

[On the letter head of the Resolution Applicant]

**UNDERTAKING TO MAINTAIN CONFIDENTIALITY**

This confidentiality undertaking has been signed by (Name of potential Resolution Applicant (s) ),  
a, having its office at

\_\_\_\_\_ acting through Mr. (Name of person authorised by potential Resolution Applicant (s)), the authorized signatory/authorized representative (“Resolution Applicant”), which expression shall, unless repugnant to the context, include its successors in business, administrators in business, administrators, insolvency professional (other than the RP), liquidator and assigns or legal representative) in favour of Mr. Ashish Rathi, an Insolvency Professional having registration no. IBBI/IPA-001/IP-P00568/2017-18/11010.

WHEREAS M/s SBQ Steels Limited, a company registered under Companies, Act, 1956 (thereafter referred as “Corporate Debtor” or “the Company”) is under Corporate Insolvency Resolution Process vide NCLT Chennai Bench’s order dated 29th December 2017 and Mr. Ashish Rathi, having registration no. IBBI/IPA-001/IP-P00568/2017-18/11010, has been appointed as Resolution Professional (“RP”) vide NCLT Chennai Bench’s order dated 03<sup>rd</sup> April 2017.

WHEREAS Resolution Professional shall prepare information memorandum as per Section 29 (1) of the Insolvency and Bankruptcy Code, 2016 (“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”), teaser and other documents, as may be required by the Resolution Applicant, from time to time.

WHEREAS Resolution Professional is required to share the Information Memorandum and other details after receiving an undertaking from each of the potential Resolution applicant (s) to the effect that such member shall maintain confidentiality of the information contained in the Information Memorandum 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 (s) hereby declare(s) and undertake(s) as follows:**

1. The Resolution Applicant(s) shall not divulge any part of the information contained in the Information Memorandum or any other data shared by the RP, through oral 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(s) further unconditionally and irrevocably undertake and declare that

- a) the Confidential Information shall be kept secret and confidential by the Resolution Applicant(s) and shall be used solely in accordance with the terms of the Code;
- b) the Resolution Applicant(s) shall not use the Confidential Information to cause any undue gain or undue loss to itself, the Company, RP or any other person;
- c) the Resolution Applicant(s) shall comply with all provisions of law for the time being in force relating to confidentiality and insider trading;
- d) the Resolution Applicant(s) 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 employees or its advisors by the Resolution Applicant(s), 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 the Resolution Applicant binds such employees and third parties, by way of an undertaking/ agreements, to terms at least as restrictive as those stated in this confidentiality undertaking.
- f) the Resolution Applicant(s) shall ensure that all Confidential Information is kept safe and secured at all times and is protected from unauthorised access, use, dissemination, copying, any theft or leakage;
- g) the Resolution Applicant(s) shall immediately destroy and permanently erase all Confidential Information upon the approval of a resolution plan by the National Company Law Tribunal (“NCLT”) under Section 31(1) of the Code or upon an order for liquidation of the Corporate Debtor being passed by the NCLT under Section 33 of the Code;
- h) the Resolution Applicant(s) 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
- i) the Resolution Applicant(s) shall be responsible for any breach of obligations under this confidentiality undertaking (including any breach of confidentiality obligations by any employee or advisor or agent or director of the Resolution Applicant) and shall indemnify the RP for any loss, damages, expenses and costs incurred by the RP due to such breach of such obligations by the Resolution Applicant(s) 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

- a) information which, at the time of disclosure to the Resolution Applicant(s) was already in the public domain without violation of any provisions of applicable laws; or
- b) information which, after disclosure to the Resolution Applicant(s) becomes publicly available and accessible without violation of applicable laws or a breach of this confidentiality undertaking; or

c) information which was, lawfully and without any breach of this confidentiality undertaking, in the possession of the Resolution Applicant(s) prior to its disclosure, as evidenced by the records of the Resolution Applicant(s).

4. The Resolution Applicant(s) hereby expressly agrees and acknowledges 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 Resolution Applicant(s) in the Information Memorandum. The Resolution Applicant(s) further agrees and acknowledges that the RP shall not be liable to the Resolution Applicant(s) for any damage arising in any way out of the use of the Confidential Information and further that the Resolution Applicant(s) shall not have any claim against the RP or the Corporate Debtor in relation to any information provided.
5. The terms of this confidentiality undertaking may be modified or waived only by a separate instrument in writing signed by the Resolution Applicant(s) and the RP that expressly modifies or waives any such term.
6. Damages may not be an adequate remedy for a breach of this confidentiality undertaking and either party may be entitled to the remedies of injunction, specific performance and other equitable relief for a threatened or actual breach of this confidentiality undertaking.
7. Nothing in this confidentiality undertaking shall have the effect of limiting or restricting the liability of the Resolution Applicant(s) arising as a result of its fraud or wilful default.
8. The undersigned hereby represents and warrants that it has the requisite power and authority to execute, deliver and perform its obligations under this confidentiality undertaking.
9. This confidentiality undertaking and any dispute, claim or obligation arising out of or about it shall be governed by and construed in accordance with Indian laws and the courts and tribunal of Chennai shall have exclusive jurisdiction over matters arising out of or relating to this confidentiality undertaking.

I further declare that I, the undersigned have full knowledge of the contents provided from (a) to (c) and have absolute authority to sign this undertaking on behalf of [*insert the name of the Resolution Applicant(s)*].

Signed on behalf of

(Name of Resolution Applicant(s))

by Shri \_\_\_\_\_

(Name and Designation)

Authorised Signatory

Date:

Place:

*Note- In case of consortium, undertaking to be executed by each of the members*