

PANYAM CEMENTS AND MINERAL INDUSTRIES LIMITED

Invitation of Expression of Interest for Submission of Resolution Plan

Original Date 28th July 2020

Revised on 29th August 2020



Invited by:

Bhrugesh Amin

Resolution Professional for Panyam Cements and Mineral
Industries Limited

IBBI Registration No. IBBI/IPA-002/IP-N00353/2017-18/11003

Email ID: bhrugeshamin@bdo.in

Supporting IP entity: **BDO restructuring Advisory LLP**

**DETAILED INVITATION FOR EXPRESSIONS OF INTEREST FOR SUBMISSION OF
RESOLUTION PLAN IN PANYAM CEMENTS AND MINERAL INDUSTRIES LIMITED**

1. Background

- (a) Panyam Cements and Mineral Industries Limited ("**PCMIL**" / "**Company**" / "**Corporate Debtor**") is a company incorporated under the Companies Act, 1956 having corporate identification number L26940AP1955PLC000546 and has its head office in Hyderabad, Telangana. The Company is involved in the manufacturing and marketing of clinker and cement.
- (b) PCMIL is currently undergoing a Corporate Insolvency Resolution Process ("**CIRP**") in accordance with the extant provisions of Insolvency and Bankruptcy Code, 2016 and other relevant rules and regulations notified thereunder (the "**Code**") pursuant to the order of National Company Law Tribunal, Amaravati Bench ("**NCLT**") in respect of Company Petition No. (IB) 187/7/AMR/2019, and the insolvency commencement date under the Code is 14th May 2020. In accordance with section 16 of the Code, Bhruvesh Amin (IP Regn. No. IBBI/IPA-002/IP-N00353/2017-18/11003) was appointed as the interim resolution professional, and his appointment as Resolution Professional ("**RP**") was subsequently approved by the Committee of Creditors ("**CoC**") of the Company on June 26, 2020. The term of the RP is in continuance in accordance with Section 23 of the Code.
- (c) 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 Company ("**EOI**"), from the interested and eligible prospective resolution applicants who has adequate financial and operational capabilities to submit resolution plans under CIRP fulfils such eligibility criteria, as approved by the CoC.

2. Transaction Process:

The transaction process shall be carried out in two stages, as tentatively discussed hereunder subject to further amendments in Code.

Stage I

- Submission of EOIs by interested prospective Resolution Applicants (RAs)
- Screening and shortlisting of prospective RAs by the RP.

Stage II

- RP shall intimate only the shortlisted prospective RAs and shall forward the draft of the Non- Disclosure Agreement to be executed.
- After execution of the Non- Disclosure Agreement, the RP shall provide access to information memorandum, Virtual Data Room ("**VDR**"), the evaluation matrix, Request for Resolution Plan ("**RFRP**") and other due diligence material etc. to the shortlisted prospective RAs.
- The shortlisted prospective RAs shall submit Resolution Plan(s) prepared in compliance with Code along with a Bid Bond/Bank Guarantee whose value, terms, format and other relevant details will be provided with the RFRP.
- The RAs who have submitted the resolution plans shall be examined by the RP for the compliance under Section 29A, Section 30(2) and other Regulations and provisions of the Code and responsiveness to the conditions of RFRP. The RP shall submit all the compliant and responsive Resolution Plans to CoC for evaluation as per the evaluation matrix.
- The CoC may negotiate on the resolution plans, as per relevant guidelines, before the RP

places the resolution plans for voting as per regulations and provisions under Code Code (as amended from time to time) and as per the terms of the RFRP for approval and selection of the successful Resolution Plan.

- Based on CoC's approval, the RP shall submit the Resolution Plan to Adjudicating Authority (NCLT) for their final approval.

The qualification criteria for the proposed transaction is as under:

Category 1 - In case of a private/ public limited company, Individual, LLP, partnership firm, body corporate whether incorporated in India or outside India:

- Consolidated Net Worth as per the latest audited financial statement, but not earlier than March 31, 2019, should be at least Rs. 100 Crore. Net Worth of the Body Corporates will be the total of Equity Share Capital and Reserves & Surplus / Other Equity excluding any revaluation reserve as per the latest audited financial statement but not earlier than March 31, 2019. With regard to the partnership firm/LLP/Individuals, net worth shall be at least 100 Crore.

Category 2 – In case of Financial Institutional Investors (FIIs) / Financial Institutions (FIs)/ Mutual Funds / Private Equity Funds/ Venture Capital Funds, Domestic/ Foreign Investment Institutions, Non-Banking Financial Companies (NBFCs), Alternative Investment Funds, Asset Reconstruction Companies (ARCs), Banks and similar entities:

1. For FIIs/ Mutual Funds/ Private Equity Funds/ Venture Capital Funds/ Domestic Investment Institution/ Foreign Investment Institution/ NBFCs/ Alternative Investment Funds: Assets under management (AUM) of at least Rs. 800 crore in the immediately preceding completed financial year but not earlier than March 31, 2019.
2. For ARCs/ Banks: Any ARC/ Bank registered with Reserve Bank of India shall be eligible

Note:

- In case of a consortium, the designated lead partner of the consortium should meet the eligibility criteria and lead partner should have an authority to bind, represent and take decision for and on behalf of the consortium.
- The applicant must be 'fit and proper' person not under any legal disability to be promoter under the applicable laws including listing agreement, stock exchange requirements and SEBI regulations and guidelines. The applicant having adequate financial capability would submit proof of its effective net worth..
- In case the prospective RA is a SPV/ LLP, the Eligibility Criteria of the parent entity/ promoters would be considered in proportion to their share in SPV/ LLP and necessary documents of the parent entity/ promoters needs to be provided.

