

**INVITATION FOR EXPRESSION OF INTEREST FOR SUBMISSION OF
RESOLUTION PLAN FOR
KWALITY LIMITED**

[CIN: L74899DL1992PLC255519]

Registered Office: KDIL House, F-82, Shivaji Place, Rajouri Garden New Delhi—110027

BRIEF DETAILS OF THE CORPORATE DEBTOR

Kwality Limited (hereinafter “**Kwality**”/“**Company**”) is a company incorporated under the Companies Act, 1956 and a public listed company having its registered office at KDIL House, F-82, Shivaji Place, Rajouri Garden New Delhi—110027, India.

SNAPSHOT OF RELEVANT INFORMATION ABOUT THE COMPANY

Name	Kwality Limited
ROC Code	Registrar of Delhi
CIN	L74899DL1992PLC255519
Date of Incorporation	August 21, 1992
Class of Company	Public Limited
Whether Listed or not	Listed
Industry	Commercial & Industrial
Registered Office	KDIL House, F-82, Shivaji Place, Rajouri Garden New Delhi—110027, India
Corporate Office	KDIL House, F-82, Shivaji Place, Rajouri Garden New Delhi—110027, India
Authorized Capital	INR 100,00,00,000
Paid-up Capital	INR 24,13,54,382
Activities	Kwality Limited is engaged in the business of milk processing and manufacturing of dairy products including ghee, milk powders, lassi, chaach, flavoured milk etc. It owns two milk processing units, one in Softa, Haryana and

	<p>another in Dibai, Uttar Pradesh. The Softa facility is a state-of-the-art processing facility employing new generation techniques and machinery for processing and packing, and is strategically located in the periphery of the densely populated National Capital Region. It also has capabilities of Ultra-high temperature processing (UHT) which is required for producing long shelf-life products like UHT milk, flavored milk and various other products. The Dibai facility was primarily catering to the demands out of Uttarakhand and Uttar Pradesh markets; it is however, currently non-operational. The company has a robust network of Milk Chilling Centers (MCCs) around its processing facilities, which aids them in procuring fresh milk from the village farmers for processing into value added products. It also has a strong base of milk contractors, thereby enabling a healthy mix of procurement from farmers and contractors. Aided by its efficient sales force, its products are being sold in both B2B and B2C channels.</p>
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For more details, visit www.kwality.com

The Company is currently undergoing Corporate Insolvency Resolution Process (“**CIRP**”) as per the provisions of the Insolvency and Bankruptcy Code, 2016 (“**IBC**” or “**Code**”), pursuant to an order of Hon’ble NCLT, New Delhi dated December 11, 2018 (“**NCLT Order**”). A copy of the NCLT Order can be found at www.kwality.com

Mr. Shailendra Ajmera (IP Registration No.: IBBI/IPA-001/IP-P00304/2017-18/10568) (“**RP**”/“**Resolution Professional**”) was appointed as the Interim Resolution Professional (“**IRP**”) of the Company vide the NCLT Order dated December 11, 2018 and confirmed as the Resolution Professional on January 17, 2019 by the Committee of Creditors (“**CoC**”) under the Code.

Pursuant to 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) Regulations, 2016 (“**CIRP Regulations**”), the RP hereby invites Expression of Interest (“**EOI**”) from interested and eligible prospective resolution applicants (“**Potential Resolution Applicant**” or “**PRA**”) for the purpose of submission of Resolution Plan in respect of the Company.

This is the detailed invitation for expression of interest referred in Regulation 36 A (3) and (4) of the CIRP Regulations.

ELIGIBILITY CRITERIA UNDER SECTION 25 (2) (h)

To be eligible to submit EOI, the PRAs must satisfy the following eligibility criteria, as approved by the COC in accordance with Section 25 (2)(h) of the Code.

A. For PRAs that are Corporates- Private/ Public Limited Company, LLP, body corporate whether incorporated in India or outside India

- Minimum Tangible Net Worth (“**TNW**”) INR 200 Crore at the Group Level in the immediately preceding completed financial year or;
- Minimum consolidated Group revenue/turnover of INR 1,000 Crore the preceding completed financial years.
- Tangible Net Worth shall be computed as aggregate value of paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, and does not include capital reserves including reserves created out of revaluation of assets, write back of depreciation and amalgamation.
- For fulfilling the Group criteria, the entities shown as part of Group either must have controlling interest or controlled by or under common control with the PRA. Control means at least 26% ownership. The entities must have been part of the Group for at least 3 years.

B. For PRAs that are Financial Investors- Foreign Investment Institutions (FII) / Mutual Funds / Private Equity/ Venture Capital Funds, Domestic/ Foreign Investment institutions, Non-Banking Finance Companies (NBFC), Asset Reconstruction Companies, Banks and similar entities

- Minimum Asset Under Management (“**AUM**”) or funds deployed of INR 1,000 Crore in the immediately preceding completed financial year; or
- Committed funds available for investment/ deployment in Indian companies or Indian assets of INR 500 Crore in the immediately preceding completed financial year

C. For Consortium

PRA may be a “Consortium”. “**Consortium**” shall mean any person acting together with another person as a consortium/joint bidder or joint venture (whether incorporated or not) for the purpose of submission of the EOI and Resolution Plan for the Company. Lead Member of Consortium Potential Resolution Applicant must satisfy eligibility criteria mentioned in Point “A” or “B” above, as applicable. In addition, Consortium should satisfy requirements set out in paragraph 6 below.

