

INSTRUCTIONS

1. [To Be Printed By The Counter Party On The Stamp Paper Of Appropriate Amount As Per The Stamp Act Applicable To The State Of Execution. Counter Party Is Requested To Procure The Appropriate Stamp Paper]
2. Resolution Applicant Should Get The Confidential Undertaking Notarized. Original Plus 1 Certified True Copy To Be Sent [Courier / Regd A/D] To :

CA Nirav Tarkas, RP

N.A.TARKAS & CO, Chartered Accountants

209 B N Chambers, R C Dutt Road,

Vadodara 390007

3. Photo ID Card of the person signing the undertaking i.e. PAN CARD, Aadhar Card etc duly self attested to be enclosed with the undertaking
4. All Information / documents / details etc will be made available to Resolution Applicant ONLY AFTER RECEIPT OF VALID CONFIDENTIALITY UNDERTAKING

NON DISCLOSURE AGREEMENT AND CONFIDENTIALITY UNDERTAKING

This confidentiality undertaking has been signed by _____, a potential **Resolution Applicant**(as per **Section 5 (25) of Insolvency & Bankruptcy Code, 2016** ("Code")), 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 **CA Nirav Tarkas**, an insolvency professional having registration no. **IBBI / IPA-002 / IP-**

N00776 / 2018-19 / 12375 on 7th day of May 2019.

WHEREAS Euro Ceramics Limited, a company registered under Companies, Act, 1956 (hereafter referred as "**corporate debtor**") is under corporate insolvency resolution process vide **NCLT (Mumbai)** order dated **25th Feb 2019** and **CA Arun Kapoor** having registration no. **IBBI / IPA – 003 / IP N 00030 / 2017-18 / 10230** was appointed as interim **Resolution Professional** ("**IRP**"). Subsequently, the **IRP** was discontinued and **CA Nirav Tarkas**, having registration No. **IBBI / IPA 002 / IP N00776 / 2018-19 / 12375** has been appointed as the **Resolution Professional** for the corporate debtor in the meeting of the committee of creditors dated **27.03.2019**, in accordance with Section **22 (3)(b)** of the Code ("**Resolution Professional**").

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 any other information with a potential **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 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 including any financial information of the corporate debtor, disclosed to it by the **Resolution Professional** (or any

other person on behalf of the **Resolution Professional**) and 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**, 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 constitute 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 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;
- 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 employees or third parties 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 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** shall ensure that all Confidential Information is kept safe and secured at all times and is protected from any theft or leakage;

g) the **Resolution Applicant** 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**, unless otherwise waived by the (i) corporate debtor in writing in the event of approval of resolution plan by the **NCLT**; or (ii) liquidator in writing in the event of an order for liquidation of the corporate debtor being passed by the **NCLT** under **Section 33 of the Code**;

h) the **Resolution Applicant** 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** 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 **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

- a) 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;
- b) 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;
- c) information which was in the possession of the **Resolution Applicant** prior to its disclosure, as evidenced by the records of the **Resolution Applicant**;
- d) information that is received by the **Resolution Applicant** 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 **Resolution Applicant** (and to the extent required to be disclosed) pursuant to the requirements of applicable laws, or order of a judicial, regulatory or administrative authority, provided however the **Resolution Applicant** should use its best endeavours to provide prior intimation of such disclosure to the **Resolution Professional**.

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 Confidential Information, and the **Resolution Applicant** Page 6 of 7

4. 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 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 **Resolution Professional** 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 Agreement.
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 courts at New Delhi shall have exclusive jurisdiction over matters arising out of or relating to this confidentiality undertaking.

Signed on behalf of

by Mr _____

(Name and Designation)

Authorised Signatory

CA Nirav Tarkas, Resolution Professional, Euro Ceramics Limited. CONFIDENTIAL