

INVITATION OF EXPRESSION OF INTEREST FOR ASSIGNMENT OF NOT READILY REALISABLE ASSETS (NRRAs) OF GUPTA GLOBAL RESOURCES PRIVATE LIMITED – (IN LIQUIDATION) ON REVENUE SHARING BASIS UNDER REGULATION 37A OF THE IBBI (LIQUIDATION PROCESS) REGULATIONS, 2016

Date of Invitation	18 th March, 2024
Issued By	C. Bala Mouli Liquidator of Gupta Global Resources Private Limited
Pursuant to	Order of Hon'ble NCLT, Mumbai Bench in IA No. 4918/2023 dated 16.01.2024

PROCESS MEMORANDUM

Invitation for expression of interest for Assignment of assets underlying avoidance transaction proceedings in the matter of Gupta Global Resources Pvt. Ltd. - In Liquidation, being in the nature of not readily realizable assets (NRRAs) on Revenue Sharing Basis, under Regulation 37A of IBBI (Liquidation Process) Regulations, 2016 read with NCLT order dated 16th January, 2024 in I.A. 4918 of 2023. The assignment will be done by the undersigned, in the capacity of Liquidator.

Issued by

Mr. C. Bala Mouli
Liquidator of
Gupta Global Resources Pvt. Ltd. - In Liquidation

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DISCLAIMER

This process memorandum is issued by Mr. C. Bala Mouli, the Liquidator, Gupta Global Resources Pvt. Ltd. - In Liquidation ('GGRPL' or 'the Corporate Debtor') for general information purposes, to provide general information only, without regard to specific objectives, suitability, financial situation and the requirements of any particular person and does not constitute any recommendation of an offer to buy or purchase any assets of the Corporate Debtor. This Document is neither an agreement nor an offer by the Corporate Debtor or Liquidator or any other Person. The purpose of this document is to set out the process for submitting an expression of interest for the Assignment of NRRAs of GGRPL on Revenue Sharing Basis under Regulation 37A of the Liquidation Process Regulations. These NRRAs comprise of assets underlying proceedings for preferential, undervalued, extortionate credit and fraudulent transactions referred to in sections 43 to 51 and section 66 of the Code, reported by the Liquidator in the matter of GGRPL before Hon'ble NCLT, Mumbai.

Nothing herein or in materials relating to this Process Memorandum is intended to be construed as legal, financial, accounting, regulatory or tax advice by the Liquidator. This Document is not a statutory document, and it has not been approved or registered with any regulatory or statutory authority of the Government of India or any State Government or by any stock exchange in India or any other jurisdiction. Neither this Process Memorandum nor anything contained herein shall form the basis of, or be relied upon in connection with any contract, agreement, undertaking, understanding or any commitment whatsoever. This Process Memorandum does not solicit any action based on the material contained herein.

The information in this Process Memorandum, is based on the information available with the Liquidator and as reported by the special auditor. While this information has been prepared in good faith, no representation or warranty, expressed or implied, is or will be made and no responsibility or liability is or will be accepted by the Liquidator, the Corporate Debtor or by any of its officers, employees or agents in relation to the accuracy, fairness, authenticity or completeness of this Process Memorandum or any other written or oral information made available to any interested party or its advisers and any such liability is expressly disclaimed. Insofar as the information contained in this Process Memorandum includes current or historical information, the accuracy, adequacy, authenticity, correctness, fairness, and completeness of such information cannot be guaranteed. By acceptance of this Process Memorandum, the Prospective bidder shall be deemed to have acknowledged that it has not relied upon any representation and warranty made by the Liquidator. This document has not been filed, registered, or approved and will or may not be filed, registered, reviewed, or approved by any statutory or regulatory authority in India or any other jurisdiction.

This Process Memorandum and information contained herein or disclosed pursuant to the terms of this Process Memorandum or any part of it does not constitute or purport to constitute any advice or information in publicly accessible media and should not be printed, reproduced, transmitted, sold, distributed, or published by the recipient without prior written approval from the Liquidator.

The Liquidator and / or the Corporate Debtor give no undertaking to provide the recipient with access to any additional information nor to update this Process Memorandum or any additional information, or to correct any inaccuracies in it which may become apparent, and they reserve the right, without giving reasons, at anytime and in any respect, to amend or terminate the procedures set there in or to terminate negotiations with any Prospective bidder. The issue of this Process Memorandum shall not be deemed to be any form of commitment on the part of the Liquidator or the Company to proceed with any transaction.

In addition to the provisions set out in this Process Memorandum, the Prospective bidder shall be responsible for fully satisfying the requirements of the Code, and related Regulations as well as all laws in force that are or may be applicable to the applicant or the Corporate Debtor and for obtaining requisite pre or post regulatory or other approvals, if any, that are or may be required under applicable law and nothing contained in this Process Memorandum shall be deemed to relieve, wholly or partially, directly or indirectly, the Prospective bidder from compliance with the IBC and related Regulations as well as any other law in force, and / or any instrument having the force of law as may be applicable and nothing in this Process Memorandum shall be construed as, or operate either, wholly or in part, as exempting the Prospective bidder from complying with all such laws, as are or may be applicable.

By procuring a copy of this Process Memorandum, the recipient accepts the terms of this disclaimer notice, which forms an integral part of this Process Memorandum and all other terms and conditions of this Process Memorandum. Further, no Person, including the Prospective bidder shall be entitled to, under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise to claim for any loss, damage, cost or expense which may arise from or be incurred or suffered on account of anything contained in this Process Memorandum or otherwise, including the accuracy, adequacy, authenticity, correctness, completeness or reliability of the information or opinions contained in this Process Memorandum and any assessment, assumption, statement or information contained therein or deemed to form part of this Process Memorandum, and the Liquidator, Corporate Debtor, and their advisors, affiliates, directors, partners, employees, agents, representatives or managers do not have any responsibility or liability for any such information or opinions and therefore, any liability or responsibility is hereby expressly disclaimed. The Liquidator shall not be held responsible/liable under any circumstances to pay any expenses including but not limited, towards any activity involved in the due diligence or handover or later stages of the process.

This Document as well as the Data Room (as provided in the VDR link for which access is available for the shortlisted Bidders) contains confidential, proprietary and/or legally privileged information and by its acceptance hereof, the interested/qualified Process Applicant agrees that the information contained herein or otherwise provided to the interested /qualified Process Applicant regarding the Corporate Debtor will be kept confidential and is not to be used for any purpose other than in connection with the submission of the offer for the Corporate Debtor. The terms of this Document shall be subject to the Confidentiality Undertaking (defined hereinafter) and the recipient agrees that it will not, directly, or indirectly, disclose to or permit its subsidiaries, Affiliates, employees, advisors or representatives to disclose any information contained herein or otherwise provided to it regarding the Corporate Debtor to any other person or reproduce this Document in whole or in part.

In no circumstances shall the Prospective bidder or its officers, employees, agents and professional advisers make any contact, direct or indirect, by any mode whatsoever, with the management, employees, customers, agents or suppliers of the Corporate Debtor until the Liquidator gives permission to do so in writing.

The NRRAs comprise of Avoidance Transactions reported before Hon'ble NCLT u/s 43, 45, 49 & 66 read with 68 of the Code by the Liquidator of GGRPL and are proposed to be assigned on REVENUE SHARING BASIS on "As is where is basis", "As is what is basis", "Whatever there is basis" and "No recourse" basis and the proposed assignment of NRRAs of the Corporate Debtor does not entail the transfer of any other title, except the title which the Corporate Debtor/Liquidator had on its assets as on date of transfer.

The Liquidator, and their advisors, affiliates, directors, Partners, employees, agents, representatives or managers do not take any responsibility of furnishing or supplying or giving any further information, documents, accounts, correspondence or any such other particulars other than provided in this process information sheet and the prospective bidder or its officers, employees, agents and professional advisers hereby deemed to have undertaken not to seek any further information from the Liquidator, Corporate Debtor, and their advisors, affiliates, directors, partners, employees, agents, representatives or managers and any further correspondence in this regard shall be responded by the Liquidator, Corporate Debtor, and their advisors, affiliates, directors, Partners, employees, agents, representatives or managers.

The Liquidator does not take or assume any responsibility for any shortfall or defect or shortcoming in the information or documents, correspondence or accounts or to supply additional information relating to the NRRAs comprising of Transactions reported before Hon'ble NCLT u/s 43, 45, 49 & 66 read with 68 of the Code, The Prospective bidder shall bear all its costs and charges associated with or relating to the preparation and submission of its expression of interest including but not limited to conduct of due-diligence, preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Liquidator, or any other costs incurred in connection with or relating to its expression of interest.

This Process Memorandum is not directly or indirectly transferable or assignable under any circumstances whatsoever.

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1. IMPORTANT INFORMATION

- 1.1 This Process Memorandum has been issued by Mr. C Bala Mouli, the Liquidator of Gupta Global Resources Private Limited (In Liquidation) ('GGRPL' or 'the Corporate Debtor') under the provisions of the Insolvency and Bankruptcy Code, 2016 ("IBC" / "Code") and the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 ("**Liquidation Process Regulations**") with the intent to identify the Prospective bidders for the Assignment of Not Readily Realisable Assets ('NRRAs') comprising of assets underlying the Avoidance Transaction proceedings of the Corporate Debtor, as are reported by the Liquidator before Hon'ble National Company Law Tribunal, Mumbai Bench ('Hon'ble NCLT, Mumbai Bench') u/s 43, 45, 49 & 66 read with section 68 of the Code through various applications(*details provided hereinafter*), on Revenue Sharing Basis.
- 1.2 All information provided in this Process Memorandum should be read together with the provisions of the Code and the Liquidation Process Regulations. In the event of a conflict between this Process Memorandum and the Code or the Liquidation Process Regulations, the latter, shall prevail.
- 1.3 The information contained in this Process Memorandum or subsequently provided to the Prospective bidders, whether verbally or in documentary or any other form by or on behalf of the Liquidator, is provided to the Prospective bidders on the terms and conditions set out in this Process Memorandum.
- 1.4 This Process Memorandum is neither an agreement nor an offer by the Liquidator to the Prospective bidders or any other person. The purpose of this Process Memorandum is to access interest for the proposed assets by providing interested parties with information that may be useful to them in submitting their expression of interest pursuant to this Process Memorandum. The Liquidator also accepts no liability of any nature howsoever caused arising from reliance of any Prospective bidders upon the statements contained in this Process Memorandum. The assumptions, assessments, statements, and information contained in the Process Memorandum may not be complete, accurate, adequate, or correct. Each Prospective bidder should, therefore, conduct its own investigations and analysis and should check the accuracy, legality, time taken for the closure of the litigations, if any, realisability of the amount involved, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements, and information contained in this Process Memorandum and obtain independent advice from appropriate sources, before submitting their Expression of Interest.

- 1.5 Information provided in this Process Memorandum to the Prospective bidders is not intended to be an exhaustive account of statutory requirements and should not be regarded as complete.
- 1.6 The Liquidator, makes no representation or warranty and shall have no liability to any person, including any prospective bidders under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of acquisition of the proposed NRRAs in the manner provided in this Process Memorandum.
- 1.7 The Liquidator may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assess mentor assumptions contained in this Process Memorandum.
- 1.8 The issue of this Process Memorandum does not imply that the Liquidator is bound to select a Prospective bidder or to appoint the preferred prospective bidder as successful prospective Bidder for the NRRAs comprising of assets underlying Avoidance Transactions reported before Hon'ble NCLT u/s 43, 45, 49 & 66 read with section 68 of the Code together with the connected rights and the Liquidator reserves the right to reject all or any of the Prospective Bidders or expression of interests without assigning any reason whatsoever.
- 1.9 Each Prospective bidder shall bear all its costs and charges associated with or relating to conduct of due-diligence, the preparation and submission of its expression of Interest and / or participation in the process, including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Liquidator or any other costs incurred in connection with or relating to its expression of interest and subsequent process.
- 1.10 A brief background about the Company has been included in para 4 of this Process Memorandum.
- 1.11 All terms and conditions with respect to the assignment of NRRAs shall be governed by the directions of the Liquidator, Hon'ble NCLT, Mumbai Bench and in accordance with the provisions of applicable laws. As informed to the Hon'ble NCLT, the Liquidator shall exercise all rights with respect to assignment of NRRAs and it would be open to the Liquidator to appoint such experts, professionals or other persons, as the Liquidator might think necessary, so as to enable the assignment of NRRAs.

1.12 This Process Memorandum is neither transferable nor assignable.

1.13 The Annexures to this Process Memorandum shall form an integral part of the same and this Process Memorandum shall always be read in conjunction with the Annexures hereto.

2. DEFINITIONS

2.1 **“Adjudicating Authority”** or **“Hon’ble NCLT”** shall mean the Hon’ble National Company Law Tribunal, Mumbai Bench

2.2 **“Applicable Laws”** means, all applicable laws, regulations, rules, guidelines, circulars, re-enactments, revisions, applications and adaptations thereto, judgments, decrees, injunctions, writs and orders of any court, arbitrator or governmental agency or authority, rules, regulations, orders and interpretations of any governmental authority, court or statutory or other body applicable for such transactions including but not limited to the Insolvency and Bankruptcy Code, 2016, Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016 , Companies Act, 1956/2013 (as applicable), Competition Act, 2002, Transfer of Property Act, 1882, Sale of Goods Act, 1930, Foreign Exchange Management Act, 1999, whether in effect as of the date of this Process Memorandum or thereafter.

2.3 **“Avoidance Transactions”** shall mean preferential transactions as defined under Section 43 of the IBC, undervalued transactions as defined under Section 45 of the IBC, transactions defrauding creditors as defined under Section 49 of the IBC extortionate credit transactions as defined under Section 50 of the IBC and fraudulent trading or wrongful trading as defined under Section 66 of the IBC.

2.4 **“Process Participant”** or **“Prospective bidder”** mean, Person or Persons who have submitted an expression of interest as per this Process Memorandum; and shall include a Qualified Prospective bidder or the successful prospective bidder, as the case may be, and as the context requires;

2.5 **“Corporate Debtor”** shall mean ‘Gupta Global Resources Private Limited’ (In Liquidation) a company incorporated in India under the Companies Act, 1956, having its registered office at block no. 202 & 207, First Floor, Corporation House, also known as Gutpa Bhavan, Mouza Ambazari, Nagpur - 440010.

2.6 **“IBC” / “the Code”** shall mean Insolvency and Bankruptcy Code, 2016 and the related rules and regulations issued thereunder, as amended from time to time.

2.7 **“Liquidation Process Regulations” / “Liquidation Regulation”** means, the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016 as amended from time to time;

- 2.8 **“Liquidator”** means an insolvency professional appointed as a liquidator in accordance with section 34 of the IBC and in this present context denotes Mr. C Bala Mouli who is appointed as the Liquidator of the Corporate Debtor by the Hon’ble NCLT;
- 2.9 **“NRRAs”** or “Not Readily Realisable Assets” means assets underlying Avoidance Transactions reported before Hon'ble NCLT u/s 43, 45, 49 & 66 read with 68 of the IBC vide MA. No. 205 of 2019, MA No. 322 of 2019 and I.A No. 2073 of 2020 in the matter of Gupta Global Resources Private Limited, along with all the rights associated with the same, including but not limited to right to realization, file or continue with the litigation connected with the matters pertaining to realization of the said assets, further assign such assets.
- 2.10 **“Person”** shall mean an individual, a partnership firm, an association, a corporation, a limited company, a trust, a body corporate, bank or financial institution or any other body, whether incorporated or not;
- 2.11 **“Process Memorandum”** means this document including all the appendices hereto, for the purposes of setting out the process for submission of an expression of interest in accordance with the provisions of the IBC and shall include all supplements, modifications, amendments, alterations or clarifications thereto issued in accordance with the terms hereof.
- 2.12 **“Qualified Prospective bidder(s)”** shall mean a Prospective bidder whose expression of interest fulfills the eligibility criteria listed out in the Process Memorandum

Note: Capitalised terms used herein but not defined otherwise shall have meaning prescribed to them under the provisions of the IBC and the rules and regulations thereunder.

3. BRIEF BACKGROUND

- 3.1 The Hon'ble National Company Law Tribunal, Mumbai Bench, vide its order dated 28th August, 2018, ordered for commencement of liquidation process of Gupta Global Resources Private Limited (hereinafter referred to as "Corporate Debtor") and appointed Mr. C. Bala Mouli as the Liquidator of the Corporate Debtor.
- 3.2 As per regulation 35(1) (f) of the Code, it is the duty of the liquidator to realize of the assets of the Corporate Debtor.
- 3.3 During the liquidation process, in terms of the duties assigned under the Code, the Liquidator with the assistance of special auditors, had identified several avoidance transactions u/s 43, 45, 49 and 66 of the Code, and filed application w.r.t. the same before the Hon'ble NCLT for appropriate orders. Brief of the applications are as follows:

S. No.	Particulars	Expected realization, as mentioned in the Application	MA No's
1	Transactions u/s 43(1), 45(1) & 49 of IB Code, 2016 i.e. Preferential & Undervalued Transactions	55,30,70,244/-	MA No. 205 of 2019 filed on 17.01.2019
2	Transactions u/s 66 read with Section 68(1)(i)(d) of IB Code, 2016 i.e. Fraudulent Transactions	69,05,42,500/-	MA No. 322 of 2019 filed on 23.01.2019
3	Amended Transactions u/s 66 read with Section 68(1)(i)(d) of IB Code, 2016 i.e. Fraudulent Transactions	40,79,66,005.33/-	IA No. 2073 of 2020 filed on 02.11.2020
	Total	165,15,78,749.33/-	

Note: Type of transactions reported are provided in Schedule I below

The aforesaid applications, while listed on several occasions for hearing before the Hon'ble Bench, are yet to be heard in detail by the Hon'ble Bench.

- 3.4 In terms of Explanation to regulation 37A of the Liquidation Regulations, any asset included in the liquidation estate which could not be sold through available options including contingent or disputed assets and assets underlying proceedings for preferential, undervalued, extortionate credit and fraudulent transactions referred to in sections 43 to 51 and section 66 of the Code are considered as Not Readily Realisable Assets.

3.5 Further, for treating such assets, Regulation 37A states that, 'A liquidator may assign or transfer a not readily realisable asset through a transparent process, in consultation with the stakeholders' consultation committee in accordance with regulation 31A, for a consideration to any person, who is eligible to submit a resolution plan for insolvency resolution of the corporate debtor.'

3.6 Given that the Liquidator had realized all the other assets of the Corporate debtor and that only assets pending realization was assets underlying the avoidance transaction application (as detailed above), the Liquidator had filed an application with the Hon'ble Tribunal vide I.A 4918 of 2023 for necessary directions in terms of Regulation 37A and other applicable provisions of the Liquidation Regulations to sell interest in the Avoidance Applications pending adjudication before the Tribunal.

3.7 The Hon'ble NCLT, vide order dated 16th January, 2024 has held as follows:

"From a bare perusal of the above provisions, we find that the Liquidator, subject to concurrence of Stakeholder's committee, is vested with the power and authority to assign the asset considered to be Not readily realisable asset. Further, Regulation 38 of Liquidation Process Regulation also contemplate distribution of such assets amongst the stakeholders. Accordingly, we have no hesitation to hold that the Liquidator may proceed to consider assigning the Avoidance Applications to third party in consultation with the Stakeholder's consultation committee. In so far as prosecution of such pending application by such assignee is concerned, we are of considered view that the applications already filed by the person competent to do so, can be prosecuted by the assignees subsequently."[Emphasis added]

3.8 Accordingly, the Liquidator, in consultation with the Stakeholders' Committee at the meeting held on 16th February, 2024, has decided to assign or transfer the NRRA's comprising the assets underlying the avoidance transaction application, as forming part of the liquidation estate of the Corporate Debtor, on revenue sharing basis, in the manner specified under Regulation 37A of the Liquidation Process Regulations, and other applicable provisions of the Code.

3.9 GIVEN THE PECULIAR NATURE OF THE ASSETS HEREIN, IT HAS BEEN DECIDED TO INVITE EXPRESSIONS OF INTEREST FOR THE ASSETS. THE PROSPECTIVE BIDDER ARE ALSO REQUIRED TO MENTION THEIR TERMS AND PERCENTAGE OF REALIZED PROCEEDS, AS AND WHEN REALIZED, THAT THEY AGREE TO SHARE WITH THE LIQUIDATOR FOR SUBSEQUENT DISTRIBUTION OF THE SAME TO THE STAKEHOLDERS OF THE CORPORATE DEBTOR IN TERMS OF SECTION 53 OF THE CODE.

3.10 The Prospective bidders are hereby being encouraged and advised to acquaint themselves with the provisions of the IBC and the Liquidation Process Regulations and any other rules, regulations, orders, circulars, directions or notifications or the like, issued pursuant to or under the IBC or the Liquidation Process Regulations, as the case may be, before submitting their bid for the proposed assets.

4. ELIGIBILITY AND DUE DILIGENCE

- 4.1 A prospective bidder shall not be eligible to submit an expression of interest for the assignment of NRRA's of the Corporate Debtor if it fails to meet the eligibility criteria set out in Section 29A of the IBC (as amended from time to time).

As per Section 29A, a person shall not be eligible to submit an expression of interest and offer, if such person, or any other Person acting jointly or in concert with such person:

- a. is an undischarged insolvent;
- b. is a willful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 (10 of 1949);
- c. has 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) and at least a period of one year has lapsed from the date of such classification till the date of commencement of the liquidation process of the corporate debtor:
Provided that the person shall be eligible to submit an offer if such person makes payment of all overdue amounts with interest thereon and charges relating to non-performing asset accounts before submission of offer;
- d. has been convicted for any offence punishable with imprisonment-
 - i. for two year 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
- e. is disqualified to act as a director under the Companies Act, 2013;
- f. is prohibited by the Securities and Exchange Board of India from trading in securities or accessing the securities markets;
- g. has been a promoter or in the management or control of a corporate debtor in which a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been made by the Adjudicating Authority under the IBC;
- 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 IBC 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).

Explanation – For the purposes of this clause, the expression “connected person” means–

- i. Any person who is the promoter or in the management or control of the process applicant;
- ii. Any person who shall be the promoter or in management or control of the assets of the Company pursuant to sale thereof as part of the liquidation process of the Company; or
- iii. The holding company, subsidiary company, associate company or related party of a person referred to in clauses (i) and (ii)

Provided that nothing in clause (iii) of this Explanation shall apply to—

- (A) A scheduled bank;
- (B) An investment vehicle, registered foreign institutional bidder, registered foreign portfolio bidder, or a foreign venture capital bidder, other financial sector regulator of a jurisdiction outside India where the terms shall have the meaning assigned to them in regulation 2 Foreign Exchange Management (Transfer or issue of Security by a Person Resident Outside India) Regulations, 2017 made under the Foreign Exchange Management Act, 1999; or
- (C) An asset reconstruction company registered with the Reserve Bank of India under section 3 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; or
- (D) An Alternate Investment Fund registered with the Securities and Exchange Board of India; or
- (E) Such categories of persons as may be notified by the Central Government.

4.2 Documents required to be submitted to ascertain eligibility of the Prospective bidder

The Prospective bidder would need to submit the following documents to get to the next stages of the process, which is due diligence:

1. Expression of Interest. The format for the same is attached in Annexure I;
2. Ownership structure and composition of the prospective bidder, proof of identification, current address proof, PAN , valid email address, landline and mobile phone number;
3. Board Resolution/Authorization in favour of the Signatory (where the Prospective bidder is a legal entity);
4. Financials for the last three financial years

5. Affidavit and Undertaking by the prospective bidder. The format for the Affidavit and Undertaking is attached as Annexure II;
6. Duly filed and signed confidentiality undertaking by the prospective bidder. The format for the same is attached as Annexure III.

A Prospective bidder may use additional sheets to submit the information for its detailed response.

Additionally, at any stage of the process the Liquidator may ask for any documents from the Prospective bidders to evaluate their eligibility. The Liquidator shall disqualify the Prospective bidder for non-submission of the requested documents within the stipulated period of time.

4.3 Due Diligence

Pursuant to the submission of the expression of interest and other relevant documents mentioned in the clause 4.2, the Liquidator would verify the eligibility of the prospective bidders. Subsequent to the eligibility verification, the Liquidator will share the offer document with the eligible prospective bidders only, which would contain the detailed terms and conditions for conducting the due diligence for the assignment/transfer of NRRAs.

The Liquidator will provide assistance necessary (to the extent reasonably possible and feasible) for the conduct of due diligence by prospective bidders. The information and documents shall be provided by the Liquidator in good faith. The prospective bidders may note that the Liquidator would not have verified any of the information, data or documents shared and shall not accept any responsibility or liability, whatsoever, in respect of any statements or omissions contained in the shared data.

The avoidance transactions reported u/s 43, 45, 49 and 66 of the Code referred to as NRRAs of the Corporate Debtor are proposed to be sold on **“As is where is basis”, “As is what is basis”, “Whatever there is basis” and “No recourse basis”** and the proposed assignment /transfer of NRRAs of the Corporate Debtor does not entail transfer of any title except the title which the Corporate Debtor had on its assets as on date of transfer.

The Liquidator, the Corporate Debtor, and their advisors, affiliates, directors, Partners, employees, agents, representatives or managers do not take any responsibility of furnishing or supplying or giving any further information, documents, accounts, correspondence or any such other particulars other than provided in this process information sheet and the prospective bidder or its

officers, employees, agents and professional advisers hereby deemed to have undertaken not to seek any further information from the Liquidator, Corporate Debtor, and their advisors, affiliates, directors, partners, employees, agents, representatives or managers and any further correspondence in this regard shall be responded by the Liquidator, Corporate Debtor, and their advisors, affiliates, directors, Partners, employees, agents, representatives or managers. The Liquidator does not take or assume any responsibility for any shortfall or defect or shortcoming in the information or documents, correspondence or accounts relating to the NRRAs

5. PROCESS FOR ASSIGNMENT OR TRANSFER OF NRRAs

The Liquidator proposes to conduct Assignment / Transfer of NRRAs being assets underlying avoidance transaction proceedings alongwith the connected rights as contemplated under Regulation 37A of the Liquidation Regulations on revenue sharing basis.

It is clarified that the prospective bidders are required to submit their Expression of interest for the proposed assets along with the detailed terms. The terms shall also provide the percentage of revenue that they agree to share with the Liquidator upon realization of the proposed NRRAs, which will be distributed by the Liquidator among the stakeholders in terms of section 53 of the Code.

While brief of the reported transactions are provided in Schedule I hereto, the Liquidator shall share details of such transactions and basis of reporting thereof with the serious bidders, after receiving the EOIs and discussing the same with the stakeholders committee.

The highest bidder, as selected by the stakeholders committee, will be declared as the Successful bidder and being declared as a Successful Bidder, the said Successful Bidder shall be required to consummate the transaction in accordance with the provisions of the Code and Liquidation Regulations. After identification of a Successful Bidder, the Liquidator shall have the right to approach the NCLT for obtaining suitable directions on the implementation of such Assignment/Transfer and any such directions shall be binding on the parties. The Parties shall enter into an agreement to formalize the terms of realization and revenue sharing details.

The Successful Bidder agrees that it shall be bound to pay the agreed percentage of realized proceeds from the NRRAs, as and when realized, for consummation of Assignment / Transfer of NRRA of the Corporate Debtor within the time frame stipulated in the Liquidation Regulations and as will be mentioned in the final agreement to be entered with the Successful bidder. It is clarified that any necessary approvals, consents, reliefs that may be required to be obtained by the Successful Bidder with respect to Assignment / Transfer of NRRA of Corporate Debtor as contemplated in this EOI have to be obtained by the Successful Bidder at his own cost without any deviation from the time frame for payment of balance Sale Consideration as stipulated under the Liquidation Regulations.

Any failure to obtain such necessary approvals, consents, reliefs, that may be required by the Successful Bidder in respect of the Assignment / Transfer of NRRA of the Corporate Debtor, shall not affect the Assignment / Transfer of NRRA of the Corporate Debtor.

Further terms of assignment will be disclosed after getting the EOIs.

No event, whether named as material adverse clause or whatsoever, shall affect the timelines of the Assignment process. The Liquidator reserves the right to alter, modify, cancel or relax any of the terms and conditions mentioned in this EOI in the interest of the liquidation process of the Corporate Debtor including cancellation of the assignment at any point of time. Any such alteration, modification, cancellation or relaxation of assignment Process shall be binding on the Prospective Bidder

6. COSTS, EXPENSES AND TAX IMPLICATIONS

The Prospective bidders shall be responsible for all the costs incurred by it on account of its participation in the Process, including any costs associated with participation in the discussion meeting (if any), etc. The Liquidator shall not be responsible in any way for such costs, regardless of the conduct or outcome of the Process. The prospective bidders shall not be entitled to receive reimbursement of any expenses which may have been incurred carrying out of due diligence, and matters incidental thereto or for any purpose in connection with the process plan.

The eligible prospective bidders shall be responsible for fully satisfying the requirements of the IBC and related Regulations as well as all Applicable Laws that are relevant for the present assignment/ transfer process.

7. GOVERNING LAW AND JURISDICTION

This Process Memorandum, the Process, and the other documents pursuant to the Process Memorandum shall be governed by the laws of India and any dispute arising out of or in relation to the Process Memorandum or the Process shall be subject to the exclusive jurisdiction of the Adjudicating Authority, courts and tribunals at Mumbai, India

8. TIMETABLE

The last date of submission of Expression of Interest alongwith the annexures mentioned herein is 28th March, 2024.

Schedule – I

MA No. 205 of 2019 filed on 17.01.2019 - Preferential & undervalued Transactions

S.No.	Particulars	Amount (In Rs.)
	Preferential & Undervalued transactions with the related parties of the Company:	
	(a) Amounts in adjustments with group companies not recovered	48,65,77,451.00
	(b) Advances given to related parties	74,81,564.00
	(c) Adjustments in the books of accounts as impairment of assets shown as loss	5,90,11,229.00
	Total	55,30,70,244.00

MA No. 322 of 2019 filed on 23.01.2019 – Fraudulent Transactions

S.No.	Particulars	Amount (In Rs.)
	Fraudulent transactions:	
	Amounts outstanding and written off & adjusted in the books of accounts	69,05,42,500.00
	Total	69,05,42,500.00

IA No. 2073 of 2020 filed on 2nd November, 2020 – Amended Fraudulent Transactions

S.No.	Particulars	Amount (In Rs.)
	Amended Fraudulent transactions:	
	Amounts outstanding and written off & adjusted in the books of accounts	40,79,66,005.33
	Total	40,79,66,005.33

ANNEXURE I

EXPRESSION OF INTEREST

(On the letterhead of the person submitting the EoI)

EXPRESSION OF INTEREST (EOI)

Date:

To,
Mr. C BalaMouli, Liquidator,
Gupta Global Resources Private Limited (In Liquidation)
1-2-412/18B, GaganMahal Colony,
Domalguda, Hyderabad,
Telangana - 500029

Sub: Submission of Expression of Interest ('EOI') for taking the assignment of NRRAs reported by the Liquidator before Hon'ble National Company Law Tribunal, Mumbai Bench ('Hon'ble NCLT, Mumbai Bench') u/s 43, 45, 49 & 66 read with section 68 of the IB Code, 2016, on revenue sharing basis, of the Corporate Debtor, Gupta Global Resources Private Limited (in liquidation) in response to the Public Announcement dated _____ by the Liquidator.

Dear Sir,

I/ We hereby submit an EOI with regard to acquiring the assignment rights of NRRAs of Gupta Global Resources Private Limited under IBC, 2016

I/ We undertake that the information furnished by us in this EOI and the Annexures is true, correct, complete and accurate. Further, we agree and acknowledge that:

1. I/ We, the undersigned prospective bidder(s) have read and examined in detail the Process Memorandum (being referred to as the Document also) including the disclaimers to the Document, set out the related information in relation to the Offering Process conducted for the Corporate Debtor;
2. I/ We express our interest to offer for the NRRAs referred above of the Corporate Debtor;
3. I/ We hereby unconditionally and irrevocably agree and accept the terms of the Document and that the decision made by the Liquidator and/or the Adjudicating Authority in respect of any matter with respect to, or arising out of, the Document, shall be binding on us. We hereby expressly waive any and all claims in respect of the Offering Process;
4. The Liquidator reserves the right to determine at his sole discretion, whether or not we qualify for the participation in the assignment process and may reject the EOI submitted by us without assigning any reason whatsoever;
5. I/ We confirm that there are no litigation/disputes/proceedings pending or threatened against me/ us, which affects my/ our ability to fulfil my/ our obligations under the EOI & Offer and the document;

6. The Liquidator reserves the right to request for additional information or clarification from me/ us for the purposes of the EOI and I/ we shall promptly comply with such requirements. Failure to satisfy the queries of the Liquidator may lead to the rejection of my/ our participation pursuant to EOI;
7. Submission of this EOI alone does not automatically entitle me/ us to participate in the net state of the assignment process;
8. The eligibility criteria under the Code shall be continued to be complied with throughout the assignment process, and any changes in the details provided under the EOI or any material adverse change affecting the EOI or ability to participate shall be intimated immediately and in any case not later than 3 (three) business days to the Liquidator;
9. I/ We undertake to follow the further process of assignment as Liquidator informs us including the Process Memorandum;
10. I/ We also undertake that our EOI is for assignment on revenue sharing basis of rights of the above referred NRRAs on “as is where is”, “as is what is”, “whatever there is” and “no recourse” basis.
11. Capitalized terms, not defined herein, shall have the meaning given to them in the Document.
12. Contact person: The details of the contact person for the purposes of this EOI & Offer are provided below:
Name : [●]
Designation : [●]
Company Address : [●]
Phone Nos : [●]
Fax Nos. : [●]
E-mail address : [●]

Yours faithfully,

For (insert name of the person submitting the EOI)

Signature:

Name of the Authorised Signatory

Designation (no less than a Director or Partner of the entity or a person specifically authorized by the Board of the person):

prospective bidder Seal / Stamp

Note: The signatory signing the EOI and other supporting documents should be an authorized signatory supported by necessary board resolution / authorization letter or the Director or Partner of such person itself may sign the EOI.

ANNEXURE II
AFFIDAVIT AND UNDERTAKING BY PROSPECTIVE BIDDER

(To be on non-judicial stamp paper of appropriate stamp duty value relevant to place of execution)

(To be notarized by Public Notary)

LATEST AS PER REGULATIONS

Date: _____

To,

C. Bala Mouli, Liquidator

Gupta Global Resources Pvt. Ltd. - In Liquidation

1-2-412/18A, Gaganmahal Colony,

Domalguda

Hyderabad-500029

Email: irpcb mouli@gmail.com, cbmouli@gmail.com

Sub: Disclosure and Undertaking on eligibility under Section 35 read with section 29A of the Insolvency and Bankruptcy Code, 2016.

Dear Sir,

- A. I hereby submit this declaration under Section 35 read with Section 29A of the Insolvency and Bankruptcy Code, 2016 ("Code") as inserted by the Insolvency and Bankruptcy Code(Amendment) Act,2018:

I have understood the provisions of section 29 A of the Code. I confirm that neither [Insert name of the Prospective bidder] nor any person acting jointly with [Insert name of the Prospective bidder] or any person who is a promoter or in the management or control of _____[Insert name of the Prospective bidder] or any person acting jointly with _____[Insert name of the Prospective bidder]:

- a. is an undischarged insolvent;
- b. is a willful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act,1949 (10 of 1949);

- c. 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) and at least a period of one year has lapsed from the date of such classification till the date of commencement of the liquidation process of the corporate debtor:

Provided that the person shall be eligible to submit an offer if such person makes payment of all overdue amounts with interest thereon and charges relating to non-performing asset accounts before submission of offer;

- d. has been convicted for any offence punishable with imprisonment-
 - i. for two year 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
- e. is disqualified to act as a director under the Companies Act, 2013;
- f. is prohibited by the Securities and Exchange Board of India from trading in securities or accessing the securities markets;
- g. has been a promoter or in the management or control of a corporate debtor in which a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been made by the Adjudicating Authority under the IBC;
- 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 IBC 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).

Explanation – For the purposes of this clause, the expression “connected person” means–

- i. Any person who is the promoter or in the management or control of the process applicant;
 - ii. Any person who shall be the promoter or in management or control of the assets of the Company pursuant to sale thereof as part of the liquidation process of the Company; or
 - iii. The holding company, subsidiary company, associate company or related party of a person referred to in clauses (i) and (ii)
- B. I therefore, confirm that_____ [Insert name of the Prospective bidder] is eligible under Section 29 A of the Insolvency and Bankruptcy Code, 2016, to submit an expression of interest / offer for Not Readily Realizable Assets ("NRRA") of Gupta Global Resources Pvt. Ltd. - In Liquidation.
- C. I undertake on behalf of _____ [Insert name of the Prospective bidder], that during the Liquidation Process, no person who would be considered as Connected Person and is not eligible to submit an expression of interest/offer under section 29A of Insolvency and Bankruptcy Code, 2016 shall be engaged in the management and control of corporate debtor.
- D. I declare and undertake that incase [Insert name of the Prospective bidder] becomes ineligible at any stage during the Liquidation Process, it would inform the Liquidator forthwith on becoming ineligible.
- E. I also further undertake that my expression of interest / offer amount and its terms and conditions will remain binding unless rejected by the Liquidator.
- F. I confirm that the said declaration and disclosure is true and correct.
- G. I am duly authorised to submit this declaration by virtue of my KYC Documents / Board Resolution.

(DEPONENT)

VERIFICATION

I, the deponent above, do hereby solemnly declare and affirm that the above statement given by me is true and correct to the best of my knowledge and belief and nothing stated above is false or misrepresentation or misleading.

(DEPONENT)

ANNEXURE III
CONFIDENTIALITY UNDERTAKING BY THE PROSPECTIV EBIDDER

(To be on non-judicial stamp paper of appropriate stamp duty value relevant to place of execution)

Date: _____

To,

C. Bala Mouli, Liquidator

Gupta Global Resources P.Ltd - In Liquidation

1-2-412/18A, Gaganmahal Colony,

Domalguda.

Hyderabad-500029

Email: irpcb mouli@gmail.com, cbmouli@gmail.com

Sub: Confidentiality Undertaking by the Prospective bidder under the Insolvency and Bankruptcy Code, 2016.

This Confidentiality Undertaking has been signed by _____ [Insert name of the Prospective bidder] having its office at _____ [Insert address] acting through Mr. _____ [Name of person authorized of Prospective bidder], the authorized signatory / authorized representative ("**Prospective bidder**"), which expression shall, unless repugnant to the context, be deemed to include its successors, assigns or legal representative) in favour of Mr. C. Bala Mouli, an Insolvency Professional having registration no. IBBI/IPA-001/IP-P00321/2017-2018/10608.

WHEREAS Gupta Global Resources Pvt. Ltd - In Liquidation, a company registered under Companies, Act, 1956 (thereafter referred as the "**Corporate Debtor**") is undergoing Liquidation vide Hon'ble NCLT Mumbai ("**NCLT**") order dated August 21, 2018 ("**Liquidation Order**"). Vide the said Liquidation Order, Mr. C. Bala Mouli, an Insolvency Professional registered with Insolvency and Bankruptcy Board of India having Registration No. IBBI/IPA-001/IP-P00321/2017-2018/10608 has been appointed as Liquidator ("**Liquidator**") and has been taking appropriate steps and measures for realizing the assets of the Corporate Debtor as articulated in the provisions of the Insolvency and Bankruptcy Code, 2016 ("**Code**") read with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 ("**Liquidation Regulations**").

WHEREAS the Liquidator has issued public announcement dated _____ xxxx, 2024, inviting prospective bidders to submit an expression of interest for assignment or transfer of Not Readily Realisable Assets ("**NRRA**" or "**Assets**") of the Corporate Debtor on or before _____ xxxx, 2024, as per the provisions of Process Memorandum dated _____, 2024 ("**Process Memorandum**") and provisions of the Code read with Liquidation Regulations.

WHEREAS the Liquidator is required to share certain data, information, records and documents in relation to the Corporate Debtor and NRRA's comprising of Transactions reported before Hon'ble NCLT u/s 43, 45, 49 & 66 read with 68 of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'Code') of Gupta Global Resources Pvt. Ltd. (In Liquidation) that is put up for assignment or transfer including but not limited to providing an access to the relevant data of the Corporate Debtor in order to facilitate the prospective bidder in their due diligence. The said information, documents and records including an access to the relevant data of the Corporate Debtor for due diligence shall be permitted to the prospective bidder only after receiving an undertaking from each of the prospective bidder to the effect that such prospective bidder shall maintain confidentiality of all the information received from the Liquidator or its persons and also during the course of due diligence 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 Process Memorandum and the provisions of the Code read with Liquidation Regulations.

Therefore, the Prospective bidder hereby declares and undertakes as follows:

1. The Prospective bidder shall not involve itself or any of his representatives in price manipulation of any kind directly or indirectly by communicating with other bidders.
2. The Prospective bidder shall not divulge either any details related to his expression of interest and information provided to him by the Liquidator or other details received during the due diligence process in respect of NRRA's comprising of Transactions reported before Hon'ble NCLT u/s 43, 45, 49 & 66 read with 68 of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'Code') of Gupta Global Resources Pvt. Ltd. (In Liquidation).
3. The Prospective bidder shall not divulge any part of the information or any other data shared by the Liquidator or its persons during the due diligence process, through oral or written communication or through any mode to any one and the same shall constitute "Confidential Information". Any information or documents generated or derived by the recipients of Confidential Information that contains, reflects or is derived from any Confidential Information shall also be deemed as Confidential Information.
4. The Prospective bidder further unconditionally and irrevocably undertakes and declares that:
 - a) The Confidential Information shall be kept secret and confidential by the Prospective bidder and shall be strictly used solely for the purpose of due diligence that is required prior to submission of offer and in accordance with the terms of the Code read with Liquidation Regulations;

- b) The Prospective bidder shall not use the Confidential Information to cause any undue gain or undue loss to itself, the Corporate Debtor, Liquidator or any other person;
- c) The Prospective bidder shall comply with all provisions of Applicable Law(s) for the time being in force relating to confidentiality and insider information;
- d) The Confidential Information may only be disclosed to and shared with any employees or its advisors by the Prospective bidder, in accordance with Applicable Law(s), including in relation to confidentiality and insider information, and terms of this Confidentiality Undertaking on a strict need-to-know basis and only to the extent necessary for and in relation to the liquidation process of the Corporate Debtor, provided that the Prospective bidder binds such employees and third parties, by way of an undertaking /agreements, to terms at least as restrictive as those stated in this Confidentiality Undertaking.
- e) The Prospective bidder shall ensure that all Confidential Information is kept safe and secured at all times and is protected from unauthorised access, use, dissemination, copying, any theft or leakage;
- f) The Prospective bidder shall immediately destroy and permanently erase all Confidential Information as provided during the process/due-diligence process subsequent to completion of assignment or transfer of NRRA;
- g) The Prospective bidder shall take all necessary steps to safeguard the privacy and confidentiality of the information received through the Liquidator or its persons and shall use its best endeavours to secure that no person acting on its behalf divulges or discloses or uses any part of the Confidential Information;
- h) The Prospective bidder shall be responsible for any breach of obligations under this confidentiality undertaking (including any breach of confidentiality obligations by any employee or advisor or agent or director of the Prospective bidder) and shall indemnify the Liquidator for any loss, damages, expenses and costs incurred by the Liquidator due to such breach of such obligations by the Prospective bidder or any person acting on its behalf.

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 Prospective bidder was already in the public domain without violation of any provisions of Applicable Law(s); or
- b) information which, after disclosure to the Prospective bidder becomes publicly available and accessible without violation of Applicable Law(s) or a breach of this Confidentiality Undertaking; or
- c) information which was, lawfully and without any breach of this Confidentiality Undertaking, in the possession of the Prospective bidder prior to its disclosure, as evidenced by the records of the Prospective bidder.

5. The Prospective bidder hereby expressly agrees and acknowledges that the Liquidator 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 Prospective bidder during the assignment or transfer Process and information provided in the Process Memorandum.
6. The Prospective bidder further agrees and acknowledges that the Liquidator shall not be liable to the Prospective bidder for any damage arising in any way out of the use of the Confidential Information and further that the Prospective bidder shall not have any claim against the Liquidator or the Corporate Debtor in relation to any information provided.
7. The terms of this Confidentiality Undertaking may be modified or waived only by a separate instrument in writing signed by the Liquidator that expressly modifies or waives any such term.
8. Damages may not be an adequate remedy for a breach of this Confidentiality Undertaking and Liquidator may be entitled to the remedies of injunction, specific performance and other equitable relief for a threatened or actual breach of this Confidentiality Undertaking.
9. Nothing in this Confidentiality Undertaking shall have the effect of limiting or restricting the liability of the Prospective bidder arising as a result of its fraud or willful default as defined under Applicable Law(s).
10. The undersigned hereby represents and warrants that it has the requisite power and authority to execute, deliver and perform its obligations under this Confidentiality Undertaking.
11. This Confidentiality Undertaking and any dispute, claim or obligation arising out of or about it shall be governed by and construed in accordance with Indian laws and the courts and tribunal of Delhi shall have exclusive jurisdiction over matters arising out of or relating to this Confidentiality Undertaking.

I further declare that I, the undersigned have full knowledge of the contents provided in this undertaking and have absolute authority to sign this undertaking on behalf of_____ [insert the name of the Prospective bidder].

Sign on behalf of

[Insert Name of Prospective bidder] by Mr._____

(Name and Designation)

Authorised Signatory

Date:

Place: