



भारतीय दिवाला और शोधन अक्षमता बोर्ड

Insolvency and Bankruptcy Board of India

## Invitation of Application for Empanelment for Platform for Distressed Assets (PDAs)

**Insolvency and Bankruptcy Board of India**

7<sup>th</sup> Floor, Mayur Bhawan, Shankar Market,  
Connaught Circus, New Delhi -110001

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## **1. Background**

The Insolvency and Bankruptcy Board of India (IBBI) was established on 1<sup>st</sup> October, 2016 under the Insolvency and Bankruptcy Code, 2016 (Code). It is a key pillar of the ecosystem responsible for implementation of the Code that consolidates and amends the laws relating to reorganization and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner for maximization of the value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders. It is a unique regulator: regulates a profession as well as processes. It has regulatory oversight over the Insolvency Professionals, Insolvency Professional Agencies, Insolvency Professional Entities and Information Utilities. It writes and enforces rules for processes, namely, corporate insolvency resolution, corporate liquidation, individual insolvency resolution and individual bankruptcy under the Code. It has also been tasked to promote the development of, and regulate, the working and practices of, insolvency professionals, insolvency professional agencies and information utilities and other institutions, in furtherance of the purposes of the Code. It has also been designated as the ‘Authority’ under the Companies (Registered Valuers and Valuation Rules), 2017 for regulation and development of the profession of valuers in the country.

The ‘time bound’ feature of the Code distinguishes it from the erstwhile legislations in the matter. The objectives of the Code can be achieved only if the insolvency resolution and other transactions under the Code are accomplished in a time bound manner. The Code permits 180 days for completion of corporate insolvency resolution process (CIRP). It has been the endeavour of the IBBI to achieve the timelines with the supporting institutions, technologies and skills.

The processes under the Code are conducted by an Insolvency Professional, who is a key pillar of the Code. He is the fulcrum of the process and the link between the Adjudicating Authority and stakeholders - debtor, creditors-financial as well as operational, and resolution applicants. The success of the law requires the IP to discharge his responsibilities effectively.

It has been considered that the IPs will be able to discharge their responsibilities more efficiently if an ecosystem of IT platforms help them automate the processes. With this objective the IBBI proposes Empanelment of the Platforms for Distressed Assets (PDAs) that the IPs can leverage to improve their performance and compliance.

## **2. Purpose of the Application**

The purpose of this invitation of application is to enable IBBI to empanel the Platforms for Distressed Assets. This empanelment process will allow platform providers to get themselves empanelled. The services offered by the empanelled platforms will be published on IBBI website enabling stakeholders to use it.

The details of the empanelment, responsibilities of the PDAs, evaluation process are outlined in the sections that follow:

IBBI invites application/proposal from the platform providers willing to offer platform services (hereinafter referred to as “Applicants”) for their empanelment. The Empanelled PDA may

provide any platform service required for any process under the Insolvency and Bankruptcy Code, 2016. The platform services offered shall include the following:

1. Marketplace for Interim Finance
2. Virtual data room for Invitation of Resolution Plans/ Liquidation
3. Invitation and Evaluation of resolution plans
4. Auction during Liquidation

The IPs may select any of the platform offerings based on the requirements of the particular assignment.

The Application is not an offer by IBBI but an invitation to receive proposals from eligible and interested Applicants in respect of the above-mentioned requirement. The Application/proposal does not commit IBBI to enter into a binding agreement with the potential applicants. Potential applicants are henceforth referred to as “Applicants” in this document.

## **2.1 Brief Introduction of the services:**

### **a. Marketplace for Interim Finance**

An interim resolution professional or a resolution professional is mandated under the Insolvency and Bankruptcy Code, 2016 to make every endeavour to protect and preserve the value of the property of the CD and manage the operations of the corporate debtor as a going concern. For these purposes, it has the authority to raise interim finance. It is contemplated for development of an IT enabled market mechanism that makes available flow of interim finance.

### **b. Virtual data room for Invitation of Resolution Plans/ Liquidation**

The Code combines in a single legislation, the processes for resolution or liquidation of corporate person. In cases where resolution is not possible, a CD needs to exit with least disruption and minimal cost and release the tied-up resources in an orderly manner for fresh allocation to efficient uses. In both cases, the process should facilitate for an outside investor to see value in the company and acquire ownership under a new arrangement with the creditors and claimants. The strategic investor would need certain important business information before it can commit itself into the process. On the other hand, disclosure of such information in public domain would jeopardise the corporate debtor. An IT based virtual data room is therefore required, where the RP/Liquidator can post business and/or asset information, which is assessible on need to know basis with assess control.

### **c. Invitation and Evaluation of resolution plans**

The Code aims at maximisation of value of corporate debtor through resolution if it is a viable business. It envisages resolution within the firm as a going concern, as closure of the firm destroys organisational capital and renders resources idle till reallocation to alternate uses. Once a company is under CIRP, a resolution applicant that offers the best value to the creditors of a corporate debtor (hereinafter CD) steps in to acquires the business. The existing owners may be ineligible or not in a position to match the revised terms and conditions that creditors expect; the resolution process should facilitate for an outside investor to see value in the company and buy ownership under a new arrangement with the creditors and claimants.

This requires a transparent and equitable process that enables outside investors with risk capital to participate as resolution applicants during CIRP. Ensuring a broader set of resolution

applicants ensures that better price discovery will emerge. Investors can participate in the resolution process as resolution applicants based on eligibilities introduced in the Code and the regulations framed thereunder.

IBBI has made numerous attempts to facilitate participation of a broader and larger set of potential resolution applicants in the CIRP. These include, amendment of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 on 6<sup>th</sup> February, 2018 wherein the potential resolution applicants are mandated to receive at least a reasonable number of days for due-diligence and preparation of resolution plan after final request for proposal (hereinafter RFP) is issued; making it essential for the RFP document to provide for evaluation matrix finalized by the CoC, in an attempt to bring transparency to the criteria of evaluation of resolution plans received from resolution applicants. In order to ensure transparency and equal opportunity to larger number of potential resolution applicants/investors, the amendment provides for brief particulars of the invitation for resolution plan to be placed on the website of the corporate debtor and the IBBI website.

It is being contemplated to establish of a market for such assets with a well-developed IT platform for facilitating transactions to ensure transparency and reach of the assets for suiters.

#### **d. Auction during Liquidation**

The Code and regulations made thereunder for liquidation of the CD provide details of procedures to be followed commencing with issue of liquidation order under Section 33 of the Code till dissolution order under Section 54. The provisions governing liquidation offer a comprehensive strategy to implement the process of liquidation. Liquidator is the Insolvency Professional who attempts to evaluate and realise the assets of the company under the process of liquidation.

The Code empowers the liquidator to sell the immovable and movable property and actionable claims of the CD in liquidation through public auction or private contract, with power to transfer such property to any person or body corporate, or to sell the same in parcels. The regulation enables the liquidator to (a) sell an asset on a standalone basis; or (b) sell the assets in a slump sale, a set of assets collectively, or the assets in parcels. The liquidator shall ordinarily sell the assets of the CD through an auction and may sell the assets of the CD by means of private sale in certain circumstances. This require an efficient market, including participants and electronic platform for sale of assets during liquidation. There is therefore a need to create a specialized IT based asset sale platform.

## **2.2 Scope of empanelment**

The scope of the proposed empanelment will be limited to allowing PDAs to offer their services to IPs and other stakeholders for discharge of their respective functions under the Code. The platform offerings and their deployment should be in adherence to the requirements as given in this invitation of applications document.

