

**UNDERTAKING UNDER SECTION 29 (2) OF THE INSOLVENCY AND  
BANKRUPTCY CODE, 2016 (IBC) AND REGULATION 36(4) OF THE  
INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSOLVENCY  
RESOLUTION PROCESS FOR CORPORATE PERSONS) REGULATIONS, 2016  
(CIRP REGULATIONS) TO MAINTAIN CONFIDENTIALITY**

This Confidentiality Undertaking has been signed by \_\_\_\_\_, a member of the Committee of Creditors, having its office at \_\_\_\_\_ acting through Mr./Ms. \_\_\_\_\_, the authorized signatory/authorized representative (“**Member of the Committe**”, which expression shall, unless repugnant to the context, include its successors in business, administrators in business, administrators, assigns or legal representatives) in favour of . Mr. Balakrishnan V, an insolvency professional having registration no IBBI/IPA-001/IP-P00229/2017-18/10458 on this \_\_\_\_\_ day of March, 2019.

**WHEREAS**, Corporate Insolvency Resolution Process (CIRP) has been initiated against Tebma Shipyards Limited (TSL) or Corporate Debtor as per the provisions of Insolvency and Bankruptcy Code 2016 (IBC), by an order of National Company Law Tribunal (NCLT) Chennai Bench dated 25<sup>th</sup> September 2018. Mr. Balakrishnan V was subsequently appointed as the Resolution Professional (RP) for TSL vide order dated 12<sup>th</sup> December 2018.

**WHEREAS**, it is the duty of the Resolution Professional under the IBC to prepare an information memorandum (IM) of the corporate debtor and share the information memorandum after receiving an undertaking from a member of the committee to the effect that such member shall 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.

**WHEREAS**, the Member of the Committee hereby declares and undertakes that it will not divulge any part of the information contained in the Information Memorandum and any other “relevant information”, as defined under Section 29(2) of the Code, through oral or written communication or through any mode to anyone and same shall constitute “**Confidential Information**”. Any information or documents generated or derived by the recipients of Confidential Information that contains, reflects or is derived from any Confidential Information shall also be deemed as Confidential Information.

1. The Member of the Committee further unconditionally and irrevocably undertakes and declares that :-

- a) the Confidential Information shall be kept confidential and shall be used solely in accordance with the terms of the Code;
- b) the Confidential Information shall not be used to cause any undue gain or undue loss to itself, the Corporate Debtor, the RP or any other person;
- c) it shall comply with all provisions of law for the time being in force relating to confidentiality and insider trading in relation to such Confidential Information;
- d) it shall protect any intellectual property of the Corporate Debtor which it may have access to; and
- e) it shall ensure that all Confidential Information is kept safe and secured at all times and is protected from unauthorised access, use, dissemination, copying, theft or leakage;
- f) it shall take all necessary steps to safeguard the privacy and confidentiality of the information in the Information Memorandum and shall use its best endeavours to secure that no person acting on its behalf divulges or discloses or uses any part of the Confidential Information, including but not limited to the financial position of the Corporate Debtor, all information related to disputes by or against the Corporate Debtor and any other matter pertaining to the Corporate Debtor as may be specified in the Information Memorandum; and
- g) it shall be responsible for any breach of obligations under this confidentiality undertaking and shall indemnify the Resolution Professional for any loss damages

and costs incurred by the Resolution Professional due to such breach of obligations by the Financial Creditor or any person acting on its behalf.

2. Notwithstanding anything to the contrary contained herein, the following information shall however not be construed as Confidential Information:
  - a) information which, at the time of disclosure to the Member of the Committee was already in the public domain without violation of any provisions of applicable laws;
  - b) information which, after disclosure to the Member of the Committee becomes publicly available without any breach of this confidentiality undertaking or violation of applicable laws;
  - c) information which was, lawfully and without any breach of this confidentiality undertaking, in the possession of the Member of the Committee prior to its disclosure, as evidenced by the records of the Member of the Committee;
  - d) information that is received by Member of the Committee from a third party which is not in breach of its confidentiality obligations hereunder; and
  - e) information that is required to be disclosed by the Member of the Committee (and to the extent required to be disclosed) pursuant to the requirements of applicable laws, or order of a judicial, regulatory or administrative authority or the guidelines of the regulatory/administrative authority or the stock exchange
3. No representation or warranty has been provided by the Member of the Committee in relation to the authenticity or adequacy of the information provided to the Member of the Committee, including Confidential Information, and the Member of the Committee would not have any claim against the RP or any person acting on its behalf or the Corporate Debtor in relation to any Confidential Information or information provided in the Information Memorandum.

4. The Member of the Committee agrees that the RP makes no representation, warranty or inducement, whether express or implied, as to the accuracy, completeness, authenticity or adequacy of the information (including but not limited to the Confidential Information) provided to the Member of the Committee in the Information Memorandum. The Member of the Committee further agrees that, the RP shall not be liable to the Member of the Committee for any damage arising in any way out of the use of the Confidential Information and the Member of the Committee shall not have any claim against the RP or the Corporate Debtor in relation to any information provided in the Information Memorandum.
5. Nothing in this confidentiality undertaking shall have the effect of limiting or restricting any liability arising as a result of fraud or wilful default.
6. Damages may not be an adequate remedy for a breach of this confidentiality undertaking and the RP shall be entitled to the remedies of injunction, specific performance and other equitable relief for a threatened or actual breach of this confidentiality undertaking.
7. The Member of the Committee hereby represents and warrants that it has the requisite power and authority to execute, deliver and perform its obligations under this confidentiality undertaking.
8. The terms of this confidentiality undertaking may be modified or waived only by a separate instrument in writing signed by the Member of the Committee and the RP that expressly modifies or waives any such term.
9. This confidentiality undertaking and any dispute claim or obligation arising out of or in connection with it shall be governed by and construed in accordance with Indian laws and the courts at Bangalore shall have exclusive jurisdiction over matters arising out of or relating to this confidentiality undertaking.

10. The confidentiality undertaking shall be in conjunction to any other undertakings provided by the Financial Creditor to the RP.

Signed on behalf of

\_\_\_\_\_

By \_\_\_\_\_

(Name and Designation)

Authorised Signatory