1. **DISQUALIFICATION UNDER SECTION 29A OF THE CODE**

Please note that a PRA will not be eligible to submit the EOI if it or any person acting jointly or in concert with it is disqualified under Section 29A of the Code (as amended from time to time, including extant law/ regulations prevailing at the time of evaluation of eligibility criteria).

In case of a Consortium, each member of the Consortium should be eligible under Section 29A of the Code.

Each PRA, along with EOI, is required to furnish an undertaking as per Regulation 36A (7) of the CIRP Regulations in the form as set out in Annexure ‘A’ hereof confirming that it is not disqualified under Section 29A of the Code.

2. **REFUNDABLE DEPOSIT/ BANK GUARANTEE**

Along with the EOI, all PRAs shall be required to provide a non-interest bearing refundable deposit/bank guarantee or through such other instrument acceptable to the CoC of INR 25 Lakhs (“**Refundable Deposit/BG**”).

The Refundable Deposit shall be paid through Demand draft/RTGS/NEFT in favour of “Kwality Limited” payable at Delhi. The details of the Bank Account are as follows:

Name of the Bank: Bank of India

Name of Account Holder: Kwality Limited

Account Number: 605920110000298

IFSC Code: BKID0006059

In case of BG, an unconditional and irrevocable BG from a bank should be issued in favour of “**Bank of India, New Delhi Large Corporate Branch, 10th Floor, Chanderlok Building, Janpath, Near Tolstoy Marg, Opposite Hotel Imperial, New Delhi-110001**” with validity till June 9, 2019, which will be extended for such additional time period as the CoC/RP may decide. There will also be a 30 day claim period subsequent to last date of BG, allowed for invocation of the BG. The BG must be from a Scheduled Commercial Bank or a financial institution in India. The format of bank guarantee is attached as **Annexure- ‘B’**.

Note: In case of entities with no domestic presence in India, i.e. overseas entities, mode of deposit shall only be through Bank Guarantee as stated above.

Subject to Clause (f) of Regulation 36A (7) of the CIRP Regulations (“*an undertaking by the prospective resolution applicant that every information and records provided in expression of interest is true and correct and discovery of any false information or record at any time will render the applicant ineligible to submit resolution plan, forfeit any refundable deposit, and attract penal action under the Code*”), the Refundable Deposit shall be refunded (without interest)/ the BG shall be returned within 30 days of the following:

- (a) Rejection of EOI of such PRA and/or non-inclusion of the PRA in the final list of eligible PRAs;
- (b) Withdrawal of the PRA from the resolution plan process (where such withdrawal is notified to the Resolution Professional in writing) before submission of resolution plan;

- (c) PRA failing to submit the resolution plan by the due date as specified by the RP for submission of resolution plan;
- (d) Submission of resolution plan by the PRA, provided the Refundable Deposit/ BG is not adjusted against any deposit/ guarantee provided/ to be provided at the time of submission of the resolution plan;
- (e) The impact of any gains/ losses on account of foreign exchange fluctuation, if any shall be borne by PRA without any recourse to RP/Kwality/CoC.

3. **LAST DATE OF SUBMISSION OF EOI**

The last date for submission of EOI is March 31, 2019. (“**Last Date as extended by CoC**”).

Note: Any EOI submitted after the Last Date shall be rejected.

Provided that the Resolution Professional may extend the Last Date, with approval of the CoC (at its sole discretion).

4. **SUBMISSION OF EOI**

The EOI should be unconditional and should be submitted in the format attached as **Annexure ‘C’**. It should be accompanied with the following documents/ information:

- a. For all PRAs - Profile of PRA including subsidiaries (wholly-owned subsidiary and partly-owned subsidiary if any), promoter and promoter group, parent company and ultimate parent company and key managerial personnel.
- b. For all PRAs - Copies of Certificate of Incorporation/ Registration and Constitutional Documents (MoA, AoA) or other equivalent organizational documents. Copy of PAN card, GST number or equivalent documents as applicable.
- c. For all PRAs - Audited financial statements of the PRA for Financial Year 2015-2016, Financial Year 2016-2017, Financial Year 2017-2018 and/or its promoter/promoter group or any other group company as per eligibility criteria. In case of non-availability of the audited financial statements for the financial

year 2017-2018, the provisional financial statement duly certified by the Management.

- d. For all PRAs - A notarized/apostle (as applicable) declaration from the PRA in order to demonstrate that the promoter/promoter group or any other group company are part of the same group, in case the interested party is using such entities for meeting the eligibility criteria. Please note that the PRA shall provide all relevant documents for its promoter/promoter group or any other group company, if required to meet the eligibility criteria.
- e. A Confidentiality Undertaking in the format attached as **Annexure 'D'**.
- f. A list of connected persons of the PRAs (including each member of the Consortium), as defined under Section 29A of the Code.
- g. A statement showing how the PRA meets the conditions laid down in the eligibility criteria along-with documents to substantiate the same including statement of disclosure giving details if the resolution applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any other resolution plan approved by the adjudicating authority at any time in the past under the Code
- h. In case of a Consortium, the relevant documents will need to be provided by each member of the Consortium.
- i. Any additional document/information asked by Resolution Professional or CoC must be furnished by PRA
- j. Proof of furnishing Refundable Deposit/ BG.
- k. EOI shall be submitted in following manner:
 - a. Electronically at:ipresolution.kwality@in.ey.com
and

- b. Hard Copy EOI along with the Refundable Deposit/ BG shall be submitted to following address:

