in the next state of the resolution process;
- f. We are not ineligible in terms of provisions of Section 29A of the Code. We are enclosing herewith an undertaking in a form set out in “**Annexure C**” of the Detailed Invitation in connection with Section 29A of the Code. We are a ‘fit and proper’ person and not under any legal disability to be a promoter entity of the Corporate Debtor under the applicable laws including listing agreements, stock exchange requirements and

SEBI regulations and guidelines.

Along with our EOI, we have also enclosed the following information as requested in Detailed Invitation:

- i. Details / Information required as per **Annexure B** of the Detailed Invitation;
- ii. Undertakings required in the format set out in **Annexure C** of the Detailed Invitation;
- iii. Undertakings required in the format set out in **Annexure D** of the Detailed Invitation;
- iv. the relevant records and documents in evidence of meeting the eligibility criteria, information and records to enable an assessment of ineligibility under Section 29A of the Code; and
- v. Executed Version of Confidentiality and Non-Disclosure Agreement as set out in '**Annexure E**'
- vi. [Add details of any other documents enclosed]

We further undertake that the information furnished by us in this EOI and Annexures hereto is true, correct, complete, and accurate. We understand you would be able to evaluate our preliminary proposal and eligibility based on this information provided herein in order to shortlist us for the above-mentioned proposal.

[I / We] represent and confirm that [I / we], and no other person acting jointly or in concert with [me / us] is disqualified under the provisions of Section 29A of the Code to submit a resolution plan as on the date of this EOI.

Yours Sincerely,

On behalf of

[Insert the name of the entity submitting the EOI]

{Signature of the Authorised Signatory}

{Name of the Authorised Signatory}

{Designation}

{Company Seal / Stamp}

Note:

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

ANNEXURE B
SUPPORTING DOCUMENTS TO BE ATTACHED WITH EOI

[Note: In case of consortium, the details set out below are to be provided for each of the members]

For all prospective resolution applicants:

- a. **Name and Address:**
 - i. Name of the Firm/Company/Organisation:
 - ii. Address:
 - iii. Telephone No:
 - iv. Fax:
 - v. Email:
 - vi. PAN/CIN:
- b. Profile of the prospective resolution applicants including subsidiary (wholly-owned subsidiary, partly-owned subsidiary (if any)), associates, affiliates, joint ventures, promoter and promoter group and key managerial personnel.
- c. Rationale for bidding for the Corporate Debtor.
- d. Copies of certificate of incorporation / registration and constitutional documents (including memorandum and articles of association or equivalent document).
- e. Copy of PAN card or equivalent documents.
- f. Audited financial statements for immediately preceding 3 (three) years of the prospective resolution applicant and / or its promoter/promoter group or any other group company as per eligibility criteria. For F.Y. 2020-2021, in case the audited financial statements are not available at the time of making the application, the prospective resolution applicant may submit the provisional financial statement. However, in this case an undertaking needs to be provided for timely completion and submission of audited financial statement certified by statutory auditor or equivalent
- g. A notarized declaration from the prospective resolution applicant in order to demonstrate that the promoter / promoter group or any other group company are part of the same group, in case the interested party is using such entities for meeting the eligibility criteria. Please note that the prospective resolution applicant shall provide all relevant documents for its promoter / promoter group or any other group company, if required to meet the eligibility criteria.
- h. Certificate from the statutory auditor (for prospective resolution applicants incorporated in India, if any) or equivalent (for prospective resolution applicants incorporated outside India, if any) certifying as at end of last 3 financial years:
 - i. Consolidated Tangible Net Worth, in case the prospective resolution applicant is a strategic investor; and
 - ii. Consolidated Tangible Net Worth and/or Assets Under Management and/or committed funds, in case the prospective resolution applicant is a financial investor;

Note: For a prospective resolution applicant which is a Financial Investor - Relevant statement of committed funds available for investment/deployment in Indian companies or Indian assets

- i. Contact Person
 - a. Name:
 - b. Designation:
 - c. Telephone No:
 - d. Email:
- j. Names & DIN of Directors including Independent Directors
- k. Names of key lenders, if any, to the Company or its affiliates
- l. History if any, of the Company or affiliates of the Company being declared a 'wilful defaulter', 'non-cooperative borrower', 'non-impaired asset' or 'non-performing asset'.
- m. Any other relevant details which would be useful for the interim resolution professional/resolution professional to be aware of in respect of the EOI including but not limited to their eligibility/ineligibility pursuant to conditions prescribed under Section 29A of the Code.
- n. Any other relevant details which would be useful for the interim resolution professional/resolution professional to evaluate the EOI and help to shortlist for the next stage in the process.