### 3. Issuing Authority

The invitation of application for the empanelment is issued by the IBBI and is intended to empanel the service offerings of PDAs. IBBI's decision with regard to the empanelment through this proposal shall be final.

The details of the Issuing Authority are as follows:

**The Deputy General Manager (Establishment Division),**  
Insolvency and Bankruptcy Board of India,  
7th Floor, Mayur Bhawan,  
Shankar Market, Connaught Circus,  
New Delhi -110 001  
Telephone No.:011-23462866

### 4. Calendar of Events

- Publication of application document - 12<sup>th</sup> June, 2019
- Date for pre-application meeting - 26<sup>th</sup> June, 2019, 5.00 PM
- Last date and time for seeking queries - 28<sup>th</sup> June, 2019, 5:00 PM
- Response to queries by IBBI - 3<sup>rd</sup> July, 2019
- Last date and time for submission - 7<sup>th</sup> July, 2019, 5.00 PM

### 5. Compliance Requirements

The PDA must comply with the below mandatory requirements to qualify for getting empanelled. The proposals may mention their readiness to the following requirements:

- i. Deployment Requirements
- ii. General Requirements
- iii. Service Management and Provisioning Requirements
- iv. User/Admin Portal Requirements
- v. Data Centre Facilities Requirements/ Data storage facility
- vi. Disaster Recovery & Business Continuity Requirements
- vii. Security Requirements
- viii. Legal Compliance Requirements
- ix. Management Reporting Requirements
- x. Exit Management / Transition Requirements

**Quality:** The compliance must be maintained on an on-going basis in order to retain the empanelment status. The PDAs will have to get themselves audited by STQC/ MeITY empanelled and/or IBBI designated third party auditor on a yearly basis in order to address the critical gaps and to retain the empanelment status with IBBI. The mandatory requirements in this section also form the minimum scope of work of the PDAs when offering platform services.

**Adherence to standards:** IBBI reserves right for identification of the Standards, develop the necessary specifications, frameworks and guidelines. The PDAs will have to comply with the guidelines and standards as and when such guidelines / standards are published by IBBI. PDA

is responsible for all costs associated with implementing, assessing, documenting and maintaining the empanelment.

**Future additional standards:** The PDAs offerings must comply with the additional guidelines / standards as and when such guidelines / standards are published by IBBI at no additional cost to retain the empanelment status. PDAs will be given sufficient time and notice period to comply to the additional guidelines / standards.

**Changes in legal framework:** PDA will have to enact changes emanating from any change in legal framework immediately but not later than 4 weeks from the notification of such change by IBBI. IBBI will convey the change to the PDAs, and if requested by any PDA, hold a session to make the PDAs understand the amendment in legal framework.

### **5.1. Deployment Requirements**

The PDA shall host the service on a cloud service that is empanelled by Ministry of Electronics and Information Technology under the GI Cloud for use of Government departments and audited by STQC/ MeITY.

### **5.2. General Requirements**

The below mandatory requirements would be applicable for PDA and all service offerings by the PDA:

- i. Shall be in accordance with the requirements in this application document.
- ii. The PDA shall be an entity working as market infrastructure institution regulated by a statutory body. All entities registered with IBBI shall also be considered eligible.
- iii. There should be sufficient capacity available for near real time provisioning during any unanticipated spikes in the user load.
- iv. Ability to integrate fully with the Government of India approved Certified Authorities to enable the IPs, IBBI or any other body authorized by IBBI, to use the Digital Certificate / Digital Signature.
- v. The respective IP shall retain ownership of any user created/loaded data hosted on PDA's infrastructure and maintains the right to request (or should be able to retrieve) full copies of these at any time.
- vi. PDAs shall provide inter-operability support with regards to available APIs, data portability, etc., for the IPs to utilize in case of Change of PDA, migration back to in-house infrastructure.
- vii. Should adhere to the guidelines as specified by CERT-In (<http://www.cert-in.org.in/>) from time to time.
- viii. Should adhere to the relevant standards published by IBBI or any standards body setup / recognized by Government of India and notified to the PDA by IBBI as a mandatory standard.
- ix. Shall adhere to the relevant audit requirements as defined in the application document.
- x. The PDA will have to comply with the guidelines & standards as and when such guidelines / standards are published by IBBI within the timeframe given by IBBI. PDA



is responsible for all costs associated with implementing, assessing, documenting and maintaining the empanelment.

- xi. IBBI has the option to extend the Empanelment duration on expiry, to avail the services of the PDA for continuation of the platform without the need to go for a separate empanelment process. The duration of extension will be decided by the IBBI and will be up to a maximum of two years at each instance. The decision on the extension will be taken exclusively by the IBBI keeping in consideration a) satisfactory performance of the Agency b) time constraints or other serious impediments in initiation c) technological reasons d) Where circumstances inescapably require taking recourse to this option.

### **5.3. Service Management and Provisioning Requirements**

Service Management and Provisioning requirements address the technical requirements for supporting the provisioning and service management by PDAs. Service provisioning focuses on capabilities required to assign services to users, allocate resources, and services and the monitoring and management of these resources.

#### **5.3.1. Service Provisioning**

- i. Enable Service Provisioning via online portal/interface.
- ii. Service shall support OS such as Windows, LINUX, MacOS.
- iii. Service shall support popular browsers such as Chrome, Firefox, Edge, Safari, Internet Explorer.
- iv. Secure provisioning, de-provisioning and administering
- v. Provide a webpage and associated Uniform Resource Locator (URL) that describes the following:
  - a. Help Desk and Technical Support
  - b. Resources (Documentation, Articles/Tutorials, etc)
- vi. Provide customised MIS for online submission to IBBI. Make the Management Reports accessible via online interface.
- vii. The PDA is expected to carry out the capacity planning in advance to identify & provision, where necessary, the additional capacity to meet the user growth and / or the peak load requirements to support the scalability and performance requirements of the solution. There should not be any constraints on the services.

#### **5.3.2. Operational Management**

- i. The PDA is fully responsible for technology refreshes, patch management and other operations of infrastructure that is in the scope of the PDA.
- ii. Investigate outages, perform appropriate corrective action to restore the service and related tools
- iii. Comply with technology refresh requirements as required so as to upgrade any technology prior to reaching end of life / end of support and as well as to ensure security requirements.

#### **5.3.3. Data Management**

- i. Manage data isolation for various stakeholders.

- ii. Provide and implement security mechanisms for handling data

#### **5.4. User/Admin Portal Requirements**

Support maintenance of user profiles and present the user with his/her profile at the time of login.

#### **5.5 Data Centre**

The PDA shall either host the data at a cloud service that is empanelled by Ministry of Electronics and Information Technology under the GI Cloud for use of Government departments or it shall host them at its own data centre audited by STQC.

#### **5.6. Business Continuity / Portability Requirements**

The PDA should offer switchover and switchback of individual applications instead of entire system.