Mr. Shailendra Ajmera, Resolution Professional, Kquality Limited
Address: Ernst & Young LLP, 3rd Floor, Worldmark 1,
Aerocity Hospitality, New Delhi-110037

5. CONSORTIUMS

Where the EOI is being submitted by a consortium of joint bidders (“**Consortium**”), the EOI, along with all undertakings submitted pursuant to this EOI shall be signed by each member of the Consortium. Please further note that:

- a. a Person cannot be part of more than 1 (one) consortium submitting the EOI. Further a Person shall submit only 1 (one) EOI, either individually as a PRA or as a constituent of a Consortium;
- b. the Consortium shall submit the copy of duly notarized consortium agreement/MOU, if any, entered into between the Consortium members, setting out the respective obligations of the Consortium members;
- c. each member of the Consortium shall nominate and authorize a Lead Partner to represent and act on behalf of the members of the Consortium. Such Lead Partner shall be the single point of contact on behalf of the Consortium with the Resolution Professional and the CoC, their representative and advisors in connection with all matters pertaining to the Consortium;
- d. the members of the Consortium shall be jointly and severally liable in respect of obligations under the EOI/ undertakings given to the Resolution Professional;
- e. if any 1 (one) member of the Consortium is disqualified under Section 29A of the Code, then the entire Consortium; i.e., all the members of such Consortium shall stand disqualified;

- f. The EOI must detail the members of the Consortium, the Lead Member and the proposed percentage holding of each member;
- g. Lead Member of the Consortium shall be identified at the time of submission of EOI and shall hold at least 51% stake in consortium with individual members not less than 20%;
- h. No change of Lead Member or any member whose financials have been considered towards the eligibility criteria shall be permitted post submission of EOI (except with approval of the CoC).

6. **IMPORTANT NOTICES**

- 1) CoC has the right to cancel or modify or withdraw the process of invitation of EOI or Resolution Plans without assigning any reason and without any liability. This is not an offer document and is issued with no commitment.
- 2) CoC has the right to amend this **Invitation for Expression of Interest** (hereinafter “**IEOI**”) or issue further supplements to the EOI or right to require additional documents from the PRAs without assigning any reason and without any liability. PRAs should regularly visit the Company’s web site at www.kwality.com to keep themselves updated regarding clarifications/ amendments/ time-extensions, if any.
- 3) It may be noted that the eligibility criteria for PRAs has been evolved in accordance with the provisions of the Code and CIRP Regulations. EOIs of only those interested parties who meet the eligibility and other criteria specified herein shall be considered. Resolution Professional/ CoC reserve their right to reject the EOI of any PRA and not include them in the provisional or final list of eligible PRAs in case:
 - (a) The PRA does not meet the eligibility criteria set out herein;

- (b) If the EOI submitted by the PRA is incomplete or the PRA does not submit the documents as required under this IEOI or does not submit such further documents or information as requested by the Resolution Professional for conducting due diligence on the PRA;
 - (c) If any information/record provided is false, incorrect, inaccurate or misleading;
 - (d) If in the opinion of the COC, the PRA is undesirable or not credible or if the PRA fails to provide information, if requested, to establish its credibility, eligibility or ability to implement a resolution plan.
- 4) 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, or any official, agent or employee of the Company shall affect or modify any terms of this EOI.
 - 5) Neither the PRA nor any of representatives of the PRA 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.
 - 6) By submitting its EOI, each PRA shall be deemed to acknowledge that it has carefully read the entire **IEOI** and has fully informed itself as to all existing conditions and limitations. Ignorance of law/s will not be treated as any excuse.
 - 7) The PRA acknowledges that the investment in the Company shall be made by the PRA on an “as is, where is” basis and the RP or the COC will not be providing any representations or warranties for the Company.
 - 8) All the EOIs received will be reviewed by RP in consultation with its advisors and CoC and a provisional list of eligible PRAs shall be shared in accordance with the Code and CIRP Regulations.

- 9) For any clarifications on the process of submission of EOI, please contact on ipresolution.kwality@in.ey.com.

Issued by:

Mr. Shailendra Ajmera

(IP Registration No.: IBBI/IPA-001/IP-P00304/2017-18/10568)

Address for Correspondence in this regard: KDIL House, F-82, Shivaji Place, Rajouri Garden, New Delhi – 110027, India

Email ID: ipresolution.kwality@in.ey.com

Registered email ID with IBBI: shailendra.ajmera@in.ey.com

ANNEXURE ‘A’
ELIGIBILITY AS PER SECTION 29A

Execution instructions:

[To be on non-judicial stamp paper of Rs. 200 for Delhi. The stamp duty will depend on the state of execution of the eligibility as per Section 29A. Foreign companies submitting expression of interest / resolution plan are required to follow the applicable law in their country and ensure that the documents submitted as part of the expression of interest / resolution plan are appropriately apostilled, and stamp duty paid in India before submission to the resolution professional.]

The execution of this undertaking must be authorized by a duly passed resolution of the board of directors of the prospective resolution applicant or any sub-committee of the board (if so authorized by the board).

Each page of the undertaking is required to be signed by the prospective resolution applicant at the bottom of the page and on the execution page, the deponent must affix his/her full signature and additionally affix the rubber stamp seal of the prospective resolution applicant.

Where the resolution applicant is a consortium, said undertaking shall be furnished by each member of the consortium.

Kindly fill in the requisite details in each of the items where information is left blank or has been sought.]