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

[To be stamped for the adequate amount as per the applicable stamp laws]

To,

Mr. V.Venkatachalam
Resolution Professional
R/o No.12-13-205, Street No,2,
Tarnaka, Secunderabad – 500017

Dear Sir,

Sub: Resolution Applicant's undertaking under the Insolvency and Bankruptcy Code, 2016 ("the Code") and the rules and regulations prescribed thereunder confirming no disqualification under Section 29A of the Code.

We refer to the expression of interest dated [●] ("**Expression of Interest**") in relation to the corporate insolvency resolution process of KSK Water Infrastructures Private Limited ("**Corporate Debtor**"). In furtherance of the Expression of Interest, [I/ We], [Insert name], the prospective resolution applicant ("**Prospective Resolution Applicant**") hereby confirm that we are not ineligible under Section 29A of the Code.

Without prejudice to the generality of the foregoing, we hereby unconditionally certify and confirm as follows:

1. [I/ We] are not disqualified from submitting a resolution plan in respect of the Corporate Debtor under the Code and rules and regulations framed thereunder, each, as amended from time to time;
2. [I/ We] hereby state, submit and declare that neither the Prospective Resolution Applicant nor any other person acting jointly or in concert with us:
 - (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 (10 of 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 (10 of 1949) or the guidelines of a financial sector regulator issued under any other law for the time being in force, and at least a period of one year has lapsed from the date of such classification till the date of commencement of the corporate insolvency resolution process of the Company;

[Note:

- i. A 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. If that is the case, please provide details of the NPAs and undertaking in relation to payment of all overdue amounts prior to submission of the resolution plan.*
- ii. 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.*
- iii. For the purposes of this clause,*
 - the expression "related party" shall not include a 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, prior to the insolvency commencement date; and*
 - 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 the 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 the 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 of the Code; or
 - ii. for seven years or more under any law for the time being in force;

[Note: This clause shall not apply:

- i. to a person after the expiry of a period of two years from the date of his release from imprisonment: or*
- ii. in relation to a connected person referred to in clause(iii) of the definition of connected person.]*

- (e) is disqualified to act as a director under the Companies Act, 2013 (18 of 2013);

[Note: This clause shall not apply in relation to a connected person referred to in clause (iii) of the definition of connected persons.]

- (f) is prohibited by the Securities and Exchange Board of India from trading in securities or accessing the securities markets;
- (g) has been a promoter or in the management or control of a corporate debtor in which a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been made by the Adjudicating Authority under the Code;

[Note: 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 the 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 the Code and such guarantee has been invoked by the creditor and remains unpaid in full or part;
- (i) is subject to any disability, corresponding to clauses (a) to (h) above, under any law in a jurisdiction outside India; or
- (j) has a connected person not eligible under clauses (a) to (i) above.

Unless a contrary intention appears, the terms used herein shall have the meaning assigned to such terms under the Code. Additionally, the following terms used herein shall have the following meaning:

- (a) "**connected person**" means:

- i. any person who is the promoter or in the management or control of the Resolution Applicant; or
- ii. any person who shall be the promoter or in management or control of the business of the corporate debtor during the implementation of the resolution plan; or
- iii. the holding company, subsidiary company, associate company or related party of a person referred to in clauses (i) and (ii).

Provided that: (a) nothing in clause (iii) of this definition shall apply to a resolution applicant where such applicant is a financial entity and is not a related party of the corporate debtor; and (b) the expression "related party" shall not include a 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, prior to the insolvency commencement date.

