

[TO BE PRINTED BY THE **RESOLUTION APPLICANT** ON THE STAMP PAPER OF APPROPRIATE AMOUNT AS PER THE STAMP ACT. **RESOLUTION APPLICANT IS REQUESTED TO PROCURE THE APPROPRIATE STAMP PAPER**]

CONFIDENTIALITY UNDERTAKING

This confidentiality undertaking has been signed by _____, a prospective resolution applicant, having its office at _____ acting through Mr./Ms. _____, the authorized signatory / authorized representative (“**Resolution Applicant**”), which expression shall, unless repugnant to the context, include its successors, legal representatives, permitted assigns and administrators in business) in favour of Mr. Navneet Kumar Gupta, an insolvency professional having registration no. IBBI/IPA-001/IP-P00001/2016-17/10009 on _____ day of _____, 2019, in his capacity as the resolution professional of SEL Manufacturing Company Limited (hereinafter referred to as “**Resolution Professional**” or “**RP**”).

WHEREAS SEL Manufacturing Company Limited, a company registered under Companies, Act, 1956 (hereafter referred as “**Corporate Debtor**”) is under corporate insolvency resolution process in terms of the Insolvency and Bankruptcy Code, 2016 (“**Code**”) vide National Company Law Tribunal, Chandigarh Bench (“**NCLT**”) order dated April 11, 2018. Mr. Navneet Kumar Gupta is the resolution professional of the Corporate Debtor.

WHEREAS the Resolution Professional has prepared information memorandum as per Section 29 (1) of the Code and Regulation 36 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 in respect of the Corporate Debtor (“**Information Memorandum**”).

WHEREAS the Resolution Professional is required to share the Information Memorandum and other relevant information (including as defined in Section 29 of the Code) with a prospective resolution applicant after receiving an undertaking from the resolution applicant to the effect that the resolution applicant shall maintain confidentiality of the information contained in the Information Memorandum and any other information shared with such resolution applicant 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 Section 29(2) of the Code.

THEREFORE, the Resolution Applicant hereby declares and undertakes as follows:

1. The Resolution Applicant declares and undertakes that it will not divulge any information disclosed to it by the Resolution Professional (or any other person on behalf of the Resolution Professional) including any financial information of the Corporate Debtor, any part of the information contained in the Information Memorandum of Corporate Debtor prepared as per Section 29(1) of the Code and Regulation 36 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and other relevant information as defined in Section 29 of the Code, through oral, electronic or written communication or through any mode to anyone, and the 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.

2. The Resolution Applicant further unconditionally and irrevocably undertakes and declares that
 - (a) the Confidential Information shall be kept confidential by the Resolution Applicant and shall be used solely as allowed under the Code;
 - (b) the Resolution Applicant shall not use the Confidential Information to cause any undue gain or undue loss to itself, the Corporate Debtor, the Resolution Professional or any other person;
 - (c) the Resolution Applicant 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) the Resolution Applicant shall protect any intellectual property of the Corporate Debtor which it may have access to;
 - (e) the Confidential Information may only be disclosed to and shared with any directors, officers, employees and advisors of the Resolution Applicant, by the Resolution Applicant, in accordance with applicable laws, including in relation to confidentiality and insider trading, and terms of this confidentiality undertaking on a strict need-to-know basis and only to the extent necessary for and in relation to the corporate insolvency resolution process of the Corporate Debtor, provided that such persons are bound, by way of an undertaking/ agreements, to terms at least as restrictive as those stated in this confidentiality undertaking. The Resolution Applicant shall be responsible for any breach of the confidentiality obligations by such persons to whom

the Resolution Applicant shares the Confidential Information in accordance with this confidentiality undertaking;

- (f) the Resolution Applicant shall ensure that all Confidential Information is kept safe and secured at all times and is protected from any unauthorised access, use, dissemination, copying, theft or leakage;
- (g) the Resolution Applicant shall immediately destroy and permanently erase all Confidential Information upon the earlier of: (i) a written request by the Resolution Professional/ Corporate Debtor; (ii) the approval of a resolution plan by the adjudicating authority under Section 31(1) of the Code; or (iii) an order for liquidation of the Corporate Debtor being passed by the adjudicating authority under Section 33 of the Code, unless otherwise waived by the (i) Corporate Debtor in writing in the event of approval of resolution plan by the adjudicating authority; or (ii) liquidator in writing in the event of an order for liquidation of the Corporate Debtor being passed by the adjudicating authority under Section 33 of the Code; except any Confidential Information retained to comply with applicable law, in which case, (A) the Resolution Applicant shall notify the Corporate Debtor or liquidator, as the case may be, of such obligation, (B) the retention is limited strictly to the extent required under the applicable law and no more, and (C) the Resolution Applicant continues to be bound by the terms of this confidentiality undertaking and applicable laws relating to confidentiality of information;
- (h) the Resolution Applicant shall take all necessary steps to safeguard the privacy and confidentiality of the information in the Information Memorandum and shall ensure 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
- (i) the Resolution Applicant shall be responsible for any breach of obligations under this confidentiality undertaking (including any breach of confidentiality obligations by any employee or advisor of the Resolution Applicant) and shall indemnify and hold harmless the Resolution Professional for any loss, damages and costs incurred by the Resolution Professional due to such breach of obligations by the Resolution Applicant or any person acting on its behalf.

3. Notwithstanding anything to the contrary contained herein, the following information shall however not be construed as Confidential Information:
- (j) information which, at the time of disclosure to the Resolution Applicant was already in the public domain without violation of any provisions of applicable laws;
 - (k) information which, after disclosure to the Resolution Applicant, becomes publicly available and accessible without violation of applicable laws or a breach of this confidentiality undertaking;
 - (l) information which was, lawfully and without any breach of this confidentiality undertaking, in the possession of the Resolution Applicant prior to its disclosure, as evidenced by the records of the Resolution Applicant;
 - (m) information that is received by the Resolution Applicant from a third party, who to the knowledge of the Resolution Applicant after having conducted reasonable enquiry into the authority of such third party to possess and divulge the same, is not in breach of its confidentiality obligations. Provided that upon the Resolution Applicant obtaining knowledge of a breach or the possibility of a breach by such third party of its confidentiality obligations, the Resolution Applicant shall promptly notify the Resolution Professional of such breach or potential breach; and
 - (n) information that is required to be disclosed by the Resolution Applicant (and to the extent required to be disclosed) pursuant to the requirements of applicable laws, or order or direction of a judicial authority or the guidelines of a regulatory authority or the stock exchange, provided however the Resolution Applicant should use its best endeavours to provide prior intimation of such disclosure to the Resolution Professional, unless prohibited by applicable law. Without prejudice to the aforementioned, in the event such disclosure cannot be avoided, the disclosure shall be limited strictly to the extent required for compliance with the aforementioned law, rules, direction or order.
4. No representation or warranty has been provided by the Resolution Professional in relation to the authenticity or adequacy of the information provided to the Resolution Applicant, including the Confidential Information, and the Resolution Applicant would not have any claim against the Resolution Professional or any person acting on its behalf or the Corporate Debtor in relation to any information provided to the Resolution Applicant.

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 Resolution Professional and Corporate Debtor 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 Resolution Applicant 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 Resolution Applicant with the prior written consent of the Resolution Professional 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 NCLT at Chandigarh 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 Resolution Applicant to the Resolution Professional.

Encl: Board resolution authorising the execution of the undertaking.

Signed on behalf of

(Name of Resolution Applicant)

By

(Name and Designation)

Authorised Signatory