

**PROCESS DOCUMENT**

**1. Introduction:**

Expression of Interest (“EoI”) is invited from the prospective bidders in the matter of GENA PHARMACEUTICALS LIMITED. The Corporate Insolvency Resolution Process of GENA PHARMACEUTICALS LIMITED has commenced with effect from 9<sup>th</sup> August, 2019 vide an order by the National Company Law Tribunal (NCLT), Kolkata Bench.

Gena Pharmaceuticals Limited (Corporate Debtor) was incorporated on 11<sup>th</sup> May, 2004. It is registered with the Registrar of Companies, Kolkata. The registered office of the corporate debtor is situated at 7/2/1, Thakurpukur (N/W) Road P.S Barasat Kolkata Parganas North WB 700128, and the factory of the corporate debtor is situated at 7/2/1, Thakurpukur (N/W) Road P.S Barasat Kolkata Parganas North WB 700128. The Corporate Debtor is engaged in the business of Manufacturing of pharmaceutical drugs.

**Transaction Process:**

The transaction process for the Corporate Debtor as aforesaid shall be completed in Two Stages, brief of which is discussed as under:

**Stage I:**

- Submission of EoI by interested Resolution Applicants (RAs).
- Shortlisting of Resolution Applicants (RAs) by Committee of Creditors (CoC)/Resolution Professional

**Stage II:**

- Submission of duly executed Confidentiality Undertaking by shortlisted (RAs) in order to obtain Request For Resolution Plan (RFRP), Evaluation Matrix, Information Memorandum and other relevant information of the corporate debtor.
- Access to Virtual Data Room to shortlisted RAs for their Due Diligence.
- Submission of Resolution Plan by RA along with requisite documents and EMD/Financial Bank Guarantee.

*[On the Letterhead of the Entity Submitting the EoI]*

EXPRESSION OF INTEREST

Date: \_\_\_\_\_

To,  
Mr. Anup Kumar Singh  
Resolution Professional  
In the matter of Gena Pharmaceuticals Limited  
Ideal Plaza, 11/1, Sarat Bose Road,  
4th Floor, South Block, Room No. 405  
Kolkata - 700 020, West Bengal, India.

**Subject:** Expression of Interest ("EoI") for submitting Resolution Plan for Gena Pharmaceuticals Limited ("Corporate Debtor")

Dear Sir,

In response to the public advertisement in [*Insert the name(s) of the newspaper and/or website*] dated [*Insert date of the advertisement*] ("**Advertisement**") inviting EoI for submission of resolution plans ("**Resolution Plan**") as per the provisions of the Insolvency and Bankruptcy Code, 2016 ("**IBC**"), we confirm that we have understood the eligibility criteria mentioned in Annexure A to this EoI and meet the necessary thresholds and criteria mentioned therein and submit our EoI for submission of a Resolution Plan for the Corporate Debtor.

We hereby declare that we are not ineligible person as prescribed under Section 29A of the Insolvency and Bankruptcy Code, 2016. Along with our EoI, we have also provided information as required in the prescribed format in Annexure B and Annexure C.

We hereby undertake that we meet the criteria specified by the committee under clause (h) of sub-section (2) of section 25 of the IBC.

We hereby undertake that we will intimate the resolution professional forthwith if we become ineligible at any time during the corporate insolvency resolution process.

We hereby undertake 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;

We hereby undertake that we will maintain confidentiality of the information and shall not use such information to cause an undue gain or undue loss to itself or any other person and comply with the requirements under sub-section (2) of section 29.

The information furnished by us in this EoI and in the Annexures, including documentary proofs, is true, correct, complete and accurate and unconditional. Further, we acknowledge that:

- (a) The Resolution Professional (“RP”) reserves the right to determine whether or not we qualify for the submission of the Resolution Plan and that the RP reserves the right to reject the EoI submitted by us without assigning any reason and without any liability whatsoever; and
- (b) The RP reserves the right to request for additional information/documents from us for the purposes of the EoI.
- (c) We will furnish relevant records in evidence of meeting the criteria under clause (h) of sub-section (2) of section 25 of the Insolvency and Bankruptcy Code, 2016, and relevant information and records to enable an assessment of our ineligibility under Section 29A of the Insolvency and Bankruptcy Code, 2016.
- (d) Information Memorandum/access to Virtual Data Room will be provided after submitting a confidentiality undertaking as per Section 29(2) of the Insolvency and Bankruptcy Code, 2016.