- (b) "**financial entity**" means the following entities which meet such criteria or conditions as the Central Government may, in consultation with the financial sector regulator, notify in this behalf, namely:
 - i. a scheduled bank;

- ii. any entity regulated by a foreign central bank or a securities market regulator or other financial sector regulator of a jurisdiction outside India which jurisdiction is compliant with the Financial Action Task Force Standards and is a signatory to the International Organisation of Securities Commissions Multilateral Memorandum of Understanding;
- iii. any investment vehicle, registered foreign institutional investor, registered foreign portfolio investor or a foreign venture capital investor, where the terms shall have the meaning assigned to them in regulation 2 of the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 made under the Foreign Exchange Management Act, 1999 (42 of 1999);
- iv. an asset reconstruction company registered with the Reserve Bank of India under section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);
- v. an Alternate Investment Fund registered with Securities and Exchange Board of India;
- vi. such categories of persons as may be notified by the Central Government.

Yours Sincerely,

On behalf of

[Insert the name of the entity submitting the EOI]

Name of Signatory:

Designation:

Company Seal/Stamp

Note:

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

ANNEXURE D
FORM OF UNDERTAKING TO BE PROVIDED BY PROSPECTIVE RESOLUTION APPLICANT

[To be stamped for the adequate amount as per the applicable stamp laws]

Prospective Resolution Applicant's Undertaking

To,
Mr. V. Venkatachalam
Resolution Professional (RP)
R/o No.12-13-205, Street No. 2,
Tarnaka, Secunderabad – 500017

Dear Sir,

Sub: Prospective Resolution Applicant's undertaking in relation to the Expression of Interest in in the corporate insolvency resolution process of for KSK Water Infrastructures Private Limited ("Company").

1. We, [Insert name of the Prospective Resolution Applicant] ("**Prospective Resolution Applicant**"), refer to the expression of interest dated [●] ("**EOI**") submitted by us in relation to the captioned matter.
2. We hereby undertake, agree, acknowledge and confirm that:
 - a) the Prospective Resolution Applicant meets the criteria specified by the committee of creditors of the Company under clause (h) of sub-section (2) of section 25 of the Insolvency and Bankruptcy Code, 2016 ("**the Code**"), relevant records in evidence of meeting the said criteria is attached herewith as _____;
 - b) the Prospective Resolution Applicant does not suffer from any ineligibility under section 29A of the Code (to the extent applicable), relevant information and records to enable an assessment of our ineligibility are enclosed herewith as _____;
 - c) the Prospective Resolution Applicant shall intimate the RP forthwith if we become ineligible at any time during the corporate insolvency resolution process;
 - d) all the information and records provided in expression of interest is true and correct and discovery of any false information or record at any time will render the Prospective Resolution Applicant ineligible to submit resolution plan and attract penal action under the Code; and
 - e) the Prospective Resolution Applicant shall maintain confidentiality of the information and shall not use such information to cause an undue gain or undue loss to itself or any other person and comply with the requirements under sub-section (2) of section 29 of the Code.
3. We further undertake and confirm that the EOI submitted by us is unconditional.

Yours Sincerely,
On behalf of
[Insert the name of the entity submitting the EOI]

Name of Signatory:
Designation:
Company Seal/Stamp

Note:

- (a) *In case of Consortium applicant this undertaking shall be signed by each member.*
- (b) *The person signing this undertaking and other supporting documents should be an authorised signatory supported by necessary board resolutions/ authorization letter/ power of attorney.*

ANNEXURE E

FORMAT OF CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

[To be stamped for the adequate amount as per the applicable stamp laws]

THIS CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT (“Agreement”) is made on this [●] day of [●], 2021 by and between:

KSK Water Infrastructures Private Limited, a company incorporated in India under the Companies Act of 1956, having its registered office at 8-1-293/82/A/431/A, Road No. 22, Jubilee Hills, Hyderabad - 500033 (“**Corporate Debtor**” unless repugnant to or inconsistent with the context or meaning thereof mean and include its successors and assigns), acting through **Mr. V. Venkatachalam**, being a registered insolvency professional bearing registration no. IBBI/IPA-002/IP-N00267/2017-18/10780 (“**Disclosing Party / RP**” unless repugnant to or inconsistent with the context or meaning thereof mean and include its successors and assigns), and appointed as Resolution Professional for the Corporate Debtor in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016 (“**the Code**”) and the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (“**CIRP Regulations**”), of the **FIRST PART**;

AND

[●], a [company] incorporated in India under the [Companies Act of 1956], having its registered office at [●] (“**Recipient / Prospective Resolution Applicant**”, which expression shall, unless excluded by or repugnant to the context or meaning thereof, include its successors, transferees and permitted assigns), of the **SECOND PART**.