#### **5.7. Security Requirements**

- i. PDA is responsible for provisioning, securing, monitoring, and maintaining the hardware, network(s), and software.
- ii. Meet the security requirements as specified by CERT-In (<http://www.cert-in.org.in/>) from time to time.
- iii. Meet any security requirements published (or to be published) by IBBI or any standards body setup / recognized by Government of India from time to time and notified for the PDA by IBBI as a mandatory standard
- iv. IBBI either on its own or through any authorized agency reserves the right to verify the security test results.
- v. PDA should enforce password policies (complex password, change password in some days etc)
- vi. Shall be contractually subject to all Government of India IT Security standards, policies, and reporting requirements. The PDA shall meet and comply with all Government of India IT Security Policies and all applicable Government of India standards and guidelines, other Government-wide laws and regulations for protection and security of Information Technology.
- vii. Shall generally and substantially and in good faith follow Government of India guidelines and CERT-In and IBBI Security guidance. Where there are no procedural guides, use generally accepted industry best practices for IT security.
- viii. Conduct regular independent third-party assessments of the PDA's security controls to determine the extent to which security controls are implemented correctly, operating as intended, and producing the desired outcome with respect to meeting security requirements and submit the results to IBBI
- ix. Provide an independent Security Assessment/Risk Assessment

- x. IBBI reserves the right to perform Penetration Test. If the IBBI exercises this right, the PDA shall allow IBBI's designated third party auditors to conduct activities to include control reviews that include but are not limited to operating system vulnerability scanning, web application scanning, and database scanning of applicable systems that support the processing, transportation, storage, or security of information. This includes the general support system infrastructure.
- xi. PDA is responsible for mitigating all security risks found and continuous monitoring activities. All high-risk vulnerabilities must be mitigated within 30 days and all moderate risk vulnerabilities must be mitigated within 90 days from the date vulnerabilities are formally identified.
- xii. Shall provide access to the IBBI or their designee acting as their agent, when requested, in order to verify compliance with the requirements for an Information Technology security program. IBBI reserves the right to conduct on-site inspections. PDA shall make appropriate personnel available for interviews and documentation during this review.
- xiii. PDA shall protect all processes data by treating the information as sensitive and will only be disclosed to authorized-personnel. The PDA shall keep the information confidential, use appropriate safeguards to maintain its security in accordance with minimum standards.
- xiv. IBBI has the right to perform manual or automated audits, scans, reviews, or other inspections of the PDA's IT environment being used to provide services through an IBBI's designated third party auditor.
- xv. Submission to regular audits: PDA will submit to regular audits commissioned by IBBI. The purpose of these audits will not only be to ensure conformance with the requirements stated in this application document, but also to ensure that the implementation is executed in the best of ways to meet the requirements of IBBI. These audits may be conducted by IBBI or IBBI's designated third party auditors. PDA will cooperate fully with the auditor. IBBI will inform the PDA of the short-comings if any after the audit is completed; and the PDA will respond appropriately and address the identified gaps.

## **5.8. Legal Compliance Requirements**

The following mandatory requirements are applicable for all platform offerings:

- i. IT Act 2000 (including but not limited to Section 43A) and amendments thereof
- ii. Meet the security requirements as specified by CERT-In (<http://www.cert-in.org.in/>) from time to time
- iii. Meet any security requirements published (or to be published) by IBBI or any standards body setup / recognized by Government of India from time to time and notified to the PDA by IBBI as a mandatory standard
- iv. All services acquired under this application document including data will be guaranteed to reside in India only.
- v. There shall not be any legal frameworks outside Indian Law applicable to the operation of the service and the information contained within it.
- vi. The cost of meeting all requirements, getting empanelled is the responsibility of PDA.

- vii. PDA is responsible for all costs associated with implementing, meeting, assessing, documenting and maintaining the empanelment.
- viii. If new or unanticipated threats or hazards are discovered by either the IBBI or the Government or the PDA, or if existing safeguards have ceased to function, the discoverer shall immediately bring the situation to the attention of CERT-In and the other party.

### **5.9. Management Reporting Requirements**

The PDA shall be responsible for making provision for MIS to IBBI in the format required by IBBI. The MIS shall be available to IBBI in login account with data download facility and the same shall also be available through web services for IBBI webportal.

### **5.10. Exit Management and Transition Requirements**

The below mandatory requirements are applicable for all support deployment models.

- i. Continuity and performance of the Services at all times including the duration of the Agreement and post expiry of the Agreement is a critical requirement. It is the prime responsibility of PDA to ensure continuity of service at all times of the Agreement including exit management period and in no way any facility/service shall be affected/degraded.
- ii. During the exit/transition management process, it is the responsibility of the PDA to address and rectify the problems with respect to migration of the application and related IT infrastructure including installation/reinstallation of the system software etc.
- iii. The ownership of the data generated upon usage of the system, at any point of time during the contract or expiry or termination of the contract, shall rest absolutely with IBBI/IP.

## **6. Governance Structure and Roles of the Different Agencies**

To monitor the compliance on an on-going basis and address any non-compliances or deviations from the requirements, IBBI will form a suitable Governance mechanism.

### **Roles and Responsibilities of IBBI or an Agency nominated by IBBI**

- i. Primary owner of the Empanelment Process
- ii. Empanelment of the PDAs
- iii. Setup of Directory of PDAs
- iv. Publish Service Offerings by PDAs on its website
- v. Monitoring and ensuring compliance to the empanelment guidelines by the PDAs
- vi. To notify any change in the regulatory framework to the PDA.

### **Roles and Responsibilities of PDA**

- i. Comply on an on-going basis to the requirements specified under this Empanelment Application

- ii. To update the services based on the extant legal framework.
- iii. To update IBBI when a new service is introduced or an existing service is discontinued.

## 7. Instructions to Applicants

Availability of the Application Documents: The application/proposal can be downloaded from the website [www.ibbi.gov.in](http://www.ibbi.gov.in).

The applicants are expected to examine all instructions, forms, terms, project requirements and other information in this application document. Failure to furnish all information required as mentioned in the documents or submission of a proposal not substantially responsive to the requisite documents in every respect will be at the applicant's risk and may result in rejection of the proposal and forfeiture of the EMD.

### A. Earnest Money Deposit (EMD):

- a. Applicants shall submit an amount of Rs. 10 lakhs (Rupees Ten lakh only), as Earnest Money Deposit (“EMD”).
- b. EMD has to be in the form of a Bank Guarantee issued by any of the commercial banks in the format provided in the *Annexure 8*.
- c. EMD in any other form will not be accepted.
- d. EMD shall be valid for a period of 180 days from the last date of submission of the Application.
- e. The EMD of all unsuccessful applicants would be refunded by IBBI within one month of the applicant being notified by IBBI as being unsuccessful. The EMD of all the successful applicants would be refunded by IBBI within one month of the commencement of at least one service by PDA after accepting the Award of Empanelment by IBBI.
- f. No interest shall be payable by IBBI to the Applicant(s) on the EMD amount for the period of its currency.
- g. The application without adequate EMD, as mentioned above, will be rejected without providing any further opportunity to the Applicant concerned.
- h. In case it is requested by IBBI, the applicant shall extend the validity of the EMD.
- i. The EMD may be forfeited:
  - a. In case of a successful application, if the applicant fails to commence at least one service within 90 days of the Letter of Award of Empanelment from IBBI in accordance with terms and conditions
  - b. If the Applicant tries to influence the evaluation process
- j. EMD of successful applicants shall be returned after submission of Performance Bank Guarantee of Rs. 10,00,000/- (Rupees Ten Lakh only) in form provided at *Annexure 10*. In case, any of the successful applicants fail to furnish the Performance Bank

Guarantee in due time or fail to furnish the acceptance in writing in due time, his EMD shall be forfeited by IBBI.