3. Submission of EOI:

- (a) EOI is invited in a sealed envelope superscripted as **<Expression of Interest for Panyam Cements and Mineral Industries Limited>**, in the format as set out in Annexure 'A' hereto. The last date for receipt of expression of interest is subject to permissible extensions. It may be noted that the EOI shall be unconditional. Applicants shall submit the EOI together with details set out as **Annexure 'B'** along with the supporting documents set out as **Annexure 'C'**. The Prospective RAs submitting EOI must ensure that they do not suffer from any ineligibility in accordance with the provision of Section 29A (as inter alia indicated in **Annexure 'D'**) or any other provision of the Code.

More information about the process and the Corporate Debtor will be provided to the shortlisted RAs upon receiving a confidentiality undertaking as per Section 29(2) of the IBC and Regulation 36(4) of CIRP Regulation (in the form attached as **Annexure 'E'**) and the undertaking in the format attached as **Annexure 'F'**

The prospective resolution applicant shall submit the sealed envelope containing a complete set of the EOI along with the Annexures stated above should be mailed to bhrugethamin@bdo.in. Additionally, hard copy of EOI along with above mentioned documents should be sent to the following address by post or deliver in person:

Bhrugeth Amin
Resolution Professional for Panyam Cements and Mineral Industries Limited
BDO Restructuring Advisory LLP
The Ruby- Level 9, NW Wing, Senapati Bapat Marg
Dadar West, Mumbai-400028, India

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.

5. Last Date of Submission of EOI:

The last date for submission of EOI is 07th September, 2020 latest by 18:00 Hrs IST. In case the designated day happens to be a holiday in Hyderabad; the next working day will be deemed as the last date for submission of EOI. It may be noted that any EOI received after 07th September 2020 (18:00 Hrs IST) shall be rejected without any prejudice.

6. Process post Submission of EOI

It may be noted that, pursuant to submission of EOI 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 17th September 2020
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 22nd September 2020
3	RP shall issue request for resolution plan which includes information memorandum, evaluation matrix and a request for resolution plans to: <ul style="list-style-type: none">- Every prospective resolution applicant in the provisional list; and- Every prospective resolution applicant who has	Within 5 days of date of issue of provisional list 22nd September 2020

	contested the decision of the RP against its non-inclusion in the provisional list.	
4	RP shall issue of final list of prospective resolution applicants to the CoC	Within 10 days of last date of receipt of objections 02nd October 2020
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 22nd October 2020
6	Estimated date of submission of resolution plan by RP to the Hon'ble National Company Law Tribunal, Amaravati	10th November 2020 (subject to permissible extensions)

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

Note:

- (a) 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.
- (b) 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.
- (c) CoC has the right to cancel, amend or modify the invitation process without assigning any reason and without any liability whatsoever nature. Any amendment or modification shall be posted on the website of the Corporate Debtor www.panyamcements.com. The prospective resolution applicants are requested to regularly visit the website for updates. This is not an offer document and is issued with no commitment.
- (d) CoC/ RP reserve the right to withdraw the invitation for EOI and change or vary any part thereof at any stage and also reserve the right to disqualify any prospective resolution applicant, should it be so necessary at any stage.
- (e) No oral conversations or agreements with the RP or any official, agent or employee of the RP, the Company or any member of the CoC shall affect or modify any terms of this invitation for EOI.
- (f) Neither any prospective resolution applicant nor any of the applicant's representatives 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.

- (g) 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.
- (h) By submitting a proposal, each prospective 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.
- (i) For any other further clarifications, kindly write to irppanyam@bdo.in and / or to the [following address](#):

Bhrugesh Amin
Resolution Professional for Panyam Cements and Mineral Industries Limited
BDO Restructuring Advisory LLP
The Ruby- Level 9, NW Wing, Senapati Bapat Marg
Dadar West, Mumbai-400028, India

Annexure A

[On the Letterhead of the Entity Submitting the EOI]

FORMAT FOR EXPRESSION OF INTEREST FOR SUBMISSION OF RESOLUTION PLAN IN PANYAM CEMENTS AND MINERAL INDUSTRIES LIMITED UNDER CIRP

Date: _____

To,
Bhrugesh Amin
Resolution Professional ("RP")
In the matter of Panyam Cements and Mineral Industries Limited

C/o BDO Restructuring Advisory LLP
The Ruby- Level 9, NW Wing, Senapati Bapat Marg
Dadar West, Mumbai-400028, India

Email – irppanyam@bdo.in; bhrugeshamin@bdo.in;

Subject: Expression of Interest ("EOI") for submission of Resolution Plan for Panyam Cements and Mineral Industries Limited undergoing Corporate Insolvency Resolution Process (CIRP)

Dear Sir,

In response to your public advertisement in [*Insert the names of the newspaper and/or website*] on [*Insert date of the advertisement*] inviting EOIs for submission of Resolution Plan in PANYAM CEMENTS AND MINERAL INDUSTRIES LIMITED, we hereby submit our EOI.

