

**INVITATION TO SUBMIT EXPRESSION OF INTEREST
FOR KARAICAL PORT PRIVATE LIMITED**
(UNDERGOING CORPORATE INSOLVENCY RESOLUTION PROCESS,
UNDER INSOLVENCY & BANKRUPTCY CODE, 2016)

About the Corporate Debtor

Karaikal Port Private Limited ("**Corporate Debtor**" or "KPPL") having CIN U45203PY2006PTC001945 was incorporated under the Companies Act 1956 on February 16, 2006 with the Registrar of Puducherry. KPPL is an all-weather deep-water port developed on Build, Operate and Transfer format under Public Private Partnership in terms of the concession awarded by the Government of Puducherry. Commissioned in April 2009, and developed in an area of 600 acres, KPPL is located near the town of Karaikal in the Union Territory of Puducherry, India. Since operations, the port has handled diverse cargo such as Coal, Sugar, Cement, Fertilizers, Project cargo, Agro commodities, Liquid cargo, and Containers.

It has its registered office at Keezha Vanjore Village, T. R. Pattinam, Karaikal, Puducherry, Tamil Nadu – 609606.

The Corporate Insolvency Resolution Process ("**CIRP**") in respect of the Corporate Debtor was commenced under the provisions of the Insolvency and Bankruptcy Code, 2016 ("**IBC**") by order of the Hon'ble National Company Law Tribunal, Chennai Bench ("**NCLT**") dated April 29, 2022, pursuant to an application by Omkara Assets Reconstruction Private Limited under Section 7 of the IBC ("**NCLT Order**"). Pursuant to the NCLT Order, the undersigned was appointed as the interim resolution professional of the Corporate Debtor. In the meeting of the committee of creditors of the Corporate Debtor ("**CoC**") held on May 26, 2022, the CoC approved the appointment of the undersigned as the Resolution Professional of the Corporate Debtor ("**Resolution Professional**" / "**RP**").

Pursuant to the provisions of Section 25(2)(h) of IBC read along with Regulation 36A of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("**CIRP Regulations**"), the Resolution Professional hereby issues this Invitation for Expression of Interest ("**Eoi**") to invite Resolution Plan(s) for the Corporate Debtor from eligible Prospective Resolution Applicants ("**PRAs**") who fulfills such eligibility criteria, as set out below.

Process:

The process, indicatively, shall include the following steps:

- i. Submission of EOI by the Prospective Resolution Applicants
- ii. Shortlisting of eligible PRAs by the RP by way of issuance of a provisional list and final list of PRAs
- iii. Access to Virtual Data Room ("**VDR**"), for due diligence, to the concerned PRAs in provisional and/or final list upon execution of confidentiality undertaking as per format at Annexure IV.

The eligibility criteria, detailed terms and conditions, format for submission of the EOI and format of confidentiality undertaking is provided herewith.

Eligibility Criteria:

Eligibility criteria for the Prospective Resolution Applicants to submit resolution plans as approved by the CoC in terms of Section 25 (2)(h) of the IBC are mentioned below; the Eligibility Criteria would need to be certified by a practicing Company Secretary and in the case of Net Worth and AUM should be supported by audited financial statements:

For Body Corporates/Individuals:

Minimum Net Worth of INR 500 Crores at individual level in case of individuals and at the Body Corporate's level, in the immediately preceding financial year for which audited financials are available, but which cannot be earlier than the financial year ending March 31, 2021.

For Financial Institutions/PE Funds/Asset Reconstruction Companies/NBFCs/Other Financial Investors/AIF:

1. Assets Under Management (AUM) of at least INR 2000 Crores as on March 31, 2022

OR

2. Committed funds available for investment/deployment in Indian companies or Indian assets of at least INR 300 crores as on March 31, 2022.

For Consortium Bidders:

PRA may be a "Consortium". "Consortium" shall mean any person acting together with another person as a consortium/ joint bidder or joint venture (whether incorporated or not) for the purpose of submission of the EOI and resolution plan for the Corporate Debtor.