Sincerely yours,

On behalf of [*Insert the name of the entity submitting the EoI*] 1 & 2

Signature: \_\_\_\_\_

Name of  
Signatory:  
Designation:  
Company  
Seal/Stamp

*1: In case of Consortium Applicant, the EoI shall be signed by the nominated lead and details as per Annexure D to be provided.*

*2: The person signing the EoI and other supporting documents should be an authorised signatory supported by necessary board resolutions/authorization letter.*

## ANNEXURE A

## Eligibility Criteria\*

<u>S. No</u>	<u>Eligibility</u>	<u>Criteria</u>
1	Individual/Firm/ Body Corporate	Minimum net worth of INR 2 Crores or more as on 31 <sup>st</sup> March, 2019.
<u>OR</u>		
2	Financial Institutions/ Funds/ PE Investors/ Asset Reconstruction Company	Minimum Assets under management/ Committed funds available of INR 50 Crores or more as on 31 <sup>st</sup> March, 2019.
<u>AND</u>		
3	<b>Prospective Resolution Applicant shall not be an ineligible person as prescribed under Section 29A of the Insolvency and Bankruptcy Code, 2016.</b>	

## ANNEXURE - B

## TERMS &amp; CONDITIONS

**A. Preliminary terms & conditions for submission of EoI:**

1. Expression of Interest ("EoI") needs to be submitted in the format of Application provided along with the required Annexures.
2. Prospective Resolution Applicant shall along with Expression of Interest submit (a) certified true copies of their Audited Financial Statements of last 3 years, i.e. FY 16-17, FY 2017-18 and FY 2018-19 or since inception if incorporated in the immediately preceding three years. If audited financials for FY 18-19 is yet to be finalized, prospective resolution applicant needs to provide certified net worth statement/asset under management certificate from the statutory auditor/CA of respective company along with Income tax return and computation of total income, (b) Proof of address, (c) copy of PAN card (d) certified true copies of Constitutional documents and (e) certified true copy of Board resolution in case of Corporate Person. Prospective Resolution Applicant shall also submit relevant KYC details applicable as the case may be (Individual/Corporate/Financial Institution/Funds/PE Funds).
3. **Process Deposit:** A process participation deposit of INR 5 Lacs to be paid along with the application for expression of interest, which will be refundable to non-eligible prospective Resolution Applicants within 1 month from the date of issuance of final list of RAs by RP. Further the said process participation deposit shall not bear any interest.
4. The process deposit may be paid through Demand Draft/Bankers Cheque drawn in favour of "GENA PHARMACEUTICALS LIMITED" payable at Kolkata or by NEFT/RTGS (bank details as provided below):

<b>Bank Name</b>	Andhra Bank
<b>Branch Address</b>	Burrabazar Branch, 23/1, Maharshi Devendra Road, Alu Posta, Burra Bazar, Kolkata- 700007
<b>A/c No.</b>	073111100005312
<b>Account Type</b>	Current Account
<b>IFSC Code</b>	ANDB0000731

**Exception:** Where the Resolution Plan of the resolution applicant is approved by CoC, the process participation deposit provided by the said "Successful Resolution Applicant" shall be adjusted towards payment due as per the approved Resolution Plan. Further, the said process participation deposit shall not bear any interest. However, the unsuccessful RAs/shortlisted eligible Prospective Resolution Applicants, who have not submitted their Resolution Plans shall be refunded with the said process participation deposit within 1 month of approval of Resolution Plan by the Adjudicating Authority or in case the corporate debtor is liquidated, within 1 month of the commencement of Liquidation proceedings.