**B. Applicant inquiries and IBBI's responses:**

- a. All enquiries from the applicants relating to this application document must be submitted in writing exclusively to the contact person notified by IBBI in the format specified in *Annexure 9*, Request for Clarification Format. A copy of the applicant enquiries should also be emailed to the issuer's email address [naveen.kapoor65@nic.in](mailto:naveen.kapoor65@nic.in). The mode of delivering written questions would be through post or email. In no event will IBBI be responsible for ensuring that applicants' inquiries have been received by them. Telephone calls will not be accepted for clarifying the queries.
- b. After the application document is notified, IBBI shall accept written questions/inquiries from the applicants. IBBI will endeavour to provide a complete, accurate, and timely response to all questions to all the applicants. However, IBBI makes no representation or warranty as to the completeness or accuracy of any response, nor does IBBI undertake to answer all the queries that have been posed by the applicants. All responses given by IBBI will be published on the website [www.ibbi.gov.in](http://www.ibbi.gov.in). Any email communications sent by applicants to IBBI must be sent to the email address [naveen.kapoor65@nic.in](mailto:naveen.kapoor65@nic.in).

**C. Supplementary Information / Amendment to the Application Document**

- a. If IBBI deems it appropriate to revise any part of this application document or to issue additional information to clarify an interpretation of the provisions of this application document, it may issue supplements to this application document. Such supplemental information, including but not limited to, any additional conditions, clarifications, minutes of meeting, and official communication over email/post will be communicated to all the applicants by publishing on the website [www.ibbi.gov.in](http://www.ibbi.gov.in). Any such supplement shall be deemed to be incorporated by this reference into this application document.
- b. The letters seeking clarifications sent either to all the applicants or to specific applicant as the case may be during the evaluation of technical proposal and the minutes of the meeting recorded during the technical evaluation shall also be deemed to be incorporated by this reference in this application document.
- c. At any time prior to the deadline (or as extended by IBBI) for submission of applications, IBBI, for any reason, whether at its own initiative or in response to clarifications requested by prospective applicant, may modify the application document by issuing amendment(s). All such amendments will be published on the IBBI website. All such amendment(s) will be binding on all the applicants.
- d. In order to allow applicants a reasonable time to take the amendment(s) into account in preparing their applications, IBBI, at its discretion, may extend the deadline for the submission of applications.

**D. Application Preparation Costs:** The applicant is responsible for all costs incurred in connection with participation in this process, including, but not limited to, costs incurred in conduct of informative and other diligence activities, participation in meetings/discussions/presentations, preparation of proposal in providing any additional information required by IBBI to facilitate the evaluation process and all such activities related to the Application submission process. This Empanelment Application does not commit IBBI to award a contract or to engage in negotiations. Further, no reimbursable cost may be incurred in anticipation of award of the empanelment.

**E. IBBI's right to terminate the process:**

- a. IBBI may terminate the application process at any time without assigning any reason. IBBI makes no commitments, explicit or implicit, that this process will result in a business transaction with anyone.
- b. This application document does not constitute an offer by IBBI. The applicant's participation in this process may result in IBBI selecting one or more applicants to engage in further discussions and negotiations towards issue of Letter of Award of Empanelment. The commencement of such negotiations does not, however, signify a commitment by IBBI to execute a contract or to continue negotiations.
- c. IBBI has the right to terminate this discussions and negotiations process without assigning any reason and no costs will be reimbursed to the participating applicants.
- d. IBBI reserves the right to reject any request for empanelment and to annul the empanelment process and reject all such requests at any time prior to empanelment, without thereby incurring any liability to the affected applicant(s) or any obligation to inform the affected applicant(s) of the grounds for such decision.

**F. Acceptance of part / whole application / modification – Rights thereof:**

IBBI reserves the right to modify requirements mentioned in this application document including addition / deletion of any of the item or part thereof after clarification provided by IBBI and the right to accept or reject wholly or partly application, or, without assigning any reason whatsoever. No correspondence in this regard shall be entertained.

**G. Authentication of Applications:**

The original and all copies of the application response shall be typed or written in indelible ink and signed by the Applicant or a person duly authorized to bind the Applicant to the Contract. A certified true copy of the corporate sanctions/approvals authorizing its authorized representative to sign/act/execute documents forming part of this proposal including various application documents and binding contract shall accompany the application response. All pages of the application, except for un-amended printed literature, shall be initialled and stamped by the person or persons signing the Application.

**H. Interlineations in Application:**

The Application shall contain no interlineations, erasures or overwriting except as necessary to correct errors made by the Applicant, in which case such corrections shall be initialled by the person or persons signing the application.

**I. Venue & Deadline for submission of Empanelment Application:**

Applications, in its complete form in all respects as specified in the Empanelment application document, must be submitted to IBBI at the address specified in Section 3 and as per schedule specified in Calendar of Events in Section 4 of this document.

**J. Late Applications:**

Applications received after the last date and the specified time (including the extended period if any) for any reason whatsoever, shall not be entertained and shall be returned unopened.

**K. Conditions under which this Application Document is issued**

- a. This Application Form is not an offer and is issued with no commitment. IBBI reserves the right to disqualify any applicant, should it be so necessary at any stage for any reason whatsoever.
- b. Timing and sequence of events resulting from this Application shall ultimately be determined by IBBI.
- c. No oral conversations or agreements with any official, agent, or employee of IBBI shall affect or modify any terms of this Application and any alleged oral agreement or arrangement made by an Applicant with any department, agency, official or employee of IBBI shall be superseded by the definitive agreement that results from this Application process. Oral communications by IBBI to applicants shall not be considered binding on IBBI, nor shall any written materials be provided by any person other than IBBI.
- d. Neither the Applicant nor any of the applicant's representatives shall have any claims whatsoever against IBBI or any of their respective officials, agents, or employees arising out of, or relating to this Application or these procedures other than those arising under a definitive service agreement with the Applicant in accordance with the terms thereof.

**L. Rights to the Content of the Empanelment Application Response:**

All the applications and accompanying documentation submitted as Empanelment Application Response against this Application will become the property of IBBI and will not be returned after opening of the pre-qualification response. If any Applicant does not qualify in pre-qualification stage, the technical response shall not be evaluated. IBBI is not restricted in its rights to use or disclose any or all of the information contained in the proposal and can do so without compensation to the applicants. IBBI shall not be bound by any language in the proposal indicating the confidentiality of the proposal or any other restriction on its use or disclosure. IBBI has the right to use the services of external experts to evaluate the proposal by the applicants and share the content of the proposal either partially or completely with the experts for evaluation with adequate protection of the confidentiality information of the applicants.



### **M. Modification and Withdrawal of Applications:**

No application shall be modified or withdrawn in the intervening period between the deadline for submission of applications and the expiration of the validity period specified by the applicant on the application form. Entire application security may be forfeited if any of the applicants modify or withdraw their application during the validity period.

**N. Non-Conforming Application Response:** An Application Response may be construed as a non-conforming proposal and ineligible for consideration:

- a. If it does not comply with the requirements of this Application Document.
- b. If a proposal does not follow the format requested in this Application or does not appear to address the particular requirements given in the Application Document.