1. Lead member must hold at least 26% equity in the Consortium and other members must hold not less than 10%.
2. In case the consortium is of body corporates and/or individuals, minimum weighted average net worth of INR 500 Crores at the consortium level. The consortium's minimum weighted average net worth will be calculated for the relevant members at individual level in case of individuals and at the Body Corporate's level in case of Body Corporates in the immediately preceding financial year for which audited financials are available, but which cannot be earlier than the financial year ending March 31, 2021.
3. In case the consortium is of Financial institutions/PE Funds/NBFCs/Asset Reconstruction Companies /AIF or any other financial investor, the minimum weighted average AUM of at least INR 1000 Crores as on March 31, 2022; or weighted average committed funds available for investment/deployment in Indian companies or Indian assets of at least INR 300 crores as on March 31, 2022; in each case at the consortium level.
4. In case the consortium is a combination of body corporates/individuals and FIs/PE/NBFCs, either:
 - a. The lead member of the consortium satisfies the eligibility criteria as mentioned above for body corporates/individuals or FIs/PE/NBFCs as applicable

OR

- b. Each of the individual members satisfies the eligibility criteria mentioned for body corporates/individuals or FI/PE/NBFCs as applicable; in each case on a weighted average basis.

Weighted Average: [(% holding of member 1 x AUM/Net worth/Committed funds of member 1) + (% holding of member 2 x AUM/Net worth/Committed funds of member 2) + ... member n]

Net Worth shall be computed as aggregate value of paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, and does not include capital reserves including reserves created out of revaluation of assets, write back of depreciation and amalgamation.

Where the EOI is being submitted by a Consortium, please note the following:

- i. The EOI, along with all undertakings submitted pursuant to this Invitation to EOI shall be signed by each member of the Consortium;
- ii. A person cannot be part of more than 1 (one) Consortium submitting the EOI for the Corporate Debtor. Further, a person shall submit only 1 (one) EOI, either individually as a PRA or as a constituent of a Consortium;
- iii. The Consortium shall submit the copy of consortium agreement/memorandum of understanding, if any, entered-into between the Consortium members, setting out the respective obligations of the Consortium members;
- iv. The Consortium would be required to have a lead consortium member identified upfront which shall be the entity with the single largest equity participation in the Consortium and should have the authority to bind, represent and take decisions on behalf of the Consortium. In case more than one member have the largest participation in the Consortium, a lead member would be identified from amongst them at the time of submission of EOI by the Consortium. Such lead member shall be the single point of contact on behalf of the Consortium with the Resolution Professional and the CoC, their representative and advisors in connection with all matters pertaining to the Consortium;
- v. All the members of the Consortium shall be jointly and severally responsible for compliance with the terms of the invitation for submission of EOI, the request for resolution plan and the resolution plan submitted by the Consortium;
- vi. If any 1 (one) member of the Consortium is disqualified under Section 29A of the IBC, then the entire Consortium; i.e., all the members of such Consortium shall stand disqualified;
- vii. The EOI must contain the details of the members of the Consortium; following details may be provided: (i) Name of the member (ii) Type of entity (iii) % of share in the Consortium/joint Venture (iv) Nominated as Lead (Y/N);

- viii. No change in the composition of the Consortium shall be permitted after submission of the EOI, except with the prior approval of the CoC;
- ix. At least one of the members must hold 26% of total equity participation in the consortium who shall subject to point (iv) above, be designated as the lead member. Further, all other members would need to have a minimum stake of 10% each; and
- x. Incorporation of an Indian limited company shall be mandatory to enter into definitive agreements post submission and approval of resolution plan, in such manner as may be determined by the CoC.

Disqualification under Section 29A of the IBC

The PRAs must be fit and proper persons, should not suffer any legal disability to submit the EOI and the resolution plan, under applicable laws. The PRAs must not be ineligible under Section 29A of the IBC (as amended from time to time).

In case of a Consortium submitting the EOI, each member of the Consortium shall be required to demonstrate that they are not ineligible under Section 29A of IBC. If any 1(one) member of the Consortium is disqualified under Section 29A of the IBC, then the entire Consortium i.e., all the members of such Consortium shall stand disqualified.

Following are the ineligibility norms as per Section 29A of the IBC, as applicable on the date of issuance of invitation to submit expression of interest for the Corporate Debtor:

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 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 the ineligibility under para (c) herein, shall not apply to a resolution applicant where such applicant is a financial entity and is not a related party to the Corporate Debtor¹.

d. Has been convicted for any offence punishable with imprisonment –

- (i) For two years or more under any Act specified under the Twelfth Schedule of the IBC
- (ii) For seven years or more under any law for the time being in force:

Provided that the aforementioned point (d) 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 aforementioned point (d) shall not apply in relation to a connected person referred to in clause (iii) of *Explanation I* of Section 29A(j) of the IBC.

e. Is disqualified to act as a director under the Companies Act, 2013

Provided further that aforementioned point (e) shall not apply in relation to a connected person referred to in clause (iii) of *Explanation I* of Section 29A(j) of the IBC.

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 the IBC:

Provided that the aforesaid point (g) 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 the IBC 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 the IBC and such guarantee has been invoked by the creditor and remains unpaid in full or part

¹ 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 of the Corporate Debtor.

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 the IBC, 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 the Code.

- i. Is subject to any disability, corresponding to points (a) to (h), under any law in a jurisdiction outside India; or
- j. Has a connected person (*as defined in Section 29A of the IBC*) not eligible under aforementioned points (a) to (i).

Explanation I. — For the purposes of the aforementioned clause (j), 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 6 [or completion of such transactions as may be prescribed], 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:

- (i) A scheduled bank
- (ii) 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 Organisation of Securities Commissions Multilateral Memorandum of Understanding
- (iii) 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)
- (iv) 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)
- (v) An Alternate Investment Fund registered with Securities and Exchange Board of India
- (vi) Such categories of persons as may be notified by the Central Government.

Note: The aforementioned ineligibility criteria is set out based on the Section 29A of the IBC as applicable on the date of issuance of the invitation for expression of interest and are subject to changes pursuant to the amendments in the IBC from time to time. The prospective resolution applicants are required to stay updated on IBC, and the amendments thereto from time to time and any modifications to the ineligibility

norms set out under Section 29A of IBC shall also apply to this invitation, without the requirement of any further communication to be issued to the prospective resolution applicants. In any case the aforesaid ineligibility criteria are there for illustrative purposes only and may not be exhaustive of the law and the PRAs should read and rely upon the actual text of section 29A as provided in the IBC.

The PRA is required to submit an undertaking with regard to the above in the format as set out in Annexure – III.

The fulfilment of eligibility criteria in the EOI does not automatically entitle an PRA to participate in CIRP and such participation will be subject to applicable laws and further conditions stipulated by RP or COC, in their sole discretion, including those in relation to access to VDR or as may be stipulated under the request for resolution plan document.

The CoC and/or the RP shall have the right, in their sole discretion to reject any and all proposed EOIs and/or the resolution plan made by or on behalf of any PRA or any part thereof, and/or to suspend/cancel/terminate the process for submission of resolution plan including invitation/submission of EOI, submission of resolution plan, evaluation of resolution plan and/or amend and/or supplement the process for submission of resolution plan, all without notice, without assigning any reason, and without any liability whatsoever.

In the event the original financials of the PRA or any commitment or AUM are drawn in a currency other than Indian Rupees (INR) then Reserve Bank of India reference rate as on the date of this IEOI (i.e., June 23, 2022) shall be used for conversion into Indian Rupees. If rate for that date is unavailable, immediately preceding available rate shall be considered. Such rate of conversion must be mentioned.

Earnest Money Deposit:

Each PRA is required to provide a non-interest-bearing refundable deposit of INR 5,00,00,000/- (INR Five Crore only) ("**Earnest Money Deposit**", "**EMD**") along with the EOI by way of Demand Draft/NEFT/RTGS in the following account:

Bank Name	Indian Bank
Account Name	Karaikal Port Private Limited
Branch Address	Harbour Branch, Chennai
Account Number	C/A714477971
IFSC	IDIB000H003

The EMD shall be refunded (without interest and less any taxes) within 30 days of the following:

- (i) Rejection of EOI of such PRA and/or non-inclusion of the PRA in the final list of eligible PRAs
- (ii) Withdrawal of the PRA from the resolution plan process (where such withdrawal is notified to the Resolution Professional in writing)
- (iii) PRA failing to submit the EOI or the resolution plan by the respective due dates
- (iv) The PRA submitting a Resolution Plan in accordance with the Request for Resolution Plan along with any earnest money or other deposits or guarantees as required therein.

The EMD shall be forfeited at any time, upon the occurrence of any of the following events:

- (i) In case the Prospective Resolution Applicant is found to have made any misrepresentation or provided wrong information to the Resolution Professional or the members of the committee of creditors; or
- (ii) If the Prospective Resolution Applicant is found to be ineligible to submit the Resolution Plan as per the conditions set out in Section 29A of the IBC (as amended from time to time) or is found to have made a false or misleading declaration of eligibility as per the conditions set out in Section 29A of the IBC (as amended from time to time).

It is clarified that any such forfeiture of the Earnest Money Deposit shall not limit any rights or remedies that the Resolution Professional or CoC may have under applicable law or otherwise, against the PRA.

Submission of EoI:

It would be mandatory for prospective resolution applicants to submit the EOI through email on or before July 8, 2022 by 1800 hours IST at inkpplip@deloitte.com. The EOIs received after the time specified above shall be rejected, provided that the Resolution Professional may extend the last date for submission of EOI with the prior approval of CoC. For any details contact at inkpplip@deloitte.com.

The EoI should be unconditional and should be submitted along with the following documents/information, as applicable:

- a. Undertakings in the formats as set out in Annexure II, Annexure III and Annexure IV by the prospective resolution applicants;
- b. all relevant records and information in evidence of meeting the criteria and to enable an assessment of ineligibility under the Undertakings as set out under Annexure II and Annexure III;
- c. Other evidences to establish the credentials of the prospective resolution applicants including but not limited to audited financial statements and/or certificate by auditors/practicing chartered accountants confirming that the PRA satisfied the eligibility criteria as provided in this invitation for EOI, proof of address, copy of PAN card, GST number or equivalent documents and company profile of the PRA including details of key managerial personnel/promoters and promoter group/board of directors/parent company/ultimate parent company and rationale for bidding for the Corporate Debtor;
- d. Any additional document/information/clarification asked by the Resolution Professional or CoC, in their sole discretion must be furnished by the PRA.

In case of a consortium, the relevant documents will need to be provided by each member of the Consortium.

For the purposes of demonstrating the satisfaction of the eligibility criteria as per the terms of this Invitation of EOI, financial strength of the Ultimate Parent/Parent/Affiliate of the PRA can be used. Provided that such PRA may prove its eligibility at Ultimate Parent/Parent/Affiliate's level only if such Ultimate Parent/Parent/Affiliate has provided a board resolution or similar authorization to the satisfaction of the RP and CoC, agreeing for use of its credentials to evidence eligibility of such PRA.

The following terms shall have the meaning as provided hereunder:

“Affiliate” with respect to any person means any other person which, directly or indirectly:

- (i) Controls such person; or
- (ii) Is Controlled by such person; or
- (iii) Is Controlled by the same person who, directly or indirectly Controls such person.

“Control” has the meaning ascribed to the term under Section 2(27) of the Companies Act 2013 and the term **“Controlled”** shall be construed accordingly.

“Parent” means a company which Controls the Applicant, either directly or indirectly.

“Ultimate Parent” means a person which Controls, either directly or indirectly the Parent Company of the Resolution Applicant.

Important Notes:

1. The eligibility criteria specified in this invitation for EOI for the Corporate Debtor may be amended or changed at any stage at the discretion of CoC.
2. The RP and CoC reserve the right to issue clarifications, amendments, and modification to the invitation to EOI document (including the timelines), to waive or relax any term or condition or its application in any case, without assigning any reason whatsoever and without any liability whatsoever.
3. This is not an offer document and is issued with no commitment.
4. No oral conversations or agreements with the Resolution Professional or any official, agent or employee of the Resolution Professional, or any member of the CoC, or any official, agent or employee of the Corporate Debtor shall affect or modify any terms of this invitation for EOI.
5. Neither the PRA nor any of representatives of the PRA shall have any claims whatsoever against the Resolution Professional or its advisors or any member of the CoC or its advisors or any of their respective directors, officials, agents or employees arising out of or relating to this invitation for EOI.
6. By submitting a proposal, each applicant shall be deemed to acknowledge that it has carefully read and understood the IBC and the entire invitation for EOI and has fully informed itself as to all existing conditions and limitations.
7. The PRA acknowledges that any investment in/acquisition of the Corporate Debtor pursuant its resolution plan for the Corporate Debtor shall be made by the PRA on an “as in, where is” basis and neither the Resolution Professional nor the CoC be responsible for providing any representations or warranties for or on behalf of the Corporate Debtor.
8. The Resolution Professional/CoC reserve the right to cancel or modify the process and/or reject/disqualify any interested party/bid/offer at any stage of the CIRP without assigning any reason and without any liability whatsoever.

The information contained in this EOI is merely for reference purposes, and no representation or warranty is provided by the Resolution Professional or the members of the CoC in relation to the authenticity or adequacy of the information relating to the Corporate Debtor as contained in this EOI. PRA is required to conduct its own due diligence on the Corporate Debtor. By submitting an EOI, the PRA shall be deemed to have unconditionally waived any claim against the Resolution Professional or any person acting on its behalf or the Corporate Debtor or Committee of Creditors or any member thereof in relation to any information provided in this EOI.

Further detailed information about the process, access to the Information Memorandum, Virtual Data Room and Request for Resolution Plan, will be provided to the shortlisted Prospective Resolution Applicants who are determined to be eligible as per the aforementioned eligibility criteria and upon the submission of the documents, as required to be submitted with the expression of interest.

PRAs should regularly visit website <https://karaikalport.com/> to keep themselves updated regarding clarifications, amendments, or extensions of time, if any.

Sd/-

Rajesh Sureshchandra Sheth

Insolvency Professional – Regn. No.: IBBI/IPA-002/IP-NO1021/2020-2021/13298
Resolution Professional for Karaikal Port Private Limited

Registered Address:

B-55, Shatdal Society, 7th Floor,
Azad Lane, Off S.V. Road, Andheri West,
Near Shoppers Stop, Mumbai City,
Maharashtra, 400058
Email id – rajeshshethsbi@gmail.com

Communication Address:

Deloitte India Insolvency Professionals LLP,
27th-32nd Floor, Tower 3, One International Center,
Elphinstone Mill Compound, Senapati Bapat Marg,
Elphinstone Road (W), Mumbai - 400013
Communication Email: inkpplip@deloitte.com

June 23, 2022
Mumbai

Annexure I

FORMAT OF EXPRESSION OF INTEREST

[On the letterhead of the Lead Member/Prospective Resolution Applicant submitting the EOI]

Date: [●]

To,

Rajesh Sureshchandra Sheth

(IBBI Registration Number: IBBI/IPA-002/IP-NO1021/2020-2021/13298)

Address for Correspondence: [●]

Email ID for all correspondence: [●]

Subject: Expression of Interest (“EOI”) for submitting Resolution Plan for Karaikal Port Private Limited (“Corporate Debtor”) undergoing Corporate Insolvency Resolution Process (“CIRP”).

Dear Sir,

In response to the invitation for submission of expression of interest dated [●], 2022 (“IEOI”) inviting expression of interest (“EOI”) for submission of resolution plans (“**Resolution Plan**”) for the Corporate Debtor as per the provisions of the Insolvency and Bankruptcy Code, 2016, as amended (“**IBC**”), we confirm that we have understood the eligibility and other criteria mentioned in the IEOI and meet the necessary threshold and criteria mentioned therein and are submitting our EOI for submission of a Resolution Plan for the Corporate Debtor.

[We are submitting the EOI as a Consortium. The following are the constituents of the Consortium:

Sr. No.	Name of Consortium Member	Type of Entity

[●] is the Lead Member of the Consortium.]²

We understand and confirm that

- i. the EOI will be evaluated by the Resolution Professional of the Corporate Debtor based on the information provided by us in this EOI and attached documents to determine whether we qualify to submit the Resolution Plan for the Company;
- ii. the Resolution Professional reserves the right to determine at his sole discretion, whether or not we qualify for the submission of the Resolution Plan for the Corporate Debtor and may reject the

² Note: To be retained only in case of EOI being submitted by a Consortium.

- EOI submitted by us without assigning any reason whatsoever and not include us in the provisional or final list of eligible PRAs;
- iii. the Resolution Professional reserves the right to conduct due diligence on us and/or request for additional documents, information or clarification from us for the purposes of the EOI and we shall promptly comply with such requirements. Failure to satisfy the queries of Resolution Professional or CoC may lead to rejection of our EOI;
 - iv. the information provided by us in this EOI is true, correct and accurate to the best of our knowledge;
 - v. meeting the qualification criteria set out in IEOI alone does not automatically entitle us to participate in the next stage of the bid process; and
 - vi. along with our EOI, we have also enclosed information/documents as required in the IEOI.

Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the IEOI.

For further information/ queries, please contact:

[●]

Yours Sincerely,

On behalf of [Insert name of entity submitting EOI]

Signature:

Name of Signatory:

Designation:

Company Seal/Stamp

Note: The person signing the EOI, and other supporting documents should be authorized signatory supported by necessary board resolutions/authorization letter. Copy of such board resolution/authorization letter to be enclosed.

ANNEXURE II

UNDERTAKING

This is in relation to the ongoing corporate insolvency resolution process of Karaikal Port Private Limited (“**Corporate Debtor**”) in terms of the Insolvency and Bankruptcy Code, 2016 (“**Code**”). In terms of Section 25(2)(h) of the Code and Regulation 36A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the Resolution Professional of the Corporate Debtor (“**RP**”) has issued an invitation for expression of interest dated [_____] for inviting expressions of interest from prospective resolution applicants (“**Invitation**”). One of the requirements of the Invitation is that the prospective resolution applicants are required to submit the undertakings contained herein at the time of submission of the expression of interest.

In furtherance of the foregoing, I, [*name of the chairman/managing director/director/authorized person of prospective resolution applicant*], son of [_____] , aged about [_____] years, currently residing at [*Address to be inserted*] and having Aadhaar / Passport number [_____] , on behalf of [*name of the prospective resolution applicant*] having registered office at [_____] (“**Applicant**”, a term which also includes any person acting jointly or in concert with the Applicant) [pursuant to authorization of the Board of the Applicant dated [_____] (as enclosed herewith)]³, do hereby undertake and confirm to the committee of creditors (“**CoC**”) of the Corporate Debtor and the RP as follows:

- (a) the Applicant meets the eligibility criteria specified in the Invitation and that it shall provide all documents, representations and information as may be required by the RP or the CoC to substantiate to the satisfaction of the RP and the CoC that the Applicant is eligible in terms of the eligibility criteria set out in the Invitation and is also eligible under the Code and the rules and regulations thereunder to submit an expression of interest in respect of the Corporate Debtor;
- (b) the Applicant shall provide relevant information and records to enable an assessment of ineligibility in terms of the Code and that it shall intimate the Resolution Professional forthwith if it becomes ineligible at any time during the corporate insolvency resolution process;
- (c) the Applicant, including each member of the Consortium, in the event the EOI is being submitted by a Consortium, are eligible to invest in the Corporate Debtor and, in the case of a Consortium, eligible to be a part of the Consortium, in terms of applicable law including guidelines/directions issued by various regulatory bodies, as applicable; and
- (d) 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 for the Corporate Debtor, forfeit any refundable deposit, and attract penal action under the Code.

This undertaking shall be governed in accordance with the laws of India and the Hon’ble NCLT, Chennai bench shall have the exclusive jurisdiction over any dispute arising under this undertaking.

³ To be retained only for body corporates

Signed and Delivered by

[Insert name of Prospective Resolution Applicant]

(Name and Designation)
Authorized Signatory

Date:

Notes:

1. To be executed on a stamp paper of adequate amount, in the state where this document is executed.
2. Foreign companies submitting EOI are required to ensure that the documents submitted as part of the expression of interest are appropriately apostilled, and stamp duty is paid in India before submission to the Resolution Professional.
3. In case of submission of EOI by a consortium, the undertaking set out above is to be provided by each of the members of the consortium.
4. Each page of the undertaking is required to be signed by the prospective resolution applicant at the bottom of the page and on the execution page, the deponent must affix his/her full signature and additionally affix the rubber stamp seal (if any) of the prospective resolution applicant.

ANNEXURE III

SECTION 29A UNDERTAKING

This is in relation to the corporate insolvency resolution process of Karaikal Port Private Limited (“**Corporate Debtor**”) in terms of the provisions of Insolvency and Bankruptcy Code, 2016 (“**Code**”).

I, [name of the chairman/managing director/director/authorized person of prospective resolution applicant], son of [____], aged about [____] years, currently residing at [Address to be inserted] and having Aadhaar / Passport number [____], on behalf of [name of the prospective resolution applicant] having registered office at [____] (“**Applicant**”) pursuant to authorization of the Board of the Applicant dated [____] (as enclosed herewith), do solemnly affirm and state to the committee of creditors (“**CoC**”) of Karaikal Port Private Limited and the Resolution Professional of Corporate Debtor (“**RP**”) as follows:

1. That I am duly authorized and competent to make and affirm the instant undertaking for and on behalf of the Applicant in terms of [resolution of its board of directors/ power of attorney dated [____]]. I hereby unconditionally state, submit and confirm that the document is true, valid, and genuine.
2. I hereby unconditionally state, submit and confirm that the Applicant is not disqualified from submitting an expression of interest in respect of the Corporate Debtor, pursuant to the provisions of the Insolvency and Bankruptcy Code, 2016.
3. I hereby state, submit and declare that neither the (i) Applicant nor (ii) any person acting jointly or in concert with the Applicant nor (iii) any person who is a connected person (as defined under the provisions of the Code) of (a) the Applicant or (b) any person acting jointly or in concert with the Applicant:
 - (a) is an undischarged insolvent;
 - (b) is a willful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949;
 - (c) is at the time of submission of the resolution plan a person who, (i) has an account which has been classified as non-performing asset in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 or the guidelines of a financial sector regulator issued under any other law for the time being in force, or (ii) controls or manages or is the promoter of a corporate debtor whose account has been, classified as non-performing asset in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 or the guidelines of a financial sector regulator issued under any other law for the time being in force; and such classification has continued for a period of one year or more from the date of such classification till the date of commencement of the corporate insolvency resolution process of the Corporate Debtor and all such overdue amounts along with interest, costs

and charges thereon has not been fully repaid at the time of submission of resolution plan⁴.

- (d) has been convicted for any offence punishable with imprisonment –
 - (i) for two years or more under any statute specified under the Twelfth Schedule of the Code and two years have not passed from the date of release from such imprisonment; or
 - (ii) for seven years or more under any law for the time being in force and two years have not passed from the date of release from such imprisonment.

Provided further that aforementioned point (d) shall not apply in relation to a connected person referred to in clause (iii) of Explanation I of Section 29A.

- (e) has been disqualified to act as a director under Companies Act, 2013;

provided further that this point (e) shall not apply in relation to a connected person referred to in clause (iii) of Explanation I of Section 29A;

- (f) is prohibited from trading in securities or accessing the securities markets;
- (g) has been a promoter or in the management of or control of a corporate debtor in which any preferential transaction or undervalued transaction or extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been made by the Hon'ble National Company Law Tribunal (or its appellate tribunal / court) under the Code (other than a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction which has taken place prior to the acquisition of the corporate debtor by the Applicant pursuant to a resolution plan approved under the Code or pursuant to a scheme or plan approved by a financial sector regulator or a court, and the 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 the Code where such guarantee has been invoked by the creditor and remains unpaid in full or part; and
- (i) is subject to any of the aforesaid conditions under any law in a jurisdiction outside India.

⁴ In the event:

- (1) the Applicant is a financial entity and is not a related party to the Corporate Debtor; or
- (2) the Applicant has an account, or is in management or control or is the promoter of a corporate debtor that has an account, classified as non-performing asset and such account was acquired pursuant to a prior resolution plan approved under the Code, and a period of three years has not elapsed since from the date of approval of such resolution plan by the Adjudicating Authority (as defined under the Code),

the following clause shall be substituted as para (c) herein:

"is at the time of submission of the resolution plan a person who is exempted under Explanation I and II of Section 29A (c) of the Code".

- (j) has a connected person⁵ not eligible under the abovementioned clauses (a) to (i).
4. [That the Applicant is a financial entity (as defined under Section 29A of the Code) in terms of [insert details of certificate of registration as financial entity or other relevant document] issued by [insert detail of regulator] valid up till [insert details], and is not a related party to the Corporate Debtor]⁶
 5. That the Applicant unconditionally and irrevocably represents, warrants and confirms that it is eligible under the terms and provisions of the Code and the rules and regulations thereunder to submit an expression of interest and the resolution plan for the Corporate Debtor, and that it shall provide all documents, representations and information as may be required by the RP or the CoC to substantiate to the satisfaction of the RP and the CoC that the Applicant is eligible under the Code and the rules and regulations thereunder to submit an expression of interest in respect of the Corporate Debtor.
 6. That the Applicant unconditionally and irrevocably undertakes that it shall provide all data, documents and information as may be required to verify the statements made under this undertaking.
 7. That the Applicant understands that the CoC and the RP may evaluate the expression of interest to be submitted by the Applicant or any other person acting jointly with it and such evaluation shall be on the basis of the confirmations, representations and warranties provided by the Applicant under this undertaking.
 8. That the Applicant agrees that each member of the CoC and the RP are entitled to rely on the statements and affirmations made in this undertaking for the purposes of determining the eligibility and assessing, agreeing, and approving the expression of interest submitted by the Applicant.
 9. That in the event any of the above statements are found to be untrue or incorrect, then the Applicant unconditionally agrees to indemnify and hold harmless the RP and each member of the CoC against any losses, claims or damages incurred by the RP and/or the members of the CoC on account of such ineligibility of the Applicant.
 10. That in the event any of the above statements are found to be untrue or incorrect, then the Applicant unconditionally agrees that the same shall render the Applicant ineligible to submit resolution plan for the Corporate Debtor, apart from any other action under applicable laws.
 11. That the Applicant agrees and undertakes to disclose/inform forthwith, to the RP and the members of the CoC, if the Applicant becomes aware of any change in factual information in relation to it or its connected person (as defined under the Code) which would make it ineligible under any of the provisions of Section 29A of the Code at any stage of the corporate insolvency

⁵ The meaning of “connected person” is as provided under Section 29A (j).

⁶ To be inserted in case Applicant is a ‘Financial Entity’ as defined under Section 29A of the Code. In that case, the Applicant is required to provide relevant records and registrations as per the requirements of definition of ‘Financial Entity’ under Section 29A of the Code, evidencing that the Applicant is a ‘Financial Entity’

resolution process of the Corporate Debtor, after the submission of this undertaking.

12. That this undertaking shall be governed in accordance with the laws of India and the Hon'ble NCLT, Chennai bench shall have the exclusive jurisdiction over any dispute arising under this undertaking.

Signed and Delivered by

Name:

Date:

VERIFICATION

I, the Deponent hereinabove [on behalf of [name of the Applicant]], do hereby verify and affirm that the contents of paragraph ____ to ____ of this affidavit are true and correct to my knowledge and belief and no material facts have been concealed therefrom.

Verified at [] on this [], 2022.

Deponent's signature

Notes:

1. To be executed on a stamp paper of adequate amount, in the state where this document is executed. To also be notarized.
2. Foreign companies submitting EOI are required to ensure that the documents submitted as part of the expression of interest are appropriately apostilled, and stamp duty is paid in India before submission to the Resolution Professional.
3. In case of submission of EOI by a consortium, the undertaking set out above is to be provided by each of the members of the consortium.
4. The execution of this affidavit must be authorized by a duly passed resolution of the board of directors of the prospective resolution applicant.
5. Each page of the undertaking is required to be signed by the prospective resolution applicant at the bottom of the page and on the execution page, the deponent must affix his/her full signature and additionally affix the rubber stamp seal (if any) of the prospective resolution applicant.

ANNEXURE IV

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. Rajesh Sureshchandra Sheth , an insolvency professional having registration no. IBBI/IPA-002/IP-NO1021/2020-2021/13298, on _____ day of _____, 2022 (hereinafter referred to as "**Resolution Professional**" or "**RP**").

WHEREAS Karaikal Port Private Limited, a company registered under Companies, Act, 1956 (thereafter referred as "**Corporate Debtor**") is under corporate insolvency resolution process vide National Company Law Tribunal, Chennai Bench ("**NCLT**") order dated April 29, 2022.

WHEREAS the Resolution Professional is preparing 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 in relation to the Corporate Debtor (as defined in Section 29 of the Code) with a prospective resolution applicant after receiving an undertaking from the prospective resolution applicant to the effect that the prospective resolution applicant shall maintain confidentiality of the information contained in the Information Memorandum and any other information shared with such prospective 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 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 and any other relevant information (as defined in Section 29 of the Code), through oral, electronic or written communication or through any mode (including on a data room), 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:

- i. the Confidential Information shall be kept confidential by the Resolution Applicant and shall be used solely as allowed under the Code;
- ii. 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;
- iii. 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;
- iv. the Resolution Applicant shall protect any intellectual property of the Corporate Debtor which it may have access to;
- v. the Confidential Information may only be disclosed to and shared by the Resolution Applicant with officers, directors, employees, or advisors of the Resolution Applicant, or, upon prior intimation to the Resolution Professional, with identified co-investors ("**Representative**"), 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 Representative, 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 any Representative to whom the Resolution Applicant shares the Confidential Information in accordance with this confidentiality undertaking;
- vi. 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;
- vii. the Resolution Applicant shall immediately destroy and permanently erase all Confidential Information within 30 days upon being notified to do so by the Resolution Professional or the Corporate Debtor or the liquidator;
- viii. 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
- ix. the Resolution Applicant shall be responsible for any breach of obligations under this confidentiality undertaking (including any breach of confidentiality obligations by any Representative) and shall indemnify and hold harmless the Resolution Professional and members of Committee of Creditors for any loss, damages and costs incurred by the

Resolution Professional due to such breach of obligations by the Resolution Applicant (or any Representative) 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:
 - i. 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;
 - ii. 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;
 - iii. 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;
 - iv. information that is received by the Resolution Applicant from a third party which is not in breach of its confidentiality obligations in relation to such information; and
 - v. 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 or the guidelines of the regulatory/administrative 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. 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, guideline 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 or Committee of Creditors or any member thereof in relation to any Confidential Information.
5. Nothing in this confidentiality undertaking shall have the effect of limiting or restricting any liability of the Resolution Applicant or Representative arising as a result of fraud or willful default.
6. Damages may not be an adequate remedy for a breach of this confidentiality undertaking by the Resolution Applicant or Representative 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 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 Hon'ble NCLT, Chennai bench 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 authorizing the execution of the undertaking.

Signed on behalf of

(Name of Resolution Applicant)

By _____

(Name and Designation)

Authorised Signatory

Notes:

1. To be executed on a stamp paper of adequate amount, in the state where this document is executed. Also to be notarized.
2. Foreign companies submitting EOI are required to ensure that the documents submitted as part of the expression of interest are appropriately apostilled, and stamp duty is paid in India before submission to the Resolution Professional.
3. In case of submission of EOI by a consortium, the undertaking set out above is to be provided by each of the members of the consortium.
4. The execution of this affidavit must be authorized by a duly passed resolution of the board of directors of the prospective resolution applicant.
5. Each page of the undertaking is required to be signed by the prospective resolution applicant at the bottom of the page and on the execution page, the deponent must affix his/her full signature and additionally affix the rubber stamp seal (if any) of the prospective resolution applicant.