(the Disclosing Party /RP and the Recipient / **Prospective** Resolution Applicant are hereinafter referred to as a “**Party**” individually and as “**Parties**” collectively)

WHEREAS:

A. Pursuant to the advertisement published by the RP in (/●/), the RP had invited expressions of interest (“**EOI**”) from prospective resolution applicants for the purpose of submission of resolution plans for the Corporate Debtor in accordance with the provisions of the Code. The Prospective Resolution Applicant, has accordingly, submitted its EOI to the RP on [●], 2021.

B. As per the provisions of the Code and the CIRP Regulations, in the event that the Prospective Resolution Applicant is mentioned in the final list of prospective resolution applicants issued by the RP, the Prospective Resolution Applicant shall have the right to submit a resolution plan for the Corporate Debtor to the RP. For the purpose of preparation and submission of the resolution plan for the Corporate Debtor (“**Purpose**”), the RP is required to provide the Prospective Resolution Applicant with access to the relevant information in that respect, provided that the Prospective Resolution Applicant provides a Non-Disclosure Agreement to the RP with respect to such information provided.

C. In view of the above, the RP will be sharing certain Confidential Information (*as defined in Clause 1 below*) with the Prospective Resolution Applicant and accordingly the Parties have agreed to enter into this Agreement and be bound by the terms and conditions hereinafter set forth governing, *inter-alia*, the disclosure, use and protection of such Confidential Information.

NOW THEREFORE THIS AGREEMENT WITNESSES that for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. In this Agreement, in addition to the capitalised terms defined in the introduction to, recitals of and the text of this Agreement, the following capitalised terms used herein shall, unless a contrary intention appears, have the following meaning:

“**Affiliate**” shall mean, with respect to the Recipient, any person or entity who is directly or indirectly Controlling, or is Controlled by, or is under the direct common Control of the Recipient and the term “**Control**” means a person who has the power to direct the management and policies of any person or entity, directly or indirectly, whether by ownership of voting securities, board control, by contract or otherwise. The terms “**Controlling**” and “**Controlled by**” or “**under common Control**” shall have corresponding meanings

“Confidential Information” shall mean any and all information disclosed or submitted to the Recipient by or on behalf of the Disclosing Party (including by any officers, and/or advisors including, without limitation, duly authorized attorneys, accountants, legal advisors and financial advisors of a Disclosing Party), whether written, oral, pictorial, electronic, visual or other form relating, in any manner whatsoever, to the Corporate Debtor or to any group entity (including any holding, subsidiary, associate, joint venture or related entity) of the Corporate Debtor. Without prejudice to the generality of the foregoing, Confidential Information includes, without limitation:

- (i) any information which relates to the business, business plans, products, sales and marketing, operations, pricing arrangements, suppliers, customers, network, finance, technology, corporate, organisation, management, strategic initiatives, human resource and plans, policies and reports, of the Corporate Debtor;
- (ii) all technical, commercial, operational, financial, accounting, legal and administrative information, and any notes, analyses, compilations, studies, forecasts, interpretations, memoranda, summaries, reports and other materials which contain, reflect or are based upon, in whole or in part, any of such information;
- (iii) any drawing, calculation, specification, instruction, diagram, catalogue, manual, data, templates, models, prototypes, samples, materials, debts, presentations, proposals, quotations, computer programs, software;
- (iv) any unpatented invention, formula, procedures, method;
- (v) any unregistered patent, design, copyright, trademark including any pending applications and any intellectual or industrial proprietary right vested in the Disclosing Party or in which Corporate Debtor has an interest of any kind;
- (vi) any information belonging to identified third parties with whom the Corporate Debtor has business dealings;
- (vii) any proposed business deals, contracts or agreements;
- (viii) information, documents, agreements, materials, communications, fact, matter or thing about the corporate insolvency resolution process of the Corporate Debtor, or the terms or conditions or any other facts relating thereto, including, without limitation, the status thereof, that discussions or negotiations are occurring or have occurred, the existence of this Agreement;
- (ix) information and details regarding the terms, conditions and structure of, and other facts relating to, the Corporate Debtor and/or the corporate insolvency resolution process of the Corporate Debtor, including the status thereof, whether oral, on paper or computer disk or in electronic format; whether prepared by the Disclosing Party, its advisors or other third party on behalf of the Disclosing Party; and/or
- (x) all reports, analysis, studies, compilations, interpretations or other documents or materials (whether on paper or computer disk or in electronic format) prepared by the Disclosing Party or its representatives which contain, refer to, reflect, enhance, modify, improve, quote or are based upon, in whole or in part, the information mentioned in (i) to (ix) above which is provided to the Recipient and/or its representatives in connection with the corporate insolvency resolution process of the Corporate Debtor.