**O. Disqualification:** The Application Response is liable to be disqualified in the following cases:

- a. Application Response submitted without EMD;
- b. Application Response not submitted in accordance with the procedure and formats prescribed in this document or treated as non-conforming proposal;
- c. The Applicant qualifies the proposal with its own conditions or assumptions;
- d. Application Response is received in incomplete form;
- e. Application Response is received after due date and time;
- f. Application Response is not accompanied by all the requisite documents;
- g. Application Response is not properly sealed or signed;
- h. Information submitted in Application Response is found to be misrepresented, incorrect or false, accidentally, unwittingly or otherwise, at any time during the processing of the contract or during the tenure of the empanelment including the extension period of the empanelment period if any;
- i. Applicant tries to influence the proposal evaluation process by unlawful/corrupt/fraudulent means at any point of time during the process;
- j. In case anyone applicant submits multiple Application Responses or if common interests are found in two or more Applicants, the Applicants are likely to be disqualified;
- k. Applicant fails to acknowledge and accept the Letter of Award of Empanelment within 30 working days of the date of notice of award or within such extended period, as may be specified by IBBI;
- l. Applicants may specifically note that while evaluating the Application Responses, if it comes to IBBI's knowledge expressly or implied, that some applicants may have colluded in any manner whatsoever or otherwise joined to form an alliance resulting in delaying the processing of proposal then the applicants so involved are liable to be disqualified for this contract as well as for a further period of three years from participation in the empanelment process;

- m. Applicants or any person acting on its behalf indulges in corrupt and fraudulent practices; and
- n. In case Applicant fails to meet any of the guidelines as indicated in this Empanelment Application
- o. The applicants/authorized signatory is required to put the original signature, no scanned image of signature will be accepted and the application will be rejected.
- p. No redaction on the content/text of the documents is allowed, non-adherence to this will result in rejection of application.

**P. Acknowledgement of Understanding of Terms:**

By submitting an Application Response, each Applicant shall be deemed to acknowledge that it has carefully read all sections of this Application Document, including all forms, schedules and annexure hereto, and has fully informed itself as to all existing conditions and limitations.

**Q. Application Validity period:**

The application should remain valid for a period of 180 days from the date of the submission of application. An application valid for a shorter period may be rejected as non-responsive. On completion of the validity period, unless the applicant withdraws his proposal in writing, it will be deemed to be valid until such time that the applicant formally (in writing) withdraws his application. In exceptional circumstances, at its discretion, IBBI may solicit the applicant's consent for an extension of the validity period. The request and the responses thereto shall be made in writing or email.

**R. Language of Empanelment Application Response:**

The application and all correspondence and documents shall be written in English.

**S. Application Response Submission Instructions:**

The Application Response should be submitted as below:

- a. **Pre-qualification Response** - The format for submission of pre-qualification information is provided in *Annexure-2*.
- b. **Technical Response** – The format for submission of technical requirement is provided in *Annexure-3*.
- c. The pre-qualification and the technical responses together with all supporting documents should be submitted in two separate sealed covers. Each cover should be clearly marked to indicate whether it contains pre-qualification response or technical response.
- d. The two envelopes mentioned above should be placed in a bigger envelope marked “Response to Empanelment Application for Platform for Distressed Assets” together with the following:
  - i. Covering Letter from the Applicant as per the format provided in *Annexure-1*.
  - ii. An EMD as per the details provided under Clause (1) of Section 7.

- iii. A letter of authorization supported by Board Resolution/a power of attorney.
- e. All the envelopes shall have the name and address of the Applicant to enable the proposal to be returned unopened in case it is declared "late" or the proposal does not qualify.
- f. The Applicants are requested to sign across the envelopes along the line of sealing to ensure that any tampering with the response cover could be detected.
- g. The envelope containing the Empanelment Application Response should be delivered to IBBI by hand or by post at the address given in Section 3 and date given in Section 4.
- h. The pre-qualification response and technical response should be submitted in both Hardcopy and soft copy formats in the format given in *Annexure-2* and *Annexure-3* respectively. The soft copy should be submitted in a separate CDs/ Pen drives, each for pre-qualification and technical response.
- i. If any applicant does not qualify in pre-qualification evaluation, the technical response shall not be evaluated.
- j. Applicants are requested to submit a response that is to the point and refrain from providing unwanted information that is not relevant to this Application.

## **8. Process of Evaluation**

### **A. Pre-Qualification Criteria**

- a. The Applicant will be assessed on the mandatory prequalification criteria specified under *Annexure 4*, and the Applicant shall submit the information for Pre-qualification in the form at *Annexure 2*.
- b. IBBI will assess the Applicant's capabilities against the pre-qualification criteria. Only those Applicants who meet / exceed the pre-qualification criteria shall proceed for technical evaluation.

### **B. Technical Evaluation Criteria**

- a. Applicants that satisfy the pre-qualification criteria will be considered for the Technical Evaluation.
- b. A Committee shall evaluate the technical proposal to verify the compliance against the requirements in this Application Document. The Applicant shall submit the Technical Proposal in the form at *Annexure-3*.

### **C. Evaluation Process**

- a. The evaluation of the responses to the Application will be done by an Evaluation committee of IBBI.

- b. IBBI may seek additional information and clarifications from any or all of the Applicants on the Pre-Qualification and Technical Responses submitted by the Applicant.
- c. The evaluation shall be strictly based on the information and supporting documents provided by the Applicants in the application submitted by them. It is the responsibility of the Applicants to provide all supporting documents necessary to fulfil the mandatory eligibility criteria. In case, information required by IBBI is not provided by applicant, IBBI may choose to proceed with evaluation based on information provided and shall not request the applicant for further information. Hence, responsibility for providing information as required in this form lies solely with applicant.
- d. The Evaluation Committee shall first evaluate the Pre-Qualification Response as per the Pre-Qualification Criteria above. The Pre-Qualification Response shall be evaluated based on the information provided in the Form at *Annexure-2* and the supporting documents submitted.
- e. The technical response of only those applicants, who qualify in the evaluation of the pre-qualification stage, shall be opened.
- f. Each of the responses will be evaluated for compliance against the mandatory requirements in this Application Document. Only those applicants, who meet all the mandatory criteria and are found to be compliant against the requirements in this Application Document will be got audited by STQC.
- g. The results of the evaluation will be communicated to all the Applicants.

**D. Audit by STQC (or auditors empanelled by STQC)**

- a. Applicants that satisfy the pre-qualification and technical evaluation will be audited by STQC.

**E. Failure to agree with the Terms and Conditions of the Empanelment Application:**  
Failure of the successful applicants to agree with the Terms & Conditions of the Application shall constitute sufficient grounds for the disqualification of the application.

**F. Award of Empanelment**

- a. The Letter of Award of Empanelment will be issued by IBBI to the applicants whose response conforms to the requirement of this document and are successfully audited by STQC, complying to the audit criteria.
- b. IBBI will notify the successful applicants in writing or by email, to be confirmed in writing by letter, that its application for empanelment has been accepted and will issue a Letter of Award of Empanelment.
- c. IBBI will promptly notify each unsuccessful applicant and return their EMD.
- d. The successful applicants should acknowledge and Accept the Award of Empanelment by IBBI within 30 days of the receipt of the award of the letter in the prescribed format based on the terms and conditions contained in this Application Document.

**G. Empanelment:**

The applicants who are empanelled will be intimated by IBBI and have to acknowledge and accept the Letter of Award of Empanelment accepting the terms and conditions laid down in the application document. After agreeing to the Terms and Conditions, no variation or modification shall be made except by written amendment signed by both parties.

#### **H. Period of Empanelment:**

The Empanelment and Certification of PDAs will be valid for 3 years from the date of issue of the In-principle Empanelment Letter subject to the following conditions-

- i. The empanelled PDA maintains compliance to the specified requirements on an on-going basis by successfully clearing the annual audit conducted by STQC / STQC or IBBI authorized agency.
- ii. The empanelment of PDA is not revoked for reasons as specified in this application document.
- iii. The empanelled agency shall be eligible for seeking renewal after completion of the three-year term. The renewal shall be granted for a period of two years at a time, subject to compliance of the empanelment requirements.