The information furnished by us in this EOI is true, correct and accurate to the best of our knowledge. Based on this information we understand you would be able to evaluate our preliminary proposal in order to shortlist for the above-mentioned proposal.

Further, we agree and acknowledge that:

- A. The EOI will be evaluated by the Resolution Professional (RP) of Corporate Debtor based on the information provided in the Annexures and attached documents to determine whether we qualify to submit the resolution plan pursuant to EOI ;
- B. The RP/ the Committee of Creditors (COC) reserve the right to determine at their sole discretion, whether or not we qualify for the submission of the resolution plan and may reject the EOI submitted by us without assigning any reason/ without any liability whatsoever ;
- C. The fulfilment of eligibility conditions in the EOI does not automatically entitle us to participate in the CIRP of Panyam Cements and Mineral Industries Limited, which will be subject to applicable laws and further conditions stipulated by the RP or the COC, in their sole discretion, including those in relation to access to virtual data room (VDR) or as may be stipulated under the Request for Resolution Plan document.
- D. The RP/ the COC reserve the right to request for additional information or clarification from us for the

purposes of the EOI and /or for any compliance under Code and we shall comply with the same immediately without any delay. Failure to satisfy the queries of RP/ COC may lead to rejection of our submission pursuant to EOI ;

- E. Meeting the qualification criteria as set out in EOI alone does not automatically entitle us to participate in the next stage of the bid process;
- F. We are not an ineligible person in terms of provisions of Section 29A of the Code read with its amendment as on the date of signing of this EOI. 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.
- G. If any false information or record has been submitted by us, it will render us ineligible to participate in the process.

We understand that Mr. Bhruvish Amin (the Resolution Professional) and the CoC reserve the right to decide whether or not to pre-qualify our proposal without disclosing any reasons whatsoever and that resolution plan submitted in PANYAM CEMENTS AND MINERAL INDUSTRIES LIMITED shall be subject to approval of the final resolution plan by the COC and the NCLT, in terms of the provisions of the Insolvency and Bankruptcy Code, 2016.

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.

Yours Sincerely,

On behalf of (Insert name of the entity submitting the EOI)

Signature:

Name of signatory:

Designation:

Company Seal/Stamp

Notes: The person signing the EOI and other supporting documents should be an authorized signatory supported by necessary board resolutions (for corporate entities) / authorization letter (for LLPs).

"ANNEXURE - B"

DETAILS OF THE PROSPECTIVE RESOLUTION APPLICANT

1.1. Name and address

Name of the Applicant: Address:

Telephone No:

Fax: Email:

1.2. Date of establishment of Applicant:

1.3. Core area of expertise of the Applicant:

1.4. Contact Person:

Name: Designation: Telephone No: Email:

1.5. PAN No. or equivalent details of Applicant

"ANNEXURE - C"

SUPPORTING DOCUMENTS TO BE ATTACHED WITH EOI

- (a) Profile of the prospective Resolution Applicant including subsidiary (wholly owned subsidiary and partly owned subsidiary, if any), promoter and promoters group, Key Managerial Personnel and Rationale for bidding for the Corporate Debtor.
- (b) Legal Documents: Copies of Certificate of Incorporation/ Registration and Constitutional Documents (MoA, AoA). Copy of PAN card or equivalent documents and the KYC documents of the Promoters of the Prospective RA.
- (c) Immediately preceding 3 (three) years audited Annual Reports of the Prospective Resolution Applicant, its promoter/promoter group and any other group company.
- (d) For Demonstration of funds availability and credit rating, Statement of funds availability of the prospective Resolution Applicant, promoter/promoter group and any other group company.
- (e) **For Category 1 RA:**
The applicant must submit documents indicating its effective net worth as on 31st March 2019, or later.
- (f) **For Category 2 RA:**
 1. The applicant must submit documents indicating the assets under management as on 31st March 2019, or at a later date.
 2. ARC, Banks should submit copies of relevant documents of their registration with Reserve Bank of India.
- (g) A notarized declaration from the applicant in order to demonstrate that the promoter/promoter group or any other group company are part of the same group, in case the applicant is using such entities for submitting EOI. Please note that the applicant must be 'fit and proper' person not under any legal disability to be promoter under the applicable laws including listing agreement and SEBI regulations and guidelines and shall provide all relevant documents for its promoter/promoter group or any other group company.
- (h) RAs Profile:
 - (i) RAs Financial Profile for the past three years (consolidated/standalone as applicable)
 - (ii) All the available latest Credit Rating Letters provided by the credit rating companies.
 - (iii) Experience of the RAs in the relevant sector.
 - (iv) History if any, of the RAs or affiliates of the RAs being declared a "wilful defaulter", "non-cooperative borrower", "non-impaired asset" or "non-performing asset" (Self Declaration)
 - (v) Any other relevant details which would be useful for the 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.
 - (vi) Any other relevant details which would be useful for the resolution professional to evaluate the EOI and help to shortlist for the next stage in the process.

"ANNEXURE - D"

SECTION 29A of the Code

[To be executed on a Stamp Paper of appropriate stamp duty and should be duly notarised]

(In case of an Indian Corporate Resolution Applicant)

AFFIDAVIT

I, [**Name of the Deponent**], S/o [**Father's name of the Deponent**], Aged about [**Age**] years, R/o [**Address in full along with the Pin Code**], do solemnly affirm and say as follows:

1. That I am a director/designated partner/authorized signatory of M/s [Name of the Resolution Applicant] ("**Resolution Applicant**");
2. That the Resolution Applicant is a company/LLP/Partnership duly incorporated and registered under the Companies Act, 1956/2013, the Limited Liability Partnership Act, 2008, Partnership Act, 1932 bearing CIN/Registration Number/Identification Number: [●] and having its registered office at [**Address in full along with the Pin Code**];
3. That I have been authorized to sign and submit the present Resolution Plan ("**Resolution Plan**") on behalf of the Resolution Applicant and as such I am conversant with the contents of the Resolution Plan and competent to swear this affidavit and depose to its contents;
4. That the Resolution Applicant is filing the Resolution Plan in the corporate insolvency resolution process of M/s [**Name of the Corporate Debtor**] Limited ("**Corporate Debtor**") under the provisions of the Insolvency and Bankruptcy Code, 2016 ("**Code**") and the rules made thereunder, as amended from time to time;
5. That the Resolution Applicant is eligible to submit the Resolution Plan and neither the 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 or completion of such transactions as may be prescribed, 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 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.

6. That the contents of this affidavit are true and correct. No part of it is false and nothing material has been concealed therefrom.

DEPONENT

VERIFICATION

I, [**Name of the Deponent**], the Deponent abovenamed, do hereby verify that the contents of foregoing affidavit are true and correct to the best of my knowledge. No part of it is false and nothing material has been concealed therefrom.

Verified at [**Place**] dated this [**Date**] of [**Month**], 2020

DEPONENT

[To be executed on a Stamp Paper of appropriate stamp duty and should be duly notarised]

(In case of an Indian Individual Resolution Applicant)

AFFIDAVIT

I, [**Name of the Deponent**], S/o [**Father's name of the Deponent**], Aged about [**Age**] years, R/o [**Address in full along with the Pin Code**], do solemnly affirm and say as follows:

1. That I am the Resolution Applicant and as such I am conversant with the contents of the Resolution Plan and competent to swear this affidavit and depose to its contents;
2. That I am filing the Resolution Plan in the corporate insolvency resolution process of M/s [**Name of the Corporate Debtor**] Limited ("**Corporate Debtor**") under the provisions of the Insolvency and Bankruptcy Code, 2016 ("**Code**") and the rules made thereunder, as amended from time to time;
3. That I am eligible to submit the Resolution Plan and:
 - a. I am not an undischarged insolvent;
 - b. I am not a wilful defaulter in accordance with the guidelines of the Reserve Bank of India ("**RBI**") issued under the Banking Regulation Act, 1949;
 - c. At the time of submission of the Resolution Plan, I do not have an account which has been classified as a 'non-performing asset' in accordance with the guidelines of the RBI or the guidelines of a financial sector regulator issued under any other law for the time being in force;

Or

My account was declared as a 'non-performing asset' by the RBI on [**Date of declaration as 'non-performing asset'**], however, the one year period from the said date of classification as 'non-performing asset' has not elapsed.

Further, I have made payments of all overdue amounts along with interest thereon and charges relating to its 'non-performing asset'.

- d. I have not been convicted for any offence punishable with imprisonment for 2 (two) years or more;

or, if applicable:

I was convicted for the offences punishable with imprisonment, however, the period of 2 (two) years have expired from my release from the imprisonment;

- e. I am not disqualified to act as a 'director' under the Companies Act, 2013;
- f. I am not prohibited by the Securities and Exchange Board of India from trading in securities or accessing the securities markets;
- g. I have not been a promoter or in the management or in control of any other 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 provisions of the Code;

- h. I have not executed any 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 provisions of the Code and such guarantee has been invoked by the creditor and remains unpaid in full or part;
 - i. I am not subjected to any such disability prescribed under the provisions of section 29A of the Code under any law in a jurisdiction outside India;
 - j. I do not have a connected person who is ineligible under clause (a) to (i) of section 29A of the Code.
4. That the contents of this affidavit are true and correct. No part of it is false and nothing material has been concealed therefrom.

DEPONENT

VERIFICATION

I, [***Name of the Deponent***], the Deponent abovenamed, do hereby verify that the contents of foregoing affidavit are true and correct to the best of my knowledge. No part of it is false and nothing material has been concealed therefrom.

Verified at [***Place***] dated this [***Date***] of [***Month***], 2020

DEPONENT

[This Affidavit should be duly notarized/apostilled or duly legalized and authenticated in such a manner as is applicable in the Country where the Resolution Applicant is based]

(In case of a Foreign Corporate Resolution Applicant)

AFFIDAVIT

I, [**Name of the Deponent**], S/o [**Father's name of the Deponent**], Aged about [**Age**] years, R/o [**Address in full along with the Pin/ZIP Postal Code**], do solemnly affirm and say as follows:

1. That I am a director/designated partner/authorized signatory of M/s [**Name of the Resolution Applicant**] ("**Resolution Applicant**");
2. That the Resolution Applicant is a company/LLC/LLP/Partnership firm duly incorporated and registered under the laws of [**Country/Jurisdiction where the Resolution Applicant is based**] bearing Registration Number/Identification Number: [●] and having its registered office at [**Address in full along with the Pin/ZIP Postal Code**];
3. That I have been authorized to sign and submit the present Resolution Plan ("**Resolution Plan**") on behalf of the Resolution Applicant and as such I am conversant with the contents of the Resolution Plan and competent to swear this affidavit and depose to its contents;
4. That the Resolution Applicant is filing the Resolution Plan in the corporate insolvency resolution process of M/s [**Name of the Corporate Debtor**] Limited ("**Corporate Debtor**") under the provisions of the Insolvency and Bankruptcy Code, 2016 ("**Code**") and the rules made thereunder, as amended from time to time;
5. That the Resolution Applicant is eligible to submit the Resolution Plan and neither the Resolution Applicant nor any other person acting jointly or in concert with us:
 - (k) is an undischarged insolvent;
 - (l) 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);
 - (m) 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 or completion of such transactions as may be prescribed, 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.]*

- (n) 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:

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

- (o) 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.]

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

- (r) 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;
- (s) is subject to any disability, corresponding to clauses (a) to (h) above, under any law in a jurisdiction outside India; or
- (t) 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 the

following meaning:

(c) "**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.

(d) "**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.

6. That the contents of this affidavit are true and correct. No part of it is false and nothing material has been concealed therefrom.

DEPONENT

VERIFICATION

I, [**Name of the Deponent**], the Deponent above named, do hereby verify that the contents of foregoing affidavit are true and correct to the best of my knowledge. No part of it is false and nothing material has been concealed therefrom.

Verified at [**Place**] dated this [**Date**] of [**Month**], 2020

DEPONENT

[This Affidavit should be duly notarized/apostilled or duly legalized and authenticated in such a manner as is applicable in the Country where the Resolution Applicant is based]

(In case of a Foreign Individual Resolution Applicant)

AFFIDAVIT

I, **[Name of the Deponent]**, S/o **[Father's name of the Deponent]**, Aged about **[Age]** years, R/o **[Address in full along with the Pin/ZIP Postal Code]**, do solemnly affirm and say as follows:

1. That I am the Resolution Applicant and as such I am conversant with the contents of the Resolution Plan and competent to swear this affidavit and depose to its contents;
2. That I am filing the Resolution Plan in the corporate insolvency resolution process of M/s **[Name of the Corporate Debtor]** Limited ("**Corporate Debtor**") under the provisions of the Insolvency and Bankruptcy Code, 2016 ("**Code**") and the rules made thereunder, as amended from time to time;
3. That I am eligible to submit the Resolution Plan and:
 - a. I am not an undischarged insolvent under the laws of **[Country/Jurisdiction where the Resolution Applicant is based]**;
 - b. I am not a wilful defaulter in accordance with the guidelines of the Reserve Bank of India ("**RBI**") issued under the Banking Regulation Act, 1949 or any financial sector regulator in **[Country/Jurisdiction where the Resolution Applicant is based]**;
 - c. At the time of submission of the Resolution Plan, I do not have an account which has been classified as a 'non-performing asset' in accordance with the guidelines of the RBI or the guidelines of **[Name of the financial sector regulator]**, a financial sector regulator in the **[Country/Jurisdiction where the Resolution Applicant is based]**;

Or

I was declared as a 'non-performing asset' by the RBI / **[Name of the financial sector regulator]** in the **[Country/Jurisdiction where the Resolution Applicant is based]** on **[Date of declaration as 'non-performing asset']** and the one year period from the said date of classification as 'non-performing asset' has not elapsed.

Further, I have made payments of all overdue amounts along with interest thereon and charges relating to its 'non-performing asset'.

- d. I have not been convicted for any offence punishable with imprisonment under the laws of **[Country/Jurisdiction where the Resolution Applicant is based]**:
 - i. for 2 (two) years or more under any enactment corresponding to the Acts specified under the Twelfth Schedule of the Code;
 - ii. for 7 (seven) years or more under any other law for the time being in force;

or, if applicable:

I was convicted for the offences punishable with imprisonment, however, the period of 2 (two) years have expired from my release from the imprisonment;

- e. I am not disqualified to act as a 'director' under the Companies Act, 2013 or under the corresponding companies law prevailing in [**Country/Jurisdiction where the Resolution Applicant is based**];
 - f. I am not prohibited by the Securities and Exchange Board of India or by [**Name of the securities market regulator in the Country/Jurisdiction where the Resolution Applicant is based**] from trading in securities or accessing the securities markets;
 - g. I have not been a promoter or in control of any other 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 provisions of the Code.
 - h. I have not executed any 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. I am not subjected to any such disability prescribed under the provisions of section 29A of the Code under any law in a jurisdiction outside India;
 - j. I do not have a connected person who is ineligible under clause (a) to (i) of section 29A of the Code
4. That the contents of this affidavit are true and correct. No part of it is false and nothing material has been concealed therefrom.

DEPONENT

VERIFICATION

I, [**Name of the Deponent**], the Deponent abovenamed, do hereby verify that the contents of foregoing affidavit are true and correct to the best of my knowledge. No part of it is false and nothing material has been concealed therefrom.

Verified at [**Place**] dated this [**Date**] of [**Month**], 2020

DEPONENT

"ANNEXURE - E"

(TO BE EXECUTED ON STAMP PAPER)

NON – DISCLOSURE AND CONFIDENTIALITY UNDERTAKING

To,

Mr. Bhrugesh Amin
IBBI Registration no. IBBI/IPA-002/IP-N00353/2017-18/11003
Resolution Professional in the matter of CIRP of Panyam
Cements and Mineral Industries Limited

C/o BDO Restructuring Advisory LLP,
The Ruby, Level 9, North West Wing,
Senapati Bapat Marg, Dadar West,
Mumbai 400028, India
Email: irppanyam@bdo.in; bhrugeshamin@bdo.in;

Dear Sir,

Subject: **Undertaking under Section 29 (2) of the Insolvency and Bankruptcy Code, 2016 read with amendments thereof (collectively, hereinafter referred to as the Insolvency Code) 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.**

We, [**Please insert the Name**] hereby understand, acknowledge, state and represent that:

1. The National Company Law Tribunal, Amaravati Bench (**NCLT**) by its order dated 14th May, 2020, (**Admission Order**) ordered the commencement of corporate insolvency resolution process (**CIRP**) in respect of Panyam Cements and Mineral Industries Limited (**Company**) under the provisions of the Insolvency and Bankruptcy Code, 2016 read with subsequent amendments (**Insolvency Code**). In accordance with section 16 of the Code, Bhrugesh Amin (IP Regn. No. IBBI/IPA-002/IP-N00353/2017-18/11003) was appointed as the interim resolution professional, and his appointment as Resolution Professional (**RP**) was subsequently approved by the Committee of Creditors (**CoC**) of the Company on June 26, 2020. The term of the RP is in continuance in accordance with Section 23 of the Code.
2. The Resolution Professional has the duty to prepare the information memorandum for the Company and invite the potential / prospective resolution applicants to submit their resolution plan(s), in accordance with the requirements of Section 29 of the Insolvency Code read with Regulation 36 of the (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (**CIRP Regulations**).
3. 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.
4. Pursuant to the CIRP Regulations read with Section 29 of the Insolvency Code, the Resolution Professional has to submit the Information Memorandum and other relevant information / additional information (**IM**), to each of the prospective resolution applicant, subject to the Resolution Professional receiving a non – disclosure and confidentiality undertaking from each

prospective resolution applicant in accordance with the requirements of the Insolvency Code and the CIRP Regulations.

5. 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.
6. We require a copy of the IM of the Company and other relevant Information / additional information in physical and electronic form, relating to the Company that may be necessary to submit a resolution plan for the Company by us, either directly or through our affiliates.

We hereby acknowledge that:

- A. Under the CIRP Regulations read with Section 29 of the Insolvency Code, the Resolution Professional has to submit the IM and other relevant information / additional information, to each prospective resolution applicant, subject to the Resolution Professional receiving a non – disclosure and confidentiality undertaking from the prospective resolution applicants in accordance with the requirements of the Insolvency Code and the CIRP Regulations.
- B. The IM shall contain various confidential information relating to the Company including without limitation details of the assets and liabilities of the Company, annual financial statements, audited financial statements, list of creditors, particulars of debt due to or from the Company, details of guarantees, names and addresses of the members of the Company, details of material litigation, number of workmen / employees of the Company and the liabilities of the Company towards them and such other relevant information which the Resolution Professional deems relevant from time to time.
- C. In light of the aforesaid, we hereby declare, acknowledge, represent, state, covenant and undertake as under:
 - (i) The Resolution Professional has prepared the IM of the Company in accordance with the terms of Section 29 of the Insolvency Code read with the CIRP Regulations. We further note and understand that the information contained in the IM is confidential information and can be made available to us only after obtaining an undertaking of confidentiality as required under Section 29 of the Insolvency Code read with Regulation 36 of the CIRP Regulations;
 - (ii) The IM has been prepared on the basis of information provided by the management of Company 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, representatives and / or agents (unless specifically mentioned under the provisions of the Insolvency Code) as to the accuracy or completeness of the contents of the 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;
 - (iii) The IM is a dynamic document and may be updated from time to time till such a resolution plan submitted by prospective resolution applicants is duly approved by the CoC; and
 - (iv) Any additional or supplementary information and / or clarifications submitted and / or provided besides the IM, including those provided by way of emails or on telephone by the Resolution Professional or any of its partners, directors, officers, affiliates, employees, advisors, representatives and / or agents, including legal advisors are also confidential in nature and shall be construed as a part of the IM.
- D. 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 any of its partners,

directors, officers, affiliates, employees, advisors, representatives and / or agents, including legal advisors is referred as (**Confidential Information**).

- E. We are executing this undertaking of confidentiality to maintain confidentiality in respect of the information contained in the IM in accordance with the requirements of the Insolvency Code and the CIRP Regulations.
- F. In accordance with the terms of Section 29 of the Insolvency Code read with Regulation 36 of the CIRP Regulations, We hereby declare, acknowledge, represent, state, covenant and undertake as under:
- (i) To maintain confidentiality of the information as detailed in the Information Memorandum (IM) and of any other information received by us and not to use such information to cause an undue gain or undue loss to the Resolution Professional or any other person.
 - (ii) To comply with the requirements of Section 29(2) of the Insolvency Code.
 - (iii) In accordance with the terms of Section 29(2) of the Insolvency Code to:
 - (i) Comply with provisions of all applicable laws for time being in force relating to confidentiality and insider trading;
 - (ii) Protect any intellectual property and confidential information of the Company and its subsidiary / group companies which we may have access to and as shared as part of the Confidential Information;
 - (iii) Not to share the Confidential Information / relevant information with any third party unless clauses (i) and (ii) above are duly complied with by such third parties.
 - (iv) 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 directors, officers, employees, agents and / or advisors (including without limitation our attorneys, consultants and accountants) (collectively, our **Representatives**) who need to know such Confidential Information for the aforementioned purposes and shall ensure 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 the Resolution Professional.
- G. We accept and acknowledge that the Confidential Information has been developed or obtained by the Company through investment of significant time, effort and expense, and that the Confidential Information is a valuable, special and unique asset of the Company, which provides the Company with 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 aforementioned purposes. Accordingly, we agree and undertake to direct our Representatives to:
- (i) 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 without limitation the Company, the Resolution Professional or any of its creditors and / or stakeholders.
 - (ii) 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 the Confidential Information separate from its own confidential information.

(iii) Use the Confidential Information solely for the aforementioned purposes and not for any other purpose.

H. 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:

(i) is or becomes publicly available to us or our Representatives without breach of obligations as set out herein; or

(ii) prior to its disclosure for the aforementioned purposes was already in our or our Representatives possession; or

(iii) prior consent by the Resolution Professional is provided for disclosure in writing; or

(iv) 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 process (including by deposition, interrogatory, request for documents, subpoena, civil investigative demand, or similar process).

I. 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.

J. 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 any of the Confidential Information separate from its own confidential information.

K. We understand and undertake, in the event of approval of a resolution plan as submitted by any of the prospective resolution applicants as per Section 31 of the Insolvency Code, we shall immediately return or destroy the Confidential Information including the IM and other information provided by the Resolution Professional or its any of its partners, directors, officers, affiliates, employees, advisors, representatives and / or agents, without retaining a copy thereof, in electronic or any other form.

L. This undertaking of confidentiality shall remain valid for a period of three (3) years after it is executed and / or from the date completion of the CIRP of the Company under Section 31 of the Insolvency Code, whichever occurs later.

M. We understand that if we disclose (or threaten to disclose) the Confidential Information in violation of this undertaking of confidentiality, the Resolution Professional or the Company or the CoC shall be entitled to pursue all available remedies including any legal recourses (both, by way of damages or specific relief) to safeguard its / their interest under this undertaking of confidentiality.

We accept and agree above terms.

On behalf of [***Please insert the Name of the Organisation***]:

Signature

Name of the Authorized Signatory: [●]

Designation: [●]

Company Seal / Stamp: [●]

Place: [●]

Date: [●]

"ANNEXURE - F"

DECLARATION CUM UNDERTAKING UNDER REGULATION 36A (7) OF IBBI (INSOLVENCY RESOLUTION FOR CORPORATE PERSONS) REGULATION, 2016

Date: [●]

To

Mr. Bhruvish Amin

Resolution Professional in the matter of CIRP of Panyam Cements and Mineral industries Limited.

BDO Restructuring Advisory LLP,

The Ruby, Level 9, North West Wing,

Senapati Bapat Marg, Dadar West,

Mumbai 400028, India

Email ID – irppanyam@bdo.in; bhruvishamin@bdo.in

Subject: Undertaking in relation to submission of the EOI for Panyam Cements and Mineral Industries Limited ("Company") undergoing Corporate Insolvency Resolution Process ("CIRP").

Dear Sir,

We, the undersigned ("[●]") are submitting our expression of interest ("EOI") in respect of Invitation for submission of EOI issued by the Resolution Professional of the Company on 28th July, 2020 ("Invitation for EOI") and in this connection we hereby solemnly affirm, declare and undertake as follows:

- (a) We have examined in details and have understood the eligibility and other criteria mentioned in Invitation for EOI;
- (b) We meet the necessary threshold and criteria mentioned in the EOI;
- (c) We understand the eligibility criterion provided in Section 29A of the Insolvency and Bankruptcy Code, 2016 ("Code") and confirm that we are not an ineligible/disqualified person in terms of provisions of Section 29A of the Code. If, at any time after the submission of this EOI, we become ineligible to be a resolution applicant as per the provisions of the Code (including but not limited to the provisions of Section 29A of the Code), the fact of such ineligibility shall be immediately and in any event within 24 hours of such ineligibility, be informed to the Resolution Professional;
- (d) The Investment in the Corporate Debtor shall be made by us on an "as in, where is" basis and the Resolution Professional or the COC will not be providing any representations or warranties for the Corporate Debtor;
- (e) Neither we nor any of our representatives shall have any claims whatsoever against the Resolution Professional or its advisors or any member of the COC or any of their directors, officials, agents or employees arising out of or relating to this EOI;
- (f) No oral conversations or agreements with the Resolution Professional or any official, agent or employee of the Resolution Professional, or any member of the COC shall affect or modify any terms of this EOI;
- (g) We confirm and represent that we have the requisite corporate authorisation to submit the EOI.
- (h) All information and records provided by us to the Resolution Professional in the EOI or otherwise are correct, accurate, complete and true and no such information, data or statement provided by us is inaccurate or misleading in any manner. We shall be solely responsible for any errors or omissions therein.

- (i) We will hold in trust and in confidence the Confidential Information provided to us by the Resolution Professional/Committee of Creditors of the Company ("CoC")/ Company and will not, directly or indirectly use the Confidential Information for any purpose other than for submission of resolution plan or for causing an undue gain or undue loss to itself or any other person. We will not disclose or reveal (or permit the disclosure or revelation of) any Confidential Information to any person or party whatsoever (save and except as provided below) without the prior consent of the Resolution Professional. We will disclose the Confidential Information to its employees, advisors, directors and/or its Affiliates (together the "Representatives"), strictly on a need to know basis and solely for the Purpose, provided always that, each of these Representatives shall, in the course of their duties be required to receive, observe and consider the confidentiality obligations set out hereunder when working towards the preparation/submission of the Resolution Plan and shall be bound by confidentiality obligations that are at least as stringent as the obligations agreed by us in this undertaking. We will use the same degree of care to protect the Confidential Information as we use to protect its own confidential information but no less than a reasonable degree of care to prevent the unauthorised access, use, dissemination, copying, theft and/or republication of the Confidential Information. We will promptly notify the Resolution Professional of any Confidential Information which has been used by any unauthorised third party provided that such notification shall not relieve us from any liability arising from its breach of this undertaking.

For purposes of this Undertaking, the term "Confidential Information shall mean and include any and all facts, knowledge, information, documents and materials whether written or otherwise, concerning the business, operations, prospects, finances, or other affairs of the Company, its affiliates, associates or subsidiaries (which includes, without limitation, documents delivered in connection with due diligence, investigation, information relating to the existing business of the Company, market and company-specific data, agreements related to its business including knowhow and technology agreements, agreements relating to licence to use intellectual property rights, graphs, drawing, past, current, and planned research and development, current and planned marketing or distribution methods and processes, customer lists, current and anticipated customer requirements, price lists and other end-user pricing related information, market studies, computer software and programs, database technologies, systems, structures and architectures, historical financial statements, activities, products, specifications, data, know-how, compositions, designs, sketches, photographs, business plans, financial projections and budgets, historical and projected sales, capital spending budgets and plans, current or prospective financing sources, the names and backgrounds of personnel, personnel training techniques and materials, reports relating to the Company's operations prepared by external consultants which are proprietary to the Company), and any information memorandum /or draft /final offer document, request for proposal, or other materials prepared in connection with submission of Resolution Plan, howsoever documented, that that has been or may hereafter be provided or shown to the potential resolution applicant by the Company/Resolution Professional/CoC or is otherwise obtained from review of the Company's documents or property or discussions with the Company/Resolution Professional/CoC by the potential resolution applicant irrespective of the form of the communication, and also includes all notes, analyses, compilations, studies, summaries, and other material prepared by the potential resolution applicant containing or based, in whole or in part, on any information included in the foregoing. Notwithstanding the foregoing, the following information will not constitute "Confidential Information" for purposes of this Undertaking: (a) Information which the potential resolution applicant can prove was already in its possession and was available to it on a non-confidential basis prior to its disclosure to it by the Company/Resolution Professional/CoC; (b) Information which is obtained by the potential resolution applicant from a third Person who, insofar as is known to the potential resolution applicant, is not prohibited from disclosing the information to the potential resolution applicant under a contractual, legal or fiduciary obligation to the Company/Resolution Professional/CoC; and (c) Information which is or becomes generally available to the public otherwise than as a result of a breach of this Undertaking by the potential resolution applicant.

The decision of the Resolution Professional and/or the CoC on whether any information qualifies within the exceptions in (a), (b) and (c) above shall be final, conclusive and binding;

- (j) Further, we agree and acknowledge that in case any information/record provided by interest is false, incorrect, inaccurate or misleading, we shall become ineligible to submit the Resolution Plan and we shall also attract penal action under the Code.

Yours Sincerely,

On behalf of [Insert the name of the entity submitting the EOI]

Signature: _____

Name of Signatory:

Designation:

Company Seal/Stamp

NOTE:

1. The Undertaking should be stamped on a stamp paper of INR 100.
2. The person signing the Undertaking should be authorized signatory supported by necessary board resolutions/authorization letter.
3. For PRAs who are not Indian Residents, the undertaking can be submitted on their letter heads instead of stamp paper.