“Representative” shall mean any agent, officer, employee, director, legal or financial advisor, Affiliate, investor, counsel, potential financing source who (i) needs to know such information for the Purpose; (ii) who agrees to keep such information confidential in accordance with the provisions of this Agreement; (iii) who is provided with a copy of this Agreement; (iv) who agrees to be bound by the terms contained in this Agreement to the same extent as if it was a party hereto; and (v) who has confirmed that it has no conflict with the Disclosing Party, and the term **“Representatives”** shall be construed accordingly. In relation to any Disclosing Party, its **“Representative”** shall mean any agent, officer, employee, director, consultant, legal or financial advisor, authorized attorney, accountant and/or any other person duly authorized in this regard.

2. The Recipient shall (and shall procure that each Representative shall), at all times:

- (i) hold in trust, in strict confidence and as required under Regulation 36(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the Confidential Information provided to the Recipient and/or its Representatives by the Disclosing Party;
- (ii) not use the Confidential Information for any purpose other than for the Purpose;

(iii) not disclose, reveal, disseminate, reproduce, quote, share with, refer to, use or make available to any other person, or use or permit others to disclose or use any Confidential Information to any person or party whatsoever (save and except as provided below) without the prior consent of the Disclosing Party;

(iv) disclose the Confidential Information to its Representatives, strictly on a need to know basis and solely for the Purpose. The Recipient acknowledges that any agreement (written or otherwise) entered into between the Recipient and the employees/advisors would not discharge the Recipient from its confidentiality obligations under this Agreement. In any event, breach by any Representative of the Recipient shall be deemed as breach by the Recipient;

(v) use the same degree of care in respect of the protection, security and safekeeping of the Confidential Information as the Recipient and its Representatives use to protect its own confidential information but no less than a reasonable degree of care to prevent the unauthorized access, use, dissemination, copying, theft, and/or republication of the Confidential Information;

(vi) at no time, discuss with any person, the Confidential Information or any other matter in connection with, or arising out of, the discussions or negotiations in relation to the Purpose (other than to the extent permitted hereunder);

(vii) immediately, upon the earlier of (a) the conclusion of the Purpose; or (b) termination of this Agreement as per Clause 13 below; or (c) a notification by the Disclosing Party for any reason whatsoever, surrender and return to the Disclosing Party, all Confidential Information and any notes, memoranda or the like, including any copies or reproductions in its possession, or destroy the same in accordance with the directives of the Disclosing Party, in each case, except to the extent, retention of such Confidential Information is required under applicable law, provided that the Recipient in these cases, shall notify the Disclosing Party of the information that has been retained as a result of such applicable law along with the corresponding details of the applicable law which warranted such retention. Further, any Confidential Information that is not returned shall remain subject to the confidentiality obligations set forth in this Agreement. Notwithstanding the return of the Confidential Information, the Recipient will continue to be bound by its obligations of confidentiality and other obligations hereunder, which shall survive termination of this Agreement;

(viii) not publish any news release or make any announcements or denial or confirmation in any medium concerning this Agreement in any manner nor advertise or publish the same in any medium, without the prior written consent of the Disclosing Party;

(ix) promptly notify the Disclosing Party of any Confidential Information which has been lost or disclosed or used by any unauthorized third party provided that such notification shall not relieve the Recipient from any liability arising from its breach of this Agreement; and

(x) not utilize the Confidential Information to avail any undue gain or undue loss to itself or any other person and shall comply with all provisions of applicable law, including Section 29(2) of the Code.