#### **I. Allocation of Work**

- a. PDA shall not assign the project to any other agency, to perform its obligation under the agreement. In case any part of the project is assigned to a third-party vendor, the risk and responsibility will remain with the PDA for any act of omission or commission of such vendor.
- b. This empanelment by IBBI does not guarantee allocation of work.
- c. The IPs may select from the offerings from any of the empanelled PDA.
- d. Empanelment with IBBI does not guarantee that any or all Applicants shall be awarded any project / assignment as a result of this empanelment.

### **9. General Conditions**

A. Applicant represents and warrants that it is in compliance with, and shall continue to comply with, all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities of any jurisdiction in which work shall be performed under this Empanelment.

B. IBBI reserves the right to terminate the empanelment by giving a notice of one month if the performance of the PDA is not found satisfactory. The PDA shall be given a period of thirty days to cure the breach or fulfil the empanelment obligations. Failing which IBBI shall notify the PDA in writing of the exercise of its right to terminate the empanelment within 14 days, indicating the contractual obligation(s) in the application document for which the PDA is in default.

C. Conflict of Interest: Applicant shall furnish an affirmative statement as to the absence of, actual or potential conflict of interest on the part of the Applicant or any prospective subcontractor due to prior, current, or proposed contracts, engagements, or affiliations with IBBI. Additionally, such disclosure shall address any and all potential elements (time frame for service delivery, resource, financial or other) that would adversely impact the ability of the Applicant to complete the requirements as given in the application document. Please use form given in *Annexure-5* (Undertaking on Absence of Conflict of Interest) for making declaration to this effect.

D. Termination for Default:

- a. In the event that IBBI believes that the platform provider is in Material Breach of its obligations under the Empanelment Terms, IBBI may, without prejudice to any other remedy for breach of terms of empanelment, terminate the Empanelment in whole or part upon giving a one month's prior written notice to the PDA. Any notice served pursuant to this Clause shall give reasonable details of the Material Breach, which could include the following events and the termination will become effective:
  - i. Any insolvency proceedings are initiated for the PDA;
  - ii. Information provided to IBBI is found to be incorrect;
  - iii. Empanelment conditions are not met as per the requirements of the application document;
  - iv. Misleading claims about the empanelment status are made;
  - v. If the PDA fails to perform any other obligation(s) under the empanelment terms.
- b. In case of such a breach, IBBI will serve thirty days' written notice for curing this Breach. In case the breach continues, after the expiry of such notice period, the IBBI will have the option to terminate the Empanelment. In such case the agency shall take all step to transfer all documents and data to another PDA at the option of the IP.
- c. In the event the IBBI terminates the Empanelment, the IPs may procure, upon such terms and conditions as it deems appropriate, services similar to those undelivered, and the PDA shall be liable to refund the fee for the services collected, if any.

E. Confidentiality

- a. The PDA will be exposed, by virtue of the agreed activities as per the application document, to internal business information of IBBI and IPs and the Corporate debtors, whose insolvency processes the IP is handling. The PDA would be required to provide an undertaking that they will not use or pass to anybody the data/information derived from the project in any form. The PDA must safeguard the confidentiality of the information, applications and data. For this, the applicant is required to sign Non-disclosure agreement.
- b. Disclosure of any part of the afore mentioned information to parties not directly involved in providing the services requested, unless required to do so by the Court of Law within India or other Statutory Authorities of Indian Government, could result in

premature termination of the Empanelment. The IBBI may initiate legal action against the PDA for breach of trust apart from blacklisting the PDA.

- c. PDA shall use reasonable care to protect confidential information from unauthorised disclosure and use.

#### F. Arbitration

If, due to unforeseen reasons, problems arise during the progress of the empanelment leading to disagreement between the IBBI and the PDA, both the IBBI and the PDA shall first try to resolve the same amicably by mutual consultation. If the parties fail to resolve the dispute by such mutual consultation within twenty-one days, then, depending on the position of the case, either IBBI or the PDA can give notice to the other party of its intention to commence arbitration and the applicable arbitration procedure will be as per Indian Arbitration and Conciliation Act, 1996, and the venue of the arbitration will be New Delhi.

#### G. Indemnification

There shall be no infringement of any patent or intellectual & industrial property rights by the PDA as per the applicable laws of relevant jurisdictions, having requisite competence, in respect of the Deliverables or any part thereof, supplied under the Empanelled Terms. PDA shall indemnify the IBBI and IPs against all cost/claims/legal claims/liabilities arising from third party claim at any time on account of the infringement or unauthorized use of patent or intellectual & industrial property rights of any such parties.

H. Governing law and Jurisdiction: This Empanelment Award and any dispute arising from it, whether contractual or non-contractual, will be governed by laws of India and subject to arbitration clause, be subject to the exclusive jurisdiction of the competent courts of New Delhi, India.

#### I. Limitation of Liability

- a. The liability of PDA (whether in contract, tort, negligence, strict liability in tort, by statute or otherwise) for any claim in any manner related to the Agreement, including the work, deliverables or Services covered by the Agreement, shall be the payment of direct damages only.
- b. In no event shall either party be liable for any consequential, incidental, indirect, special or punitive damage, loss or expenses (including but not limited to business interruption, lost business, lost profits, or lost savings) even if it has been advised of their possible existence.
- c. The allocations of liability in this clause represent the agreed and bargained-for understanding of the parties and compensation for the Services reflects such allocations. Each Party has a duty to mitigate the damages and any amounts payable under an indemnity that would otherwise be recoverable from the other Party pursuant to the Empanelment Award by taking appropriate and commercially reasonable actions to reduce or limit the amount of such damages or amounts.

#### J. Relationship

- a. Nothing mentioned herein shall be construed as relationship of master and servant or of principal and agent as between the IBBI or the IPs and the Applicant. No partnership shall be constituted between IBBI or IPs and the Applicant by virtue of this empanelment nor shall either party have powers to make, vary or release their obligations on behalf of the other party or represent that by virtue of this or any other empanelment a partnership has been constituted, or that it has any such power. The Applicants shall be fully responsible for the services performed by them or on their behalf.
- b. Neither party shall use the other parties name or any service or proprietary name, mark or logo of the other party for promotional purpose without first having obtained the other party's prior written approval.

K. Fraud and Corruption

IBBI requires that the Applicants engaged through this process must observe the highest standards of ethics during the performance and execution of the awarded project(s). The following terms apply in this context:

- a. IBBI will reject the application for empanelment, if the applicant recommended for empanelment, has been determined by IBBI to having been engaged in corrupt, fraudulent, unfair trade practices, coercive or collusive.
- b. IBBI will reject an application for award, if it determines that the Applicant recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, unfair trade, coercive or collusive practices in competing for any assigned project during the empanelment.
- c. These terms are defined as follows:
  - i. "Corrupt practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of IBBI or any IP during the tenure of empanelment.
  - ii. "Fraudulent practice" means a misrepresentation of facts, in order to influence a procurement process or the execution of a contract, to IBBI, and includes collusive practice among Applicants (prior to or after Proposal submission) designed to establish proposal prices at artificially high or non-competitive levels and to deprive IBBI of the benefits of free and open competition.
  - iii. "Unfair trade practices" means supply of services different from what is ordered on, or change in the Scope of Work which was agreed to.
  - iv. "Coercive practices" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation during the period of empanelment.
  - v. "Collusive practices" means a scheme or arrangement between two or more Applicants with or without the knowledge of the IBBI, designed to establish prices at artificial, non-competitive levels;



**Application Response Cover Letter**

(Original signed copy on company letterhead)

[Date]

To,

**The Deputy General Manager (Establishment Division),**  
Insolvency and Bankruptcy Board of India,  
7th Floor, Mayur Bhawan,  
Shankar Market, Connaught Circus,  
New Delhi -110 001  
Telephone No.:011-23462866

Dear Sir,

Ref: Response to Empanelment Application for Platform for Distressed Assets (PDA)

Having examined the application, we, the undersigned, submit our response for Empanelment as an PDA. We offer to provide the following services:

- 1.
- 2.
- 3.
- 4.
- 5.

The following persons will be the authorized representative of our company/ organization for all future correspondence between the IBBI and our organization.

- 1.
- 2.

We fully understand that in the event of any change in our contact details, it is our responsibility to inform IBBI about the new details. We fully understand that IBBI shall not be responsible for non-receipt or non-delivery of any communication and/or any missing communication from the IBBI to us, in the event that reasonable prior notice of any change in the authorized person(s) of the company is not provided to IBBI.

We confirm that the information contained in this response or any part thereof, including its exhibits, and other documents and instruments delivered or to be delivered to the IBBI is true, accurate, verifiable and complete.

This response includes all information necessary to ensure that the statements therein do not in whole or in part mislead IBBI in its short-listing process.

We fully understand and agree to comply that on verification, if any of the information provided here is found to be misleading, we are liable to be dismissed from the selection process or, in the event of our selection, our empanelment is liable to be terminated.

We agree for unconditional acceptance of all the terms and conditions set out in this application document. We hereby declare that in case we get empanelled, we shall acknowledge and accept the Letter of Award of Empanelment as per the requirements of the application document within 30 working days from the date of notice of award.

We agree that IBBI is not bound to accept any response that you may receive from us. We also agree that you reserve the right in absolute sense to reject all or any of the products/ services specified in this application / proposal.

It is hereby confirmed that I/We are entitled to act on behalf of our company /corporation/firm/organization and empowered to sign this document as well as such other documents, which may be required in this connection.

Dated this      Day of                                  2019

(Signature)    (In the capacity of)

(Name)

Duly authorized to sign the Tender Response for and on behalf of:

(Name and Address of Company) Seal/Stamp of Applicant

(Company Seal)

#### CERTIFICATE AS TO AUTHORISED SIGNATORIES

I,....., the Company Secretary of ....., certify that ..... who signed the above Application is authorized to do so and bind the company by authority of its board/ governing body.

Date:

Signature:

(Company Seal)

(Name)

List of Enclosures:

1. EMD as per the details provided under Clause (1) of Section 7
2. A certified true copy of the corporate sanctions / approvals authorizing its authorized representative to sign/act/execute documents forming part of this proposal including various application documents and binding contract
3. Envelop super-scribed “Pre-qualification Response” as per the format provided in *Annexure 2*
4. Envelop super-scribed “Technical Response” as per the format provided in *Annexure 3*

## **Form for Submission of Prequalification Information**

The pre-qualification information should address all the pre-qualification criteria as specified in the *Annexure 2* and should contain details of how the Applicant satisfies the pre-qualification criteria.

### **1. General Details of the Organization**

a. This part must include a general background of the respondent organization (limited to 400 words) providing the details of the relevant services offered by the Organization

### **2. Incorporation Details of the Organization**

a. Incorporation details of the organization as per the format provided below. Enclose the mandatory supporting documents listed in format.

Details of the Organization:

Name of organization:

Nature of the legal status in India:

Legal status reference details:

Nature of business in India:

Date of Incorporation:

Date of Commencement of Business:

Address of the Headquarters:

Address of the Registered Office in India:

Other Relevant Information:

Mandatory Supporting Documents:

a) Certificate of Incorporation from Registrar of Companies (ROC)

### **3. Financial Details of the Organization**

a. Financial details of the organization as per format below. Enclose the mandatory supporting documents listed in format.

Financial Information of last two financial years-

Net Worth (in INR Crores)

Mandatory Supporting Documents-Auditor Certificate for the last two financial years indicating the Net Worth and Revenue

**4. Self-declaration on the Blacklisting from the Applicant in company letter head, signed by authorized signatory**

The Applicant, should not be blacklisted by Central Government Ministry or Department of Government of India, a State Government or any agency under the control of Central Government or a State Government. Applicant also should not be under any legal action for indulging in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice with any Central Government Ministry or Department of Government of India, or any agency under the control of Central Government or a State Government. The Applicant shall submit a self-declaration on the company letter head, signed by authorized signatory.

5. Whether the applicant is an entity working as market infrastructure institution regulated by a statutory body or is the entity registered with IBBI. (Provide details)
  
6. Outline of the business model for the proposal.

5.

**Annexure 3**

**Form for Submission of Technical Compliance**

The technical proposal should address all the areas/ sections as specified in the application document and should contain a detailed description of how the Applicant will provide the required services outlined in this application document. It should articulate in detail, as to how the Applicant's Technical Solution meets the requirements specified in the application document. The technical proposal must not contain any pricing information.

The technical proposal shall contain the following:

1. Undertaking on Absence of Conflict of Interest as per the format provided under ***Annexure 5***
2. Undertaking on Legal Compliance as per the format provided under ***Annexure 6***
3. Requirements Compliance Matrix against each of the proposed Platform Offerings as per the format provided under ***Annexure 7***
4. Details (including the overview and implementation details) of proposed Deployment Models
5. Service Catalogue of proposed Platform Offerings

**Pre-Qualification Criteria**

The Responses received will be evaluated based on the following criteria as specified below:

- i. The Applicant, as a single legal entity, must be incorporated and registered in India under the Indian Companies Act 2013 or a Limited Liability Partnership (LLP) registered under the LLP Act, 2008 or Indian Partnership Act 1932 and should have been in operation in India for minimum of three years
- ii. The PDA shall be an entity working as market infrastructure institution regulated by a statutory body. All entities registered with IBBI shall also be considered eligible.
- iii. The Applicant, as a single legal entity or its holding company, should not be blacklisted by Central Government Ministry or Department of Government of India. Applicant, as a single legal entity or its holding company, also should not be under any legal action for indulging in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice with any Central Government Ministry or Department of Government of India. The Applicant shall submit a self-declaration on the company letter head, signed by authorized signatory.

**Undertaking on Absence of Conflict of Interest**

Original signed copy on company letterhead

[Date]

To,

**The Deputy General Manager (Establishment Division),**  
Insolvency and Bankruptcy Board of India,  
7th Floor, Mayur Bhawan,  
Shankar Market, Connaught Circus,  
New Delhi -110 001  
Telephone No.:011-23462866

Dear Sir,

Ref: Undertaking on Absence of Conflict of Interest

I/We as Applicant do hereby undertake that there is absence of, actual or potential conflict of interest on the part of our organization or any prospective subcontractor due to prior, current, or proposed contracts, engagements, or affiliations with IBBI. I/We also confirm that there are no potential elements (time frame for service delivery, resource, financial or other) that would adversely impact the ability of our organization to comply with the requirements as given in the application document.

We undertake and agree to indemnify and hold IBBI harmless against all claims, losses, damages, costs, expenses, proceeding fees of legal advisors (on a reimbursement basis) and fees of other professionals incurred (in the case of legal fees & fees of professionals, reasonably) by IBBI and/or its representatives, if any such conflict arises later.

Yours faithfully,

Authorised Signatory

Designation

**Undertaking on Legal Compliance**

Original signed copy on company letterhead

[Date]

To,

**The Deputy General Manager (Establishment Division),**  
Insolvency and Bankruptcy Board of India,  
7th Floor, Mayur Bhawan,  
Shankar Market, Connaught Circus,  
New Delhi -110 001  
Telephone No.:011-23462866

Dear Sir,

Ref: Undertaking on Legal Compliance

I/We as Applicant do hereby comply to the IT Act 2000 (including 43A) and amendments thereof; meet ever evolving Security Guidelines specified by CERT-In, and meet any security requirements published (or to be published) by IBBI or any standards body setup / recognized by Government of India from time to time and notified to the PDA by IBBI as a mandatory standard.

We confirm that all the services acquired under this application document including data will be guaranteed to reside in India and there shall not be any legal frameworks outside Indian Law that will be applicable to the operation of the service (and therefore the information contained within it).

Yours faithfully,

Authorised Signatory

Designation



Annexure 7

	Compliance (Yes/No)
Deployment Requirements	
General Requirements	
Service Management and Provisioning Requirements	
User/Admin Portal Requirements	
Data Centre Facilities Requirements	
Disaster Recovery & Business Continuity Requirements	
Security Requirements	
Legal Compliance Requirements	
Management Reporting Requirements	
Exit Management / Transition Requirements	

**Format for Earnest Money Deposit (EMD)**

[Date]

From:

Bank \_\_\_\_\_

To,

**The Deputy General Manager (Establishment Division),**

Insolvency and Bankruptcy Board of India,

7th Floor, Mayur Bhawan,

Shankar Market, Connaught Circus,

New Delhi -110 001

Telephone No.:011-23462866

1. In consideration of \_\_\_\_\_ (hereinafter called the “IBBI”) represented by \_\_\_\_\_, on the first part and M/s \_\_\_\_\_ of \_\_\_\_\_ (hereinafter referred to as “Applicant”) on the Second part, having agreed to accept the Earnest Money Deposit of Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_) in the form of Bank Guarantee for the Application for Empanelment of

Offerings of Platform for Distressed Assets (PDAs), we \_\_\_\_\_ (Name of the Bank), (hereinafter referred to as the “Bank”), do hereby undertake to pay to the IBBI forthwith on demand without any demur and without seeking any reasons whatsoever, an amount not exceeding \_\_\_\_\_ (Rupees \_\_\_\_\_) and the guarantee will remain valid up to a period of 180 days from the date of submission of application. It will, however, be open to the IBBI to return the Guarantee earlier than this period to the Applicant, in case the applicant has been notified by the IBBI as being unsuccessful.

2. In the event of the successful application, if the applicant fails to acknowledge and accept the Letter of Award of Empanelment from IBBI in accordance with the terms and conditions of the Empanelment Application, the EMD deposited by the applicant stands forfeited by the IBBI. We also undertake not to revoke this guarantee during this period except with the previous consent of the IBBI in writing and we further agree that our liability under the EMD shall not be discharged by any variation in the term of the said tender and we shall be deemed to have agreed to any such variation.

3. No interest shall be payable by the IBBI to the Applicant on the guarantee for the period of its currency.

4. Notwithstanding anything contained hereinabove:

a) Our liability under this Bank Guarantee shall not exceed and is restricted to Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ only)

b) This Guarantee shall remain in force up to and including \_\_\_\_\_ .

c) Unless the demand/claim under this guarantee is served upon us in writing before \_\_\_\_\_ all the rights of IBBI under this guarantee shall stand automatically forfeited and we shall be relieved and discharged from all liabilities mentioned hereinabove.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2019

For the Bank of \_\_\_\_\_

(Agent/Manager)

**Request for Clarification Format**

Name of the applicant submitting the request:

Name and position of person submitting request:

Full formal address of the applicant including phone, fax and email points of contact:

Application document reference(s) (section number/ page):

Content of application document requiring clarification:

Points on which clarification required

- 1.
- 2.

**Format for Performance Bank Guarantee (PBG)**

(On Non-judicial paper of appropriate value)

**Bank Guarantee No.** \_\_\_\_\_

[Date]

From:

**Bank** \_\_\_\_\_

To,

**The Deputy General Manager (Establishment Division),**  
Insolvency and Bankruptcy Board of India,  
7th Floor, Mayur Bhawan,  
Shankar Market, Connaught Circus,  
New Delhi -110 001  
Telephone No.:011-23462866

Dear sirs,

In consideration of the \_\_\_\_\_ (hereinafter called “IBBI”) on the First Part and M/s \_\_\_\_\_ of \_\_\_\_\_ (hereinafter referred to as “Applicant”) on the Second Part, having agreed to production of an irrevocable Bank Guarantee for Rs. 10,00,000/- (Rupees Ten Lakhs only) as a security/ guarantee from the Applicant for compliance of his / her obligations in accordance with the terms and conditions mentioned in the Invitation of Application for Empanelment for Platform for Distressed Assets.

1. We ..... (hereinafter referred to as the “Bank”) hereby undertake to pay to IBBI an amount not exceeding Rs10,00,000/- (Rupees Ten Lakhs only) on demand by IBBI.

2. We ..... do hereby undertake to pay the amounts due and payable under this Bank Guarantee without any demur, merely on a demand from IBBI stating that the amount claimed is required to meet the recoveries due or likely to be due from the said Applicant. Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs. 10,00,000/- (Rupees Ten Lakhs only).

3. We, the said Bank, further undertake to pay to IBBI any money so demanded notwithstanding any dispute or disputes raised by the Applicant in any suit or proceeding pending before any Court or Tribunal or Board relating thereto, our liability under this Guarantee being absolute and unequivocal. The payment so made by us under this Guarantee shall be a valid discharge of our liability for payment thereunder, and the Applicant shall have no claim against us for making such payment.

4. We ..... further agree that the Guarantee herein contained shall remain in full force and effect during the period of Empanelment for Platform for Distressed Assets by IBBI, and it shall continue to be enforceable till all the dues of the IBBI have been fully paid, and its claims satisfied or discharged, or till IBBI certifies that the obligations of the Applicant have been fully and properly carried out by the said Applicant, and accordingly discharges this Bank Guarantee.

5. We ..... further agree with IBBI that the it shall have the fullest liberty without our consent, and without affecting in any manner our obligations hereunder, to vary any of the terms and conditions of the said Empanelment or to extend time of performance by the said Applicant from time to time or to postpone for any time or from time to time any of the powers exercisable by IBBI against the said Applicant, and to forbear or enforce any of the terms and conditions relating to the said Empanelment, and we shall not be relieved from our liability by reason of any such variation or extension being granted to the said Applicant or for any forbearance, act of omission on the part of IBBI or any indulgence by IBBI to the said Applicant or by any such matter or thing whatsoever which under the law relating to sureties shall, but for this provision, have effect of so relieving us.

6. This Guarantee shall not be discharged due to the change in the constitution of the Bank or the Applicant.

7. We .....lastly undertake not to revoke this Guarantee except with the previous consent of the IBBI in writing.

8. This Guarantee shall be valid up to .....unless extended on demand by the IBBI. Notwithstanding anything mentioned above, our liability against this Guarantee is restricted to Rs. 10,00,000/- (Rupees Ten Lakhs only), and unless a claim in writing is lodged with us by IBBI within six months of the date of expiry or extended date of expiry of this Guarantee all our liabilities under this Guarantee shall stand discharged.

Dated the ..... day of.....

For .....

(Indicate the name of the Bank)