**B. Terms & Conditions applicable to the prospective Resolution Applicant(s) shortlisted by the Committee of Creditors:**

1. The prospective resolution applicant shall submit resolution plan(s) prepared along with Earnest Money Deposit or Financial Bank Guarantee of INR 100,00,000/- (Rupees One Crores only) in favour of GENA PHARMACEUTICALS LIMITED, which shall be refundable in case the resolution plan is not approved by the Committee of Creditors.
2. The Earnest Money deposit or Financial Bank Guarantee of INR 100,00,000/- (Rupees One Crores only) shall be forfeited or invoked in the event the successful Resolution Applicant withdraws out of the Resolution Process or doesn't comply with the terms and conditions of the Resolution Plan approved by Committee of Creditors and Adjudicating Authority.
3. Earnest Money Deposit or Financial Bank Guarantee of INR 100,00,000/- (Rupees One Crores only) shall not bear any interest.
4. The prospective Resolution Applicants shall be required to submit a detailed undertaking that they are eligible to submit resolution plan(s) as per section 29A of the Insolvency and Bankruptcy Code, 2016.
5. The prospective resolution applicant shall prepare resolution plan(s) in accordance with the Insolvency and Bankruptcy Code, 2016, and Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, and any other applicable laws and it shall contain all the mandatory contents as specified in Regulation 38 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, and shall be required to submit a declaration-cum-undertaking to that effect.

Note: RP reserves the right to cancel/modify the process without assigning any reason and without any liability whatsoever.

## ANNEXURE C

**1 Name and Address:**

- a. Name of the Firm/ Company/ Organization:
- b. Address:
- c. Telephone No:
- d. Fax:
- e. Email:
- f. PAN/CIN:

**2 Date of Establishment:**

- 3 **Nature of Establishment:** *[Body Corporate OR Financial Institutions / Funds / PE Investors]*

**4 Core Area of Expertise:****5 Experience in related sector (if any):****6 Past experience in acquisition / turnaround of stressed assets (if any):****7 Overall management strength:****8 Contact Person:**

- a. Name:
- b. Designation:
- c. Telephone No:
- d. Email:

**9 Group / Company Profile:**

- a. Group / Company Financial Profile (consolidated / standalone as applicable):

*[Note: The Group / Company profile should necessarily include net worth and revenue numbers of the preceding three years. Where the entity submitting the EOI is a financial investor/ fund entity/ARC/PE Investor, please additionally provide details pertaining to "assets under management" for the preceding three years and the committed funds available as on 31<sup>st</sup> March 2019 for investment in Indian assets.*

**For Body Corporate**

INR Crores	FY 18-19	FY 17-18	FY 16-17
Revenue			
Net worth			

*3 RBI reference rate as on the date of financial statements shall be used for conversion into Indian Rupees. Immediately available preceding date rate shall be considered if rate for that particular date is unavailable.*

**For Financial Institutions / Funds / PE Investors/ARC**

<i>INR Crores</i>	<i>FY 18-19</i>	<i>FY 17-18</i>	<i>FY 16-17</i>
<i>Assets under management</i>			

- b. Names and DIN of Directors including Independent Directors:
- c. History if any, of the Company or affiliates of the Company being declared a 'wilful defaulter', 'non-cooperative borrower', 'non-impaired asset' and / or 'non- performing asset':
- d. Names of key lenders, if any, to the Firm/Body Corporate or its affiliates:
- e. Ownership Details:
- f. Proof of Identity and Address:
- g. Any other relevant details which would be useful to the RP to evaluate the Bid and help to shortlist for the next stage in the process:

Note: Applicant shall submit the following documentary proofs as a part of this Annexure C:

**1. Applicable to Firms / Body Corporate**

- a. Audited financial statements for last 3 financial years. If audited financials for FY 18-19 is yet to be finalized, prospective resolution applicant needs to provide a certified Net worth Statement/Asset under Management certificate from the statutory auditor/CA of respective Firm/Body Corporate.
- b. Copy of Certificate of Registration and latest Constitutional Documents of the Applicant.

**2. Applicable to Financial Institutions / Funds / PE Investors/ ARC**

- a. Certificate from Statutory Auditor or Chartered Accountant or Company Secretary or equivalent in the jurisdiction of incorporation certifying Assets under management as on end of last three financial years;
- b. Documentary evidence for Funds available for deployment as on March 31, 2019.
- c. Audited financial statements for last 3 financial years.
- d. Copy of Certificate of Registration and latest Constitutional Documents of the Applicant.



ANNEXURE D

**1. Details of Consortium Members:**

<b>Name of the Member</b>	<b>% of share in the Consortium</b>	<b>Nominated as Lead (Y/N)</b>

Persons not eligible to be resolution applicant as per section 29A of the Insolvency and Bankruptcy Code, 2016

A person shall not be eligible to submit a resolution plan, if such person, or any other person acting jointly or in concert with such person –

- (a) is an undischarged insolvent;
- (b) is a wilful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949.
- (c) at the time of submission of the resolution plan has an account or an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, classified as non-performing asset in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 (10 of 1949) or the guidelines of a financial sector regulator issued under any other law for the time being in force,] and at least a period of one year has lapsed from the date of such classification till the date of commencement of the corporate insolvency resolution process of the corporate debtor:

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

Provided further that nothing in this clause shall apply to a resolution applicant where such applicant is a financial entity and is not a related party to the corporate debtor.

*Explanation I-* For the purposes of this proviso, the expression "related party" shall not include a financial entity, regulated by a financial sector regulator, if it is a financial creditor of the corporate debtor and is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares, prior to the insolvency commencement date.

*Explanation II.* – For the purposes of this clause, where a resolution applicant has an account, or an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, classified as non-performing asset and such account was acquired pursuant to a prior resolution plan approved under this Code, then, the provisions of this clause shall not apply to such resolution applicant for a period of three years from the date of approval of such resolution plan by the Adjudicating Authority under this Code;

- (d) has been convicted for any offence punishable with imprisonment –
  - (i) for two years or more under any Act specified under the Twelfth Schedule; or
  - (ii) for seven years or more under any law for the time being in force:

Provided that this clause shall not apply to a person after the expiry of a period of two years from the date of his release from imprisonment:

Provided further that this clause shall not apply in relation to a connected person referred to in clause (iii) of Explanation I;

- (e) is disqualified to act as a director under the Companies Act, 2013 (18 of 2013):

Provided that this clause shall not apply in relation to a connected person referred to in clause (iii) of *Explanation I*

- (f) is prohibited by the Securities and Exchange Board of India from trading in securities or accessing the securities markets;
- (g) has been a promoter or in the management or control of a corporate debtor in which a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been made by the Adjudicating Authority under this Code:

Provided that this clause shall not apply if a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place prior to the acquisition of the corporate debtor by the resolution applicant pursuant to a resolution plan approved under this Code or pursuant to a scheme or plan approved by a financial sector regulator or a court, and such resolution applicant has not otherwise contributed to the preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction;]

- (h) has executed a guarantee in favour of a creditor in respect of a corporate debtor against which an application for insolvency resolution made by such creditor has been admitted under this Code and such guarantee has been invoked by the creditor and remains unpaid in full or part;
- (i) is subject to any disability, corresponding to clauses (a) to (h), under any law in a jurisdiction outside India; or
- (j) has a connected person not eligible under clauses (a) to (i).

*Explanation.* – For the purposes of this clause, the expression "connected person" means –

- i. any person who is the promoter or in the management or control of the resolution applicant; or
- ii. any person who shall be the promoter or in management or control of the business of the corporate debtor during the implementation of the resolution plan; or
- iii. the holding company, subsidiary company, associate company or related party of a person referred to in clauses (i) and (ii):

Provided that nothing in clause (iii) of *Explanation I* shall apply to a resolution applicant where such applicant is a financial entity and is not a related party of the corporate debtor:

Provided further that the expression "related party" shall not include a financial entity, regulated by a financial sector regulator, if it is a financial creditor of the corporate debtor and is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares, prior to the insolvency commencement date;

*Explanation II* – For the purposes of this section, "financial entity" shall mean the following entities which meet such criteria or conditions as the Central Government may, in consultation with the financial sector regulator, notify in this behalf, namely: –

- a) a scheduled bank;
- b) any entity regulated by a foreign central bank or a securities market regulator or other financial sector regulator of a jurisdiction outside India which jurisdiction is compliant with the Financial Action Task Force Standards and is a signatory to the International Organization of Securities Commissions Multilateral Memorandum of Understanding;
- c) any investment vehicle, registered foreign institutional investor, registered foreign portfolio investor or a foreign venture capital investor, where the terms shall have the meaning assigned to them in regulation 2 of the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 made under the Foreign Exchange Management Act, 1999 (42 of 1999);
- d) an asset reconstruction company register with the Reserve Bank of India under section 3 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);
- e) an Alternate Investment Fund registered with Securities and Exchange Board of India;
- f) such categories of persons as may be notified by the Central Government.