3. The Recipient shall not be liable for disclosure or use of the Confidential Information in the event and to the extent that such Confidential Information:

(i) is or becomes available to the public domain without breach of this Agreement by the Recipient; or

(ii) is disclosed with the written approval of the Disclosing Party; or

(iii) was in the possession of the Recipient prior to its disclosure to them under this Agreement, as evidenced by written documentation; or

(iv) is disclosed pursuant to any law or a court order or any requirement of any stock exchange provided that in the event the Recipient is required to make such disclosure in lieu of a court order/ stock exchange announcement, then in that case the Recipient shall, to the extent permissible, promptly notify the Disclosing Party in advance, so that the Disclosing Party has the opportunity to object to such disclosure or discuss the extent of disclosure by the Recipient. Additionally, the Recipient and/or its Representatives shall only disclose such portion of the Confidential Information as it is compelled to disclose pursuant to any law or a court order or any requirement of any stock exchange.

4. It is agreed that without the prior written consent of the Disclosing Party, the Recipient shall not disclose and shall ensure that its Representatives do not disclose to any person or entity (a) that the Confidential Information has been made available to it or its Representatives, (b) that discussions or negotiations are taking place concerning a possible transaction between the Parties, or (c) any terms, conditions or other facts with respect to any such possible transaction, including the status thereof.
5. Ownership of the Confidential Information, including all intellectual property rights and related rights in the Confidential Information or arising out of the use of the Confidential Information shall at all times remain with the Disclosing Party, in perpetuity and throughout the world. All improvements, derivatives, enhancements, modifications and recommendations to the Confidential Information will also belong exclusively to the Disclosing Party, and the Recipient agrees to specifically convey and assign, and hereby do convey and assign to the Disclosing Party all right, title and interest in and to the same in perpetuity and throughout the world. The Recipient covenants and agrees to sign any papers and do all acts necessary to secure for the Disclosing Party and/or its successors or assigns, any and all rights, titles and interest in any such improvements, derivatives, enhancements, modifications and recommendations, including rights to any patent and copyright in any jurisdictions, during the term of this Agreement, or any time thereafter.
6. The Parties agree that unless and until a definitive agreement(s) in connection with the Purpose is executed between the Parties, neither Party will be under any legal obligation of any kind whatsoever with respect to the Purpose by virtue of this Agreement except for the matters specifically agreed to herein. The Parties further acknowledge and agree that each Party reserves the right, in its sole discretion, to reject any and all proposals made by the other Party or any of its Representatives with regard to the Purpose between the Parties and to terminate discussions and negotiations at any time. The Recipient further acknowledges that the resolution plan proposed by it may be rejected by the committee of creditors of the Corporate Debtor and/or the National Law Company Tribunal at any time.
7. The Recipient agrees that the Disclosing Party, by the disclosure of the Confidential Information to the Recipient, does not grant, express or implied, any right or license to use the Confidential Information for any purpose other than the Purpose contemplated under this Agreement or vest any intellectual property rights or legal or beneficial interest in the Confidential Information so disclosed to the Recipient.
8. For the avoidance of doubt, nothing in this Agreement shall compel the Disclosing Party to disclose to the Recipient, any or all the Confidential Information requested by the Recipient and the Disclosing Party shall, at all times during the subsistence of this Agreement, reserve the right to determine, in its sole discretion, whether it shall disclose such Confidential Information (in whole or part).
9. The Disclosing Party or its Representatives makes no representation, warranty or inducement, whether express or implied, as to the accuracy, completeness or relevance of the Confidential Information and shall not be liable in any way in connection with the use of, or termination of the Recipient's right to use the Confidential Information.
10. The Recipient acknowledges that the Confidential Information is valuable to the Disclosing Party and that damages (including, without limitation, all legal fees and expenses on a solicitor and client basis) may not be a sufficient remedy for any breach of its obligations under this Agreement and the Recipient further acknowledges and agrees that the remedies of specific performance or injunctive relief (as appropriate) without the necessity of posting bond, guarantees or other securities, are appropriate remedies for any breach or threatened breach of its obligations under this Agreement, in addition to and without prejudice to, any other remedies available to the Disclosing Party at law or in equity.
11. The Recipient shall indemnify and hold harmless the Disclosing Party against all direct losses, damages and liabilities including but not limited to all legal fees and expenses arising from or connected with any unauthorized disclosure, use or misuse of the Confidential Information whether by itself or its Representatives or gross negligence or wilful misconduct of the Recipient and/or its Representatives. The Recipient further agrees and undertakes, at its sole cost and expense, to take any and all reasonable measures (including but not limited to court proceedings) to restrain any person to whom it has disclosed Confidential Information, directly or indirectly, from disclosing or using the Confidential Information in violation of this Agreement.
12. The Recipient shall not, without prior written consent of the Disclosing Party, engage any advisor, whether professional, legal or otherwise, where a conflict of interest exists with the Disclosing Party in relation to the corporate insolvency resolution process of the Corporate Debtor.

13. This Agreement shall be effective and shall stay in force for a period of two (2) years from the date first stated above. Upon expiry of this Agreement, the confidentiality obligations of the Parties herein shall cease, provided that payment obligations if any that may arise under this Agreement (including under the indemnity Clause 11 above) shall survive the termination of this Agreement.

14. All notices and other communications provided for hereunder shall be: (i) in writing; and (ii) hand - delivered, sent through an overnight courier (if for inland delivery) or international courier (if for overseas delivery) to a party hereto or sent by electronic mail, at its address specified below or at such other address as is designated by such party in a written notice to the other parties hereto.

For Disclosing Party /RP

Postal Address : R/o No. 12-13-205, Street No. 2,
Tarnaka, Secunderabad – 50017
Contact Person : Mr. V. Venkatachalam
Email : ip.kskwipl@ibcprofessionalsolutions.com

Recipient/ Prospective Resolution Applicant

Postal Address : [●]
Contact Person : [●]
Email : [●]

All such notices and communications shall be effective: (i) if hand-delivered, when delivered; (ii) if sent by courier, (a) one (1) business day after its deposit with an overnight courier if for inland delivery; and (b) 5 (five) calendar days after its deposit with an international courier if for an overseas delivery; and (c) if sent by registered letter, when the registered letter would, in the ordinary course of post, be delivered whether actually delivered or not; and (iii) if sent by electronic mail, when actually received in readable form.

15. If any provision of this Agreement is invalid or illegal, then such provision shall be deemed automatically adjusted to conform to the requirements for validity or legality and as so adjusted, shall be deemed a provision of this Agreement as though originally included. If the provision invalidated is of such a nature that it cannot be so adjusted, the provision shall be deemed deleted from this Agreement as though the provision had never been included, in either case, the remaining provisions of this Agreement shall remain in full force and effect.

16. No amendments, changes or modifications of any provision of this Agreement shall be valid unless made by a written instrument signed by a duly authorised representative of each of the Parties.

17. No failure or delay by any Party in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise thereof preclude any other exercise thereof or the exercise of any other right, power or privilege hereunder.

18. Neither Party may assign or transfer its rights or obligations contained in this Agreement or any interest therein without the prior written consent of the other Party.

19. This Agreement shall be governed by and construed in all respects according to the laws of the India and, the Parties hereto agree to submit to the exclusive jurisdiction of the courts and tribunals of Hyderabad.

20. This Agreement comprises the full and complete agreement of the Parties hereto as at the date hereof with respect to the disclosure of Confidential Information and supersedes and cancels all prior communications, understandings and agreements between the Parties hereto, whether written or oral, expressed or implied.

21. This Agreement may be executed in counterparts, each of which when taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorised representatives to set their hands the day and year first above written.

Signed by/
for and on behalf of
the Disclosing Party / RP

Name: **Mr. V. Venkatachalam**
Designation: **Resolution Professional for KSK Water Infrastructures Private Limited**

in the presence of

Name:
Designation:

Signed by
for and on behalf of
the Recipient/Prospective Resolution Applicant

in the presence of

Name: Designation: