**INVITATION FOR EXPRESSION OF INTEREST TO SUBMIT RESOLUTION PLAN FOR DBM GEOTECHNICS AND CONSTRUCTIONS PRIVATE LIMITED**

# BACKGROUND:

DBM Geotechnics and Constructions Private Limited (DBM) is a Private incorporated on 22nd October 1993. It is classified as Private Limited Company and is registered at Registrar of Companies, Mumbai. Its authorized share capital is Rs. 50,00,00,000 (Rupees Fifty Crores only) and its paid up capital is Rs. 32,77,53,700 (Rupees Thirty two crores seventy seven lakhs fifty three thousand seven hundred only). It is involved in an engineering services company engaged in providing its services for foundation engineering, geotechnical services, marine construction, mineral exploration, topographical survey & hydrographic survey arena of construction world.

At present, The company is undergoing a Corporate Insolvency Resolution Process (“CIRP”) in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016 (“IBC”).The CIRP of DBM was initiated, by an Order dated 09th January 2020 of Honorable National Company Law Tribunal (“NCLT”), Mumbai Bench. NCLT appointed Mr. Naren Sheth as Interim Resolution Professional (“IRP”) for supervising the CIRP of DBM and he also was subsequently appointed as the Resolution Professional (“RP”). As per directions of the CoC is inviting the Expression of Interest (“EOI”) from Potential Resolution Applicants (“RA”) to submit the Resolution Plan. **Form G** - Invitation of Resolution Plans (Under sub-regulation (5) of regulation 36A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016) for the attention of the Prospective Resolution Applicants of (company) is set out in **“Annexure –G** “hereto.

# SUBMISSION OF EOI:

RA submitting the EOI should meet the Eligibility Criteria as set out in **“Annexure –A** ” hereto. EOI shall be submitted in the prescribed format as set out in **“Annexure –B** hereto along with the supporting documents as set out in **“Annexure –C** and the details of RA as set out in **“Annexure – D”**hereto.

All Resolution Applicants shall provide INR 15,00,000 (Indian Rupees Fifteen Lakhs only) as a refundable deposit in the form of Demand draft in favour of “ DBM Geotechnics & Constructions Pvt Ltd” payable at Mumbai with any scheduled commercial bank, issued by any scheduled commercial bank in India (“Bank”), which should be delivered to Naren Sheth,1014, Prasad Chamber, Tata Road No.1, Opera House, Mumbai 40004 before last date of submission of EOI (i.e 08-10-2020). Only successful bidder deposits will be deposited and others bidders demand draft will be return back immediately after announcement of shortlisted resolution applicants.

EOI in the prescribed format along with annexure is required to reach in a sealed envelope at below mentioned address through speed post / registered post or by hand delivery. The sealed envelope should be superscripted as *“Expression of Interest for DBM Geotechnics and Constructions Pvt Ltd.”* in the name of Naren Sheth,1014, Prasad Chamber, Tata Road No.1, Opera House, Mumbai 40004 Resolution Professional for DBM, A soft copy of EOI along with annexure stated above also is required to be mailed to [cirp.dbm@gmail.com](mailto:cirp.dbm@gmail.com) & [nvsheth@mkindia.com](mailto:nvsheth@mkindia.com)

# LAST DATE OF SUBMISSION OF EOI:

The last date for submission of EOI is 08-10-2020 by 6:00 P.M.

* 1. All the EOIs received on or before the last date of submission of EOI will be reviewed by RP and/or members of CoC. Qualified and final shortlisted parties will be informed on or before 11-10-2020 by 6:00 P.M. about the same. The Bid Process Memorandum containing the evaluation matrix and terms and conditions of submitting Resolution Plan would be issued to the shortlisted parties pursuant thereto.
  2. The qualified and shortlisted RA will be given 30 (Thirty) days to carry out further due diligence (DD) and submit their Resolution Plan, in accordance with the provisions of the IBC, 22-11-2020.
  3. Access to Information Memorandum (IM), data room for DD and other relevant information will be provided to qualified and shortlisted RA after receiving a confidentiality undertaking as per section 29 (2) of the IBC. The confidentiality undertaking to be submitted by RA is set out in **“Annexure – E”** hereto.
  4. RA to this invitation should satisfy the conditions as specified under section 29A of IBC. The declaration to be submitted by RA under section 29A of IBC is set out in**“Annexure –F”**hereto.

# ADVERTISEMENT:

The advertisement inviting EOI to submit Resolution plan is published on 22nd September 2020 in edition of Free Press General and Navshakti newspapers.

# NOTES AND OTHER TERMS AND CONDITIONS:

* 1. The Invitation for EOI is not an offer or invitation for sale or the solicitation of an offer to buy, purchase or subscribe to any securities, if any, of DBM*.*
  2. COC / RP reserve the right to withdraw EOI and/or cancel the Resolution Plan process at any stage. Mere submission of the EOI shall not create any rights in favor of the RA and the decision of the CoC / RP regarding the resolution plan process shall be final and binding on all parties. The CoC / RP further reserves the right to (a) amend, extend, vary or modify the terms and conditions regarding submission of Resolution plan, including but not limited to Evaluation Matrix, timelines regarding submission of Resolution Plans; and

(b) Disqualify and/or reject any RA at any stage of the bid process without assigning any reason and without any liability, including any tortuous liability.

* 1. Amendments / Clarifications / Information regarding extension, if any, of time for submission of EOI shall be uploaded on the DBM’s website.
  2. No agreements with RP or any official, representative, affiliates, associate, advisor, agent, director, partner or employee of the RP or DBM or any member of the COC or verbal communication by them shall affect or modify any terms of this EOI.
  3. No claims against the RP or DBM or any member of the COC or any of their official, representative, affiliates, associate, advisor, agent, director, partner or employee would arise out of this EOI.
  4. By submitting a proposal, each RA shall be deemed to acknowledge that it has carefully read the entire EOI, its terms and conditions and evaluation matrix and has fully informed itself as to all existing conditions and limitations.

SD/-

**IP NarenSheth**

Resolution Professional in the case of

**DBM Geotechnics and Constructions Pvt Ltd**

**IP/P-00133-IBBI/IPA-001/IP-P00133/2017-18/10275**

**nvsheth@mkindia.com**

Place: Mumbai

Date: 18th September 2020

**Attachments: Annexure – A to G**

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# “ANNEXURE – A”

**ELIGIBILITY CRITERIA**

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The eligibility criteria for submission resolution plan for DBM are as follows:

1. Any person including private limited company or public limited company registered under the Companies Act 1956 or 2013, Limited Liability Partnership (LLP) or Partnership Firm or an Enterprise having Proprietorship or SEBI registered Alternative Investment Fund (AIF) or a company incorporated outside India, which is eligible to invest in India under the laws of India either as a sole resolution applicant or as part of a consortium.
2. In case of consortium, the minimum equity contribution by each consortium member should be at least 10% and lead consortium member should be at least 26%.
3. The shareholding of the special purpose vehicle incorporated by the consortium shall be same as the shareholding of members in consortium.
4. Potential Resolution Applicant’s competence and capability are proposed to be established

Broadly by the following parameters:

* 1. Business Capacity
  2. Financial Capacity
  3. Provisions of section 29A of IBC

# Business Capacity Eligibility criteria:

The eligibility criteria for PRAs as approved by the Committee of Creditors in accordance with the **provisions of Section 25(2) (h) of the IBC are set out below:**

**Business Activities:**

The ‘RA’ being an individual, Firm, Company or a Board Corporate or a Limited Liability Partnership (LLP) or a SEBI registered Alternative Investment Fund (AIF) or a Company incorporated outside India, which is eligible to invest in India under the laws of India, either as a sole resolution applicant or as part of a consortium, shall have Minimum turnover of **INR 100 Crores (Rupees One hundred Crores Only**) at the group level **and** **Net worth of Rs. 10 Crores (Rupess Ten Crores only) and continues profitability for last 3 financial years** as per the latest audited financial statements as of 31.03.2020 or as the case may be.

# For Consortium of Investors:

# Consortium of members may be up to 4 (four) members in maximum.

# Note:

1. *In case of consortium of Financial Investors, the minimum AUM of Rs. 100 Crores of consortiums. The AUM shall be calculated as an aggregate of weighted average of individual member’s AUM proportionate to their respective shareholding in the consortium.*

# Good financial health and repute:

Good track record of financial health and repute of the Potential Resolution Applicant.

# Provisions of section 29A of IBC

Potential Resolution Applicant must be eligible to submit Resolution Plan in accordance with provision of Section 29A of IBC. For this purpose, the Potential Resolution Applicant should give a declaration supported by affidavit as set out in**“Annexure – F”** hereto stating that it does not suffer from any disqualification provided in Section 29A of IBC. In case of Resolution Applicants submitting the Resolution Plan jointly, the declaration and affidavit needs to be submitted by each such Resolution Applicant. However, a Resolution Applicant(s) suffering from a disqualification under Section 29A (c) may submit a resolution plan, provided that it undertakes that it will make payment of all overdue amounts with interest thereon and charges relating to non-performing asset accounts before submission of resolution plan and that it will submit a written acknowledgement of such payment at least one day before the last day of submission of resolution plan.

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# Exchange Rate:

For the purpose of evaluation of the EOI, the exchange rate to be used for conversion into INR (Indian Rupees) shall be RBI Reference rate on the last working day that precedes the date of the EOI.

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# “ANNEXURE – B”

**FORMAT OF EXPRESSION OF INTEREST (EOI)**

**-------------------------------------------------------------------------------------------------------------------------------**

To

Mr. NarenSheth

Resolution Professional (RP) for APL Limited

1014, Prasad Chamber, Tata Road No1

Opera House, Mumbai 400004

# Subject: Expression of Interest (EOI) for (*company name)* Limited

Dear Sir,

In response to your public advertisement in ----------------------------------- and uploaded on the website of IBBI on------------------------, inviting EOIs to submit the Resolution Plan for (*company name)*, we hereby submit our EOI.

The information furnished by us in this EOI is true, correct and accurate to the best of our knowledge.

We understand that based on this information you and Committee of Creditors (CoC) of (*company name)*  would be able to review and evaluate our EOI for submitting the Resolution Plan for (*company name)* Limited.

We however, understand that Mr. Naren Sheth, RP for (*company name)* and the CoC of (*company name)* reserve their right to decide whether or not we are eligible for submitting the Resolution plan for (*company name)* without disclosing any reason whatsoever and without any liability.

Thanking you.

Yours truly.

On behalf of the firm/company/organization: Signature:

Name of signatory: Designation: Company Seal/stamp

Place:

Date:

Enclosures: Annexures

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# “ANNEXURE – C”

**SUPPORTING DOCUMENTS REQUIRED TO BE SUBMITTED WITH EOI**

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1. Profile of Resolution Applicant
2. **Legal Documents:** Copies of Certificate of Registration / Incorporation and Constitutional Documents (Memorandum and Articles of Association, etc.) of Resolution Applicant and information / details required as per Regulation 38(3) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2017.
3. **For Turnover / Net-worth:** Certified true copies of Audited financial statements, of RA and / or its promoter / promoter group or any other group company as per eligibility criteria.
4. A notarized declaration from RA 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 RA shall provide all relevant documents for its promoter / promoter group or any other group company, if required to meet the eligibility criteria.
5. Any other documents / information which Potential Resolution Applicant finds necessary to share or as may be notified by the RP from time to time.

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# “ANNEXURE – ‘D’

**DETAILS OF THE POTENTIAL RESOLUTION APPLICANT**

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1. **Name and address:**

Name:

Address (with proof):

Telephone No.:

Fax No.: Email:

# Name and address (with proof) of the Firm / Company / Organization:

1. **Date of establishment of Resolution Applicant / Promoter Group and copies of documents:**
2. **Core area of expertise of Resolution Applicant:**
3. **Contact Person:** Name: Designation: Telephone No: Mobile No.: Email:

# PAN No. and / or CIN No. and / or Aadhaar No. or equivalent details of Resolution Applicant and copies of documents:

1. **Company / FI Profile:**
2. Company Financial Profile (consolidated / standalone as applicable):

(Note: The Company profile should necessarily include tangible net worth and revenue. Where the entity submitting the EOI is a financial investor / fund entity, please provide details pertaining to “assets under management” and/ or “committed funds‟. Further the fulfillment of eligibility criteria must be clearly identified / certified herein)

1. History if any, of the Company or affiliates of the Company being declared a ‘willful defaulter’ or ‘non-cooperative borrower’ or ‘non-impaired asset’ or ‘non-performing asset’.

(Note: In case of consortium, the details set out above are to be provided for each of the member of the consortium)

# “ANNEXURE – ‘E’

**CONFIDENTIALITY UNDERTAKING**

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**(To be executed on stamp paper)**

To,

Mr. NarenSheth

Resolution Professional (RP) for (*company name)*

1014, Prasad Chamber, Tata Road No1

Opera House, Mumbai 400004

Dear Sir,

# SUBJECT: UNDERTAKING UNDER SECTION 29 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 READ WITH THE INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT) ORDINANCE,2018 (COLLECTIVELY, REFERRED TO AS “IBC”) AND REGULATION 36(4) OF THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSOLVENCY RESOLUTION PROCESS FOR CORPORATE PERSONS) REGULATIONS, 2016 (“CIRP REGULATIONS”) TO MAINTAIN CONFIDENTIALITY

I/We understand that:

1. Corporate Insolvency Resolution Process (CIRP) has been initiated for (*company name)* ((*company name)* or Corporate Debtor) as per the provisions of Insolvency and Bankruptcy Code 2016 (IBC), by an order of National Company Law Tribunal (NCLT) *(place)*. Mr. NarenSheth was appointed as Resolution Professional (RP) for (*company name)* by the Committee of Creditors (CoC) of (*company name)*.

On passing of the above referred order by the NCLT, the Board of Directors of (*company name)* was suspended and the powers of its board of directors now vest with Mr. Naren Sheth, Resolution professional (RP) for (*company name)*.

1. It is the duty of the Resolution Professional under the IBC to prepare an information memorandum (IM) of the corporate debtor, in this case, (*company name)*, and invite the potential / prospective resolution applicants to submit resolution plan (s).

I/We hereby declare and undertake as under:

1. Pursuant to the invitation by the Resolution Professional to prospective resolution applicants to submit resolution plans, we are interested in submitting a resolution plan (bid / proposal) to the resolution Professional.
2. We require a copy of the IM of (*company name)* and other relevant Information / additional information in physical and electronic form, relating to (*company name)* that may be necessary to submit a resolution plan for (*company name)* by us, either directly or through our affiliates (Transaction). We note, understand and acknowledge that:
   1. You have prepared IM of (*company name)* in terms of Section 29 read with the relevant regulations framed under the IBC. We further note and understand that the information contained in the IM is confidential information and can be made available to a resolution applicant only after obtaining an undertaking of confidentially as required under Section 29 of the IBC and Regulation 36 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) only for the purpose of the Transaction;
   2. The IM has been prepared on the basis of information provided by the management of (*company name)* and its creditors. The Resolution Professional is sharing the IM with us for information purposes only. No representation or warranty, express or implied, is given by the Resolution Professional or the advisors appointed by the Resolution Professional or any of its partners, directors, officers, affiliates, employees, advisors or agents (unless specifically mentioned under the provisions of the IBC) as to the accuracy or completeness of the contents of this IM or any other document or information supplied, or which may be supplied at any time or any opinions or projections expressed herein or therein;
   3. The IM is a dynamic document and may be updated from time to time till such the resolution plan is approved by the committee of creditors of (*company name)*;
   4. Other additional information relating to (*company name)* may be necessary for the Transaction;
   5. Any additional or supplementary information or clarification besides the IM, including those provided by way of emails or on telephone provided to us by the Resolution Professional or his team members, including legal advisors are also confidential in nature and shall be construed as a part of the IM .
3. The IM, together with any additional or supplementary information or clarification, including those provided by way of emails or on telephone by the Resolution Professional or his team members, including advisors is referred as “Confidential Information”.
4. We are executing this undertaking of confidentiality to maintain confidentiality in respect of the information contained in the IM as mandated by the IBC and CIRP Regulations.
5. In terms of Section 29 of the IBC and Regulation 36 of the CIRP Regulations we agree and undertake:
6. To maintain confidentiality of the information as detailed in the IM and of any other information received by us and not to use such information to cause an undue gain or undue loss to yourself or any other person.
7. To comply with the requirement under Section 29(2) of IBC
8. In terms of Section 29(2) of the IBC, to
   1. Comply with provisions of law for time being in force relating to confidentiality and insider trading.
   2. Protect any intellectual property and confidential information of (*company name)* and its subsidiary company(s) we may have access to; and (mentioned in the Confidential Information).
   3. Not to share this information/relevant information with any third party unless clauses (i) and (ii) above are complied with.
9. Except as provided herein, we will not disclose the contents of Confidential Information, as updated from time to time, to any person other than to our affiliates (including, for avoidance of any doubt, and our and their directors, officers, employees, agents or advisors (including, without limitation, financial advisors, attorneys, bankers, consultants and accountants) and potential financing sources (collectively, our “Representatives”) who need to know such Confidential Information for the purpose of the Transaction provided, that such Representatives have been directed to comply with the confidentiality and use obligations of this undertaking in case any Confidential Information is disclosed to them. We will be solely responsible for any breach of the provisions of this undertaking of confidentiality by any of our Representatives, except for those Representatives who have a separate undertaking of confidentiality with you.
10. We accept and acknowledge that the Confidential Information has been developed or obtained by (*company name)* through investment of significant time, effort and expense, and that the Confidential Information is valuable, special and unique asset of (*company name)*, which provides (*company name)* with a significant competitive advantage, and needs to be protected from improper disclosures. We further understand and accept that the information contained in the Confidential Information, as updated from time to time, cannot be used for any purpose other than for the Transaction. Accordingly, we agree and undertake to direct our Representatives to:
11. Maintain confidentiality of the Confidential Information, as provided from time to time, and not to use such Confidential Information to cause an undue gain to us or undue loss to any other person including (*company name)* or any of its creditors and stakeholders.
12. Keep the Confidential Information safe in a secure place and protected against theft, damage, loss and unauthorized access and undertakes to keep all documents and other materials reproducing or incorporating confidential information separate from its own confidential information.
13. Use Confidential Information solely for the purpose of transaction and not for any other purpose.
14. We hereby agree to, and, will direct our Representatives to not share the Confidential Information with any third party/person or entity except where Confidential Information:
15. is or becomes publicly available to us or our Representatives without breach of obligations as set out herein; or
16. prior to its disclosure in connection with the Transaction was already in our or our Representatives possession; or
17. prior consent by the Resolution Professional is provided for disclosure in writing; or
18. is required to be disclosed by any applicable law for the time being in force or by any applicable regulatory authority or regulation or professional standard or judicial processor not or whether the resolution plan submitted by us is placed before the committee (including by deposition, interrogatory, request for documents, subpoena, civil investigative demand, or similar process).
19. This Undertaking also applies to Confidential Information accessed through the electronic data room and supersedes any ‘click through’ acknowledgement or agreement associated with any such electronic data room.
20. We agree to keep the Confidential Information safe in a secure place and protected against theft, damage, loss and unauthorized access and undertake to keep all documents and other materials reproducing or incorporating confidential information separate from its own confidential information.
21. We understand and undertake, in the event of not being shortlisted for the binding bid phase or our bid not qualifying for being placed before the committee of creditors of (*company name)* or the committee of creditors rejecting our bid or the NCLT not approving our bid or in the event that the RP calls upon us in to do so, we shall immediately return or destroy the Confidential Information including the IM and other information provided by the RP or its representatives, without retaining a copy thereof, in electronic or any other form.
22. This undertaking of confidentiality condition shall remain valid for a period of three (3) years after it is executed, irrespective of whether we are shortlisted for the next phase of inviting binding bids or not or whether the resolution plan submitted by us is placed before the committee of creditors or not or whether it is approved by the committee of creditors or not and even after completion of the corporate insolvency resolution process.
23. We understand that if we disclose (or threaten to disclose) Confidential Information in violation of this undertaking of confidentiality, the Resolution Professional or (*company name)* or CoC shall be entitled to pursue all available remedies including legal recourse (both, by way of damages or specific relief) to safeguard its interest under undertaking of confidentiality.

We accept and agree above terms.

On behalf of the firm/company/organization:

Signature:

Name of signatory:

Designation:

Company Seal/stamp

Place:

Date:

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# “ANNEXURE – ‘F’

**DECLARATION UNDER SECTION 29A OF IBC**

**-------------------------------------------------------------------------------------------------------------------------------**

**(To be notarised on stamp paper)**

**In the matter of Corporate Insolvency Resolution Process of …………………..under the provisions of the Insolvency and Bankruptcy Code, 2016**

**AFFIDAVIT**

I, [Name of Deponent], son of / daughter of [Name of Deponent’s father] aged [Age of Deponent] resident of [Address of Deponent], the Deponent, do hereby solemnly affirm, state and declare as under:

1. That I am fully conversant with the facts and circumstances of the matter and am also duly empowered and competent to swear and affirm this affidavit.
2. That I have understood the provisions of section 29A of the Insolvency and Bankruptcy Code, 2016 read with the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018 (collectively referred to as the “**IBC**”). I confirm that neither [name of the resolution applicant] nor any person acting jointly or in concert with [name of the resolution applicant] is ineligible under Section 29A of IBC to submit resolution plan (s) in the Corporate Insolvency Resolution Process of APLunder the provisions of IBC.
3. That [name of resolution applicant] has not been rendered ineligible under the provisions of Section 29A of the IBC.
4. That I therefore, confirm that [name of the applicant] is eligible under Section 29A of the Insolvency and Bankruptcy Code, 2016 to submit a resolution plan for (*company name)*.
5. That I confirm that the said declaration and disclosure is true and correct.
6. That I am duly authorised to submit this declaration by virtue of [state where the authority is drawn from]

# Deponent

**Verification**

Verified at [Place] at this [Date] day of [Month] [Year], that the content of the above affidavit is true and correct to my personal knowledge, nothing is false in it and no material facts have been concealed there from.

# Deponent

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