UNDERTAKING

I, [name of the chairman/managing director/director/authorized person of resolution applicant, authorized by the Board of the resolution applicant for giving such undertaking], son of [____], aged about [____] years, currently residing at [Address to be inserted] and having Aadhaar / Passport number [____], on behalf of [name of the resolution applicant] having registered office at [____] (“**Resolution Applicant**”, a term which also includes

any person acting jointly with the Resolution Applicant), do solemnly affirm and state to the committee of creditors (“**CoC**”) of Kquality Limited (“**Company**”) and the resolution professional of the Company (“**RP**”) as follows:

1. That I am duly authorized and competent to make and affirm the instant undertaking for and on behalf of the Resolution Applicant in terms of the [*resolution of its board of directors/ power of attorney- to provide other necessary details of such authorization*]. The said document is true, valid and genuine to the best of my knowledge, information and belief.

2. That neither the Resolution Applicant, nor any other person acting jointly or in concert with the Resolution Applicant, nor any ‘connected person’ (as defined under Section 29A of the Insolvency and Bankruptcy Code, 2016, as amended from time to time (“**Code**”)) and nor any other person covered under Section 29A of the Code:
 - (a) is an undischarged insolvent;

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

 - (c) is at the time of submission of the expression of interest and / or resolution plan a person who,(i) has an account which has been classified as non-performing asset in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 or the guidelines of a financial sector regulator issued under any other law for the time being in force, or (ii) controls or manages or is the promoter of a corporate debtor whose account has been, classified as non-performing asset in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 or the guidelines of a financial sector regulator issued under any other law for the time being in force; and such classification has continued for a period of one year or more from the date of such classification till the date of commencement of the corporate insolvency resolution process of the Company and all such overdue amounts along with interest, costs

and charges thereon have not been fully repaid at the time of submission of expression of interest and / or resolution plan;¹

- (d) has been convicted for any offence punishable with imprisonment –
 - (i) for two years or more under any statute specified under the Twelfth Schedule of the Code and two years have not passed from the date of release from such imprisonment; or
 - (ii) for seven years or more under any law for the time being in force and two years have not passed from the date of release from such imprisonment;
- (e) is disqualified to act as a director under the Companies Act, 2013 [18 of 2013];
- (f) is prohibited by the Securities and Exchange Board of India from trading in securities or accessing the securities markets;
- (g) has been a promoter or in the management of or control of a corporate debtor in which any preferential transaction or undervalued transaction or extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been made by the Adjudicating Authority viz. Hon'ble National Company Law Tribunal (or its appellate tribunal / court) under the Code (other than a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction which has taken place without any contribution by the Resolution Applicant in an entity acquired by the Resolution Applicant, prior to such acquisition by way of a resolution plan approved under the Code or pursuant to a scheme or plan approved by a financial sector regulator or court);
- (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

¹ If the resolution applicant is a financial entity and is not a related party of the corporate debtor, taking into consideration the Explanation I to Section 29A(c) of the Code, such person may delete this provision.

been admitted under the Code and such guarantee has been invoked by the creditor and remains unpaid in full or in part;

(i) is subject to any disability, corresponding to the aforesaid conditions under any law in a jurisdiction outside India;

(j) Has a connected person not eligible under clause (a) to (i) herein above.

3. That the Resolution Applicant unconditionally and irrevocably agrees and undertakes that it shall make full disclosure in respect of itself and all its connected persons as required under Regulation 38(3) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, as applicable to the corporate insolvency resolution process of the Corporate Debtor.

4. That neither the Resolution Applicant, nor any other person acting jointly or in concert with the Resolution Applicant, nor any 'connected person' (as defined under Section 29A of the Code) has:

(a) withdrawn or sought any deviation to its resolution plan in any corporate insolvency resolution process, or avoided or delayed or defaulted in the implementation of the resolution plan approved by the committee of creditors / Adjudicating Authority; or delayed or failed to implement any conditions as contained in the process document / note issued under any corporate insolvency resolution process (including the submission of any guarantee / security documents as envisaged under the process document / note of any corporate insolvency resolution process);

(b) had any resolution plan filed by it withdrawn / rejected or applied to be withdrawn / rejected from the Adjudicating Authority / committee of creditors owing to any non-compliance / default by it;

(c) failed to implement its resolution plan approved by committee of creditors / Adjudicating Authority in accordance with its terms; or

(d) in order to avoid the obligations under its resolution plan approved by committee of creditors / Adjudicating Authority, challenged the process document / note or process thereunder issued by a resolution professional / committee of creditors with respect to a corporate insolvency resolution process, in any court of law or sought any deviation from the resolution plan submitted by it which is not acceptable to the committee of creditors of the relevant matter.

5. That Resolution Applicant unconditionally and irrevocably agrees and undertakes that it meets the criteria specified by the committee under clause (h) of sub-section (2) of section 25 and that it shall intimate the resolution professional forthwith if it becomes ineligible at any time during the CIRP of the Kwalitiy.
6. That Resolution Applicant unconditionally and irrevocably agrees and undertakes that it that every information and records provided in expression of interest is true and correct and discovery of any false information or record at any time will render the applicant ineligible to submit resolution plan, forfeit/invoked any refundable deposit/BG, and attract penal action under the Code as per Regulation 36A (7) (f) of the CIRP Regulations, 2016.
7. Any amounts accrued on account of forfeiture / invocation above shall not form part of assets of Company, and shall be available to Creditors for appropriation in accordance with waterfall set out in the successful resolution plan or in accordance with Section 53 IB Code, as the case may be, at the end of moratorium.
8. That the Resolution Applicant unconditionally and irrevocably represents, warrants and confirms that it is eligible under the terms and provisions of the Code (read with the relevant regulations framed there under) to submit an expression of interest and a resolution plan and it shall provide all documents, representations and information as may be required by the RP or the CoC to substantiate that the Resolution Applicant is eligible under the applicable provisions of the Code and the rules and regulations thereunder to submit a resolution plan in respect of the Company.

9. That the Resolution Applicant unconditionally and irrevocably undertakes that it shall provide all data, documents and information as may be required to verify the statements made under this undertaking.
10. That the Resolution Applicant understands that the RP and the CoC may evaluate the expression of interest and / or resolution plan to be submitted by the Resolution Applicant or any other person acting jointly with it and such evaluation shall be on the basis of the confirmations, representations and warranties provided by the Resolution Applicant under this undertaking.
11. That the Resolution Applicant agrees that each member of the CoC and the RP are entitled to rely on the statements and affirmations made in this undertaking for the purposes of determining the eligibility and assessing, agreeing and approving the resolution plan submitted by the Resolution Applicant.
12. That in the event any of the statements contained herein are found to be untrue or incorrect, then the Resolution Applicant unconditionally agrees to indemnify and hold harmless the RP and each member of the CoC against any losses, claims or damages incurred by the RP and / or the members of the CoC on account of such ineligibility of the Resolution Applicant.
13. That the Resolution Applicant agrees and undertakes to disclose/inform forthwith, to the RP and the members of the CoC, if the Resolution Applicant becomes aware of any change in factual information in relation to it or its connected person (as defined under the Code) which would make it ineligible under any of the provisions of Section 29A of the Code at any stage of the corporate insolvency resolution process of the Company, after the submission of this undertaking.
14. That if, at any time after the submission of this undertaking and before the approval of the Resolution Applicant's resolution plan by the Adjudicating Authority i.e. Hon'ble National Company Law Tribunal under the Code, the Resolution Applicant becomes ineligible to be a Resolution Applicant as per the provisions of the Code (and in particular Section 29A of the Code), the fact of such ineligibility shall be forthwith brought to the attention of the RP and the CoC.

15. That this undertaking shall be governed in accordance with the laws of India and the National Company Law Tribunal, New Delhi /National Company Law Appellate Tribunal/ Courts of New Delhi shall have the exclusive jurisdiction over any dispute arising under this undertaking.

SOLEMNLY AFFIRMED AT _____

ON THIS THE [_____] DAY OF [_____] 2019

DEPONENT

**Before me,
Notary/ Oath Commissioner**

VERIFICATION:

I, *[name of the chairman/managing director/director/authorized person of resolution applicant, authorized by the Board of the resolution applicant company (in case of a company) for giving such affidavit]*, the deponent above named, on behalf of *[name of the resolution applicant]*, having registered office at [_____] , do hereby verify and state that the contents of the above affidavit are true to the best of my knowledge and nothing material has been concealed therein.

Verified at [_____], on this the [_____] day of [_____] 2019.

DEPONENT

ANNEXURE ‘B’
BANK GUARANTEE

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

To
Bank of India
New Delhi Large Corporate Branch
10th Floor, Chanderlok Building,
Janpath, Near Tolstoy Marg
Opposite Hotel Imperial,
New Delhi -110001

WHEREAS

- A. [Insert name of the Potential Resolution Applicant/PRA]² incorporated in [India]/ [insert name of country where guarantor is incorporated]³ under the [Companies Act, [1956/2013]]/ [insert name of legislation under which the entity is incorporated] with corporate identity number [●], whose registered office is at [insert address] (“**Potential Resolution Applicant**”) is required to provide a non-interest bearing, unconditional and irrevocable bank guarantee for an amount equal to INR 25,00,000 (Indian Rupees Twenty Five Lakhs) in accordance with the terms of the invitation for expression of interest dated March 12, 2019 (“**Invitation for Expression of Interest**”/ “**IEOI**”) issued by the Resolution Professional seeking submission of expression of interest (“**EOI**”) from interested and eligible PRA’s for submission of resolution plan for Kquality Limited.
- B. This bank guarantee is required to be issued in favor of the **Bank of India, New Delhi Large Corporate Branch, 10th Floor, Chanderlok Building, Janpath, Near Tolstoy Marg, Opposite Hotel Imperial, New Delhi-110001** (hereinafter, “Beneficiary” for an on behalf of the Committee of Creditors of Kquality Limited), pursuant to the terms of the IEOI.

²In case of consortium, Bank guarantee to be issued by Lead partner as authorized by the members of the consortium.

³In case of PRA being a foreign entity

C. We, *[insert name of the bank]*⁴ having our registered office at *[insert address]* (“**Bank**”) at the request of the Potential Resolution Applicant do hereby undertake to pay to the Beneficiary at [●] an amount not exceeding INR 25, 00,000 (Indian Rupees Twenty Five Lakhs) to secure the obligations of the Potential Resolution Applicant under the IEOI on demand from the Beneficiary on terms and conditions herein contained.

1. Now therefore, the Bank hereby issues in favour of the Beneficiary this irrevocable and unconditional payment bank guarantee (“**Guarantee**”) on behalf of the *[Insert name of the Potential Resolution Applicant]* for an amount not exceeding INR 25,00,000 (Indian Rupees Twenty Five Lakhs).
2. The Bank for the purpose hereof unconditionally and irrevocably undertakes to pay to the Beneficiary without any demur, reservation, caveat, protest or recourse, immediately upon receipt of first written demand made by the Beneficiary, a sum not exceeding the aggregate amount of INR 25,00,000 (Indian Rupees Twenty Five Lakhs).

This Guarantee shall be valid and binding on the Bank up to and including June 09, 2019 and shall in no event be terminable by notice or any change in the constitution of the Bank or the Beneficiary, by any other reasons whatsoever and our liability hereunder shall not be impaired or discharged by any extension of time or variations or alternations made, given, or agreed with or without our knowledge or consent, by or between the Resolution Applicant and the Beneficiary or the Resolution Professional for Kquality Limited. Provided however that the Beneficiary will be entitled to invoke this Guarantee at any time until June 09, 2019 and also within 30 days of its expiry i.e. by July 09, 2019 and also in case wherein the PRA provided any false information or record in the EOI in accordance with the provisions of Regulation 36A (7)(f) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. .

3. If any further extension of this guarantee is required by the Beneficiary and/or the Resolution Professional of Kquality Limited, the same shall be extended to such required period on receiving instructions from *[Insert name of the Potential Resolution Applicant]* unconditionally.
4. The Bank hereby expressly agrees that the demand made on it under this

⁴ The BG shall be from a scheduled bank in India or a financial institution acceptable to CoC.

Guarantee shall be conclusive evidence that such payment is due and the Bank shall not require any proof in addition to the written demand from Beneficiary, made in any format, raised at the above-mentioned address of the Bank, in order to make the said payment to the Beneficiary.

5. The Bank shall make payment hereunder notwithstanding any objection by [*Insert name of the Potential Resolution Applicant*] and / or any other person or any dispute (s) raised by the [*insert name of the Potential Resolution Applicant*] in any suit or proceeding pending before any court or tribunal relating thereto and the Bank's liability under this present is absolute and unequivocal. The Bank shall not require the Beneficiary to justify the invocation of this Guarantee, nor shall the Bank have any recourse against Beneficiary or the Resolution Professional for Kwaliti Limited.
6. This Guarantee shall be interpreted in accordance with the laws of India and the courts and tribunals at Delhi shall have exclusive jurisdiction. The Bank represents that this Guarantee has been established in such form and with such content that it is fully enforceable in accordance with its terms as against the Bank in the manner provided herein.
7. This Guarantee shall be continuing guarantee and shall not be affected in any manner by reason of merger, amalgamation, restructuring, liquidation, winding up, dissolution or any other change in the constitution of the Bank.
8. This Guarantee shall be a primary obligation of the Bank and accordingly the Beneficiary shall not be obliged before enforcing this Guarantee to take any action in any court or arbitral proceedings against the Potential Resolution Applicant, to make any claim against or any demand on the Potential Resolution Applicant or to give any notice to the Potential Resolution Applicant or to exercise, levy or enforce any distress, diligence or other process against the Potential Resolution Applicant. The Bank unequivocally waives any such right or defence in this regard.
9. The Bank further unconditionally agrees with the Beneficiary that the Beneficiary shall be at liberty to undertake the following, without Bank's consent and without affecting in any manner the Bank's obligations under this Guarantee, from time to time:
 - (i) Vary and/or modify and/or cancel any of the terms of the IEOI or terms of request for resolution plan (hereinafter, "**RFRP**") issued to the

Potential Resolution Applicant;

(ii) Extend and/or postpone the time of performance of the obligations of the Potential Resolution Applicant under the IEOI or the RFRP; or

(iii) Forbear or enforce any rights exercisable by the Beneficiary against the Potential Resolution Applicant under the terms of the IEOI or the RFRP.

and the Bank shall not be relieved from its liability by reason of any such act or omission on the part of the Beneficiary or any indulgence by the Beneficiary to the Potential Resolution Applicant or other thing whatsoever which under the law relating to sureties would, but for this provision, have the effect of relieving the Bank of its obligations under the Guarantee.

10. The Guarantor agrees that the Beneficiary at its option shall be entitled to enforce this Guarantee against the Guarantor, as a principal debtor in the first instance without proceeding at the first instance against the Potential Resolution Applicant. The Beneficiary shall be entitled to assign this Guarantee to any person subject to receipt of prior written consent from the Guarantor. This Guarantee shall not be assigned or transferred by the Guarantor.

11. Our liability under this Guarantee is restricted to INR 25,00,000 (Indian Rupees Twenty Five Lakhs) and it shall remain in force until June 9, 2019. The Beneficiary on its own or for avoidance of doubt through the Resolution Professional for Kwality Limited shall be entitled to invoke this Guarantee up to 30 (thirty) days from its' expiry as defined above in Point 2.

12. No action, event or condition which by any applicable law should operate to discharge the Guarantor from liability during the currency of this Guarantee, shall have any effect and the Guarantor hereby waives any right it may have to apply such law, so that in all respects its liability hereunder shall be irrevocable and, except as stated herein, unconditional in all respects.

In witness whereof the Bank, through its authorized officer, has set its hand and stamp on this day of at

Witness:

1.
Name and Address.

Signature
Name:

2.
Name and Address

Designation with Bank Stamp

Attorney as per power of attorney No

For:

..... [Insert Name of the Bank]

Banker's Stamp and Full Address:

Dated this day of 20.....

Notes:

- The Stamp paper should be in the name of the Bank who is issuing the Bank Guarantee.

ANNEXURE 'C'

FORMAT OF EXPRESSION OF INTEREST

[On the Letterhead of the Lead Member/Prospective Resolution Applicant Submitting the EOI]

Date: [●]

To,

Mr. Shailendra Ajmera

(IP Registration No.: IBBI/IPA-001/IP-P00304/2017-18/10568)

Address: KDIL House, F-82, Shivaji Place, Rajouri Garden, New Delhi – 110027, India

Registered email ID with IBBI: shailendra.ajmera@in.ey.com

Subject: Expression of Interest (“EOI”) for submitting Resolution Plan for Kwality Limited (“Kwality” or “Company”) undergoing Corporate Insolvency Resolution Process (“CIRP”).

Dear Sir,

In response to the invitation for submission of expression of interest dated March 12, 2019 (“**IEOI**”) inviting expression of interest (“**EOI**”) for submission of resolution plans (“**Resolution Plan**”) for the Company as per the provisions of the Insolvency and Bankruptcy Code, 2016 (“**Code**”), we confirm that we have understood the eligibility and other criteria mentioned in the IEOI and meet the necessary threshold and criteria mentioned therein and are submitting our EOI for submission of a Resolution Plan for the Company.

We understand and confirm that

- (a) the EOI will be evaluated by the Resolution Professional of Kwality along with the COC, based on the information provided by us in this EOI and attached documents to determine whether we qualify to submit the Resolution Plan for the Company;
- (b) the RP/ COC reserve the right to determine at their sole discretion, whether or not we qualify for the submission of the Resolution Plan for the Company and may reject the EOI submitted by us and not include us in the provisional or final list of eligible prospective resolution applicants;
- (c) the RP/ the COC reserve the right to conduct due-diligence on us and/or request for additional information or clarification from us for the purposes of the EOI and we shall

promptly comply with such requirements. Failure to satisfy the queries of IRP/ COC may lead to rejection of our EOI;

(d) meeting the qualification criteria set out in IEOI alone does not automatically entitle us to participate in the next stage of the bid process;

(e) along with our EOI, we have also enclosed information/documents as required in the IEOI.

For further information/ queries, please contact:

Yours Sincerely,

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

Signature: _____

Name of Signatory:

Designation:

Company Seal/Stamp

ANNEXURE-‘D’

CONFIDENTIALITY UNDERTAKING

[To be on non-judicial stamp paper of Rs. 100 for Delhi. The stamp duty will depend on the state of execution of the confidentiality undertaking. In case the confidentiality undertaking is executed outside India, such confidentiality undertaking is required to be apostilled / consularized (as may be applicable) and stamped at the place of receipt of the undertaking within India before submission to RP.]

The execution of the confidentiality undertaking must be authorized by a duly passed resolution of the board of directors of the prospective resolution applicant or any sub-committee of the board (if so authorized by the board).

Each page of the confidentiality undertaking is required to be signed by the prospective resolution applicant at the bottom of the page and on the execution page, the authorized signatory must affix his/her full signature and additionally affix the rubber stamp seal of the prospective resolution applicant.

Where the Resolution Applicant is a consortium, said undertaking shall be furnished by each member of the consortium.]

Mr. Shailendra Ajmera

Dated [●]

Resolution Professional

Kwality Limited

(Under Corporate Insolvency Resolution Process)

KDIL House, F-82, Shivaji Place, Rajouri Garden, New Delhi 110027

**UNDERTAKING UNDER SECTION 29 OF THE INSOLVENCY AND BANKRUPTCY
CODE 2016 AND REGULATION 36(4) OF THE INSOLVENCY AND BANKRUPTCY
BOARD OF INDIA (INSOLVENCY RESOLUTION PROCESS FOR CORPORATE
PERSONS) REGULATIONS, 2016 TO MAINTAIN CONFIDENTIALITY**

1. On 11 December 2018, the New Delhi Bench of National Company Law Tribunal (“NCLT”) has directed commencement of corporate insolvency resolution process (“CIRP”) against Kquality Limited (“Kquality”) under the Insolvency and Bankruptcy Code, 2016 (“IBC”). Mr. Shailendra Ajmera, a licensed insolvency professional, was appointed as interim resolution professional of Kquality by the NCLT by order dated 11 December 2018, which was communicated on 18 December 2018. He was later appointed as resolution professional (“Resolution Professional”) by the committee of creditors of Kquality (“CoC”) in its meeting held on 11 January 2019.
2. On passing of the order dated 11 December 2018 (communicated on 18 December 2018 by the NCLT), the powers of the board of directors of Kquality stood suspended and the powers of its board of directors now vest in Mr. Shailendra Ajmera.
3. It is the duty of the Resolution Professional under the IBC to prepare an Information Memorandum (“IM”) of the corporate debtor and invite the resolution applicants to submit a resolution plan.
4. Pursuant to the invitation for resolution plans from potential resolution applicants by the Resolution Professional, we are interested in submitting a resolution plan for Kquality to the Resolution Professional.
5. We require a copy of the IM of Kquality and other additional information relating to Kquality and its subsidiaries that may be necessary to prepare a resolution plan of Kquality by us, either directly or through our affiliates, for submission to the Resolution Professional. We note, understand and acknowledge that:
 - (i) You have prepared an IM of Kquality in terms of Section 29 of the IBC 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 confidentiality 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 submitting the resolution plan for Kquality;

- (ii) IM is prepared on the basis of information provided by the management of Kquality and its creditors. 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;
 - (iii) The IM is a dynamic document and may be updated from time to time till a resolution plan is approved by the CoC;
 - (iv) Other additional information relating to Kquality and its subsidiary company, if any, may be necessary for preparing the resolution plan;
 - (v) Any additional or supplementary information or clarification besides the IM, including those provided by way of emails or on telephone or in meetings 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.
6. The IM, together with any other information, material, document or clarification provided to us, whether as part of the virtual data room or otherwise, including that provided by way of emails or on telephone or in meetings by the Resolution Professional or his team members, including advisors is referred to as “**Confidential Information**”.
7. We are executing this undertaking of confidentiality to maintain confidentiality in respect of the Confidential Information as mandated by the IBC and CIRP Regulations.
8. In terms of Section 29 of the IBC and Regulation 36 of the CIRP Regulations we unconditionally and irrevocably agree and undertake:

- (i) to maintain confidentiality of the Confidential Information and not to use such Confidential Information to cause an undue gain or undue loss to ourselves or any other person.
 - (ii) in terms of Section 29(2) of the IBC, to
 - (a) comply with provisions of law for time being in force relating to confidentiality and insider trading in relation to such Confidential Information;
 - (b) protect any intellectual property of Kquality and its subsidiary companies which we may have access to;
 - (c) not share this information with any third party unless it is shared on a strict need-to-know basis and clauses (a) and (b) above are complied with;
 - (iii) 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, 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 information for the purpose of the Transaction, provided that such Representatives are also bound by the same confidentiality obligations as us. We will be solely responsible for any breach of the provisions of this undertaking of confidentiality by any of our Representatives.
9. We accept and acknowledge that the Confidential Information has been developed or obtained by Kquality through investment of significant time, effort and expense, and that the Confidential Information is valuable, special and unique asset of Kquality, which provides Kquality 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 unconditionally and irrevocably agree and undertake to ensure that our Representatives agree 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

themselves / us or undue loss to any other person including Kquality or any of its creditors and 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 confidential information separate from its own confidential information;
- (iii) protect any intellectual property of Kquality that they may have access to; and
- (iv) use Confidential Information solely for the purpose of the Transaction and not for any other purpose.

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

- (i) information is or becomes publicly available to us or our Representatives without breach of obligations as set out herein; or
- (ii) prior to its disclosure in connection with the Transaction, was already in our or our Representatives' possession (other than such information made available by the Resolution Professional at any time during the CIRP of Kquality, which information shall be construed as Confidential Information and shall be bound by the terms of this confidentiality undertaking); or
- (iii) is or has been developed independently by us or our Representatives without reference to or reliance on the Confidential Information disclosed under this undertaking of confidentiality; or
- (iv) information was or becomes available on a non-confidential basis from a source that is not known by us or our Representatives to be prohibited from disclosing such information by any contractual, legal, or fiduciary obligation; or
- (v) prior consent by the Resolution Professional is provided for disclosure in writing; or

- (vi) information that is required to be disclosed by us (to the extent 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, order of a judicial, regulatory or administrative authority (including by deposition, interrogatory, request for documents, subpoena, civil investigative demand, or similar process) or the guidelines of regulatory/administrative authority or stock exchange.
11. 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.
12. 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 our own confidential information.
13. We understand and undertake, in the event of abandonment of the resolution plan submission process and non-submission of the resolution plan; or not being shortlisted for the submission of the resolution plan; or our resolution plan not qualifying for being placed before the CoC; or the CoC rejecting our resolution plan; or the NCLT not approving our resolution plan; or in the event the Resolution Professional calls upon us in writing to do so, we shall immediately return or destroy the Confidential Information including the IM and other information provided by the Resolution Professional or its representatives, without retaining a copy thereof, in electronic or any other form. Notwithstanding anything stated therein, we are permitted to retain information pursuant to our automatic archiving and back-up procedures; provided however, that the copy/information retained by us shall not be used by us in any manner to cause an undue gain to us or undue loss to any other person including Kquality or any of its creditors and stakeholders and shall be bound to the confidentiality obligations under this undertaking.
14. This undertaking of confidentiality, except for the provisions stated in the clause 8 above, shall remain valid for a period of two (2) years after it is executed, notwithstanding whether the resolution plan submitted by us is placed before the CoC or not or whether it is

approved by the CoC or not and even after completion of the corporate insolvency resolution process of Kquality.

15. We understand that if we or our Representatives disclose (or threaten to disclose) Confidential Information in violation of this undertaking of confidentiality, the Resolution Professional or Kquality shall be entitled to pursue remedies including legal recourse to safeguard its interest under undertaking of confidentiality. We further hereby acknowledge and agree that in the event of breach or threatened breach of the terms of this confidentiality undertaking, the Resolution Professional shall be entitled to all remedies available under law or equity.
16. Nothing in this confidentiality undertaking shall have the effect of limiting or restricting any liability arising as a result of fraud or willful default.
17. We hereby represent and warrant that we have the requisite power and authority to execute, deliver and perform our obligations under this confidentiality undertaking.
18. This confidentiality undertaking and any dispute, claim or obligation arising out of or in connection with it shall be governed by and construed in accordance with Indian laws and the courts at New Delhi shall have exclusive jurisdiction over matters arising out of or relating to this confidentiality undertaking.

Signed for and on behalf of [*insert name of entity*]

Signature and official stamp