

CONFIDENTIALITY AND NON-CIRCUMVENTION AGREEMENT

This Agreement made on _____

Between

CMA GEORGE SAMUEL, Insolvency Resolution Professional (hereinafter referred to as **GEORGE SAMUEL** or **DISCLOSING PARTY**) having place of business at 9B, Vardan Tower, Nr. Vimal House, Lakhudi Circle, Ahmedabad – 380014 represented by **Mr. GEORGE SAMUEL**.

And

_____ (Though _____) (hereinafter referred to as _____ or **RECEIVING PARTY** having its place of business at _____)

The terms "GEORGE SAMUEL" and " _____ " shall include each Party's Partners, Associates and their respective Officers, and Employees ("affiliates"), and the rights and obligations of the parties hereto therefore also shall insure to such Affiliates and may be enforced directly by or against such Affiliates. As an express condition to each party disclosing Confidential Information to the other party and in consideration of the mutual promises and covenants herein, the parties agree as follows:

WHEREAS

- A. George Samuel has been appointed as Resolution Professional for M/s A&I Hospitality Pvt. Limited (“Company”) and is presently carrying out Corporate Insolvency Resolution Process of the Corporate Debtor. As per the requirement of Insolvency and Bankruptcy Code 2016 (IBC), he has prepared the Information Memorandum for the Company.
- B. _____, the proposed Resolution Applicant for submission of resolution plan and has accordingly requested George Samuel to share information memorandum.
- C. George Samuel in terms of the IBC code and regulations made thereunder has requested to enter into Confidentiality Agreement to enable him to share the information memorandum.

Accordingly, the Parties have agreed as under:

"Confidential Information" in this Agreement means all information and any idea in whatever form, tangible or intangible, whether disclosed to or learned by the Receiving Party, pertaining in any manner to the business of the Company disclosed by Disclosing

Party, whether in written, oral, encoded, graphic, magnetic, electronic or in any other tangible or intangible form, and whether or not labeled as Confidential by the Disclosing Party or otherwise provided by the Disclosing Party. "Confidential Information" includes, without limitation, the following: (a) Schematics, Techniques, Employee Suggestions, Development tools and Processes, Computer Printouts, Computer Programs, Design, Drawings and Manuals, and Improvements; (b) Information about Costs, Profits, Markets and Sales; (c) Plans for future development and new product concepts; and (d) All Documents, Books, Papers, Drawings, Models, Sketches, and other data of any kind and description, including electronic data recorded or retrieved by any means, that have been or will be given to the Receiving Party by the Disclosing Party, as well as written or verbal instructions or comments.

NON-DISCLOSURE: The party receiving Confidential Information (the "Receiving Party") shall hold all Confidential Information in strict confidence and shall not disclose any Confidential Information to any third party, without the prior written approval of the Disclosing Party. The Receiving Party shall disclose Confidential Information only to employees who need to know such information to evaluate the possible business transaction with the party disclosing such Confidential Information (the "Disclosing Party"), and who have signed agreements that obligate them to treat Confidential Information as required under this Agreement.

The Receiving Party shall take all reasonable measures to protect the confidentiality and avoid the unauthorized use, disclosure, publication or dissemination of Confidential Information; provided, however, that such measures shall be no less stringent than measures taken to protect its own Confidential and Proprietary Information. Each party agrees that it will not interfere with or circumvent any business of the other party through the use of any Confidential Information acquired hereunder nor use any Confidential Information for its own account.

LIQUIDATION VALUE:

As per Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Fourth Amendment) Regulations, 2017, Resolution professional shall not disclose the Liquidation Value of the Corporate Debtor to anyone except members of Committee of Creditors. The Receiving party shall not ask at any point of time to resolution professional to provide the liquidation value of the Corporate Debtor. Liquidation Value is confidential information and is not to be shared by Resolution Professional.

NO OBLIGATION OF CONFIDENTIALITY: The obligation of confidentiality shall not apply with respect to any particular portion of information if:

- (a) It is in the public domain at the time of the Disclosing Party's communication thereof to the Receiving Party; or

- (b) It is entered in the public domain through no fault of the Receiving Party subsequent to the time of the Disclosing Party's communication thereof to the Receiving Party; or
- (c) It was in the Receiving Party's possession, free of any obligation of confidence, at the time of the Disclosing Party's communication thereof to the Receiving Party; or
- (d) It was rightfully communicated to the Receiving Party free of any obligation of confidence subsequent to the time of the Disclosing Party's communication thereof to the Receiving Party; or
- (e) Such information was developed by employees or agents of the Receiving Party, independently of and without reference to the information and the Receiving Party has evidence of such independent development.

RETURN OF INFORMATION: Within ten (10) business days following either a request from the Disclosing Party or the completion of business dealings between the parties hereto, the Receiving Party will deliver to the Disclosing Party all tangible copies of the Confidential Information, including but not limited to magnetic or electronic media containing the Confidential Information, note(s) and paper(s) in whatever form containing the Confidential Information or parts thereof, and any copies of the Confidential Information in whatever form. The Disclosing Party, at its sole option, may request in writing that the Receiving Party destroy all copies of the Confidential Information. If the Disclosing Party requests that such Confidential Information be destroyed, the Receiving Party will destroy the Confidential Information and, within fifteen (15) business days of the notice from the Disclosing Party to destroy the Confidential Information, will certify in writing to the Disclosing Party that the Confidential Information has been completely destroyed.

USE OF INFORMATION BY RECIPIENT: The Receiving Party agrees to use the Confidential Information only for the purposes of evaluating the possibility of a future collaboration between the parties and in connection with such future collaboration, if any.

The Receiving Party agrees to restrict disclosure of the Confidential Information solely to its employees and agents who have a need to know such Confidential Information and to advise such persons of their obligations of confidentiality and non-disclosure hereunder. Further, the Receiving Party shall not disclose the confidential Information to third parties, including independent contractors or consultants, without the prior express written consent of the Disclosing Party, and shall advise such third parties of their obligations of confidentiality and non-disclosure hereunder. The Receiving Party agrees to use reasonable means, not less than those used to protect its own proprietary information, to safeguard the Confidential Information.

OWNERSHIP OF INFORMATION: Each of the parties hereto retains title to its respective Confidential Information and all copies thereof. The Receiving Party hereby acknowledges that the Confidential Information is proprietary to the Disclosing Party.

Further, each party represents that it has no agreement with any other party that would preclude its compliance with this Agreement.

REMEDIES: The Receiving Party agrees that the unauthorized disclosure or use of Confidential Information will cause irreparable harm and significant injury, which may be difficult to ascertain. The Receiving Party recognizes that its violation of this Agreement could cause the Disclosing Party irreparable harm and significant injury, the amount of which may be extremely difficult to estimate, thus, making any remedy at law or in damages inadequate. Therefore, the Receiving Party agrees that the Disclosing Party may have the right to apply to any court of competent jurisdiction for an order restraining any breach or threatened breach of this Agreement and for any other relief the Disclosing Party deems appropriate. This right may be in addition to any other remedy available to the Disclosing Party in law or equity.

VALIDITY: This Agreement shall expire one (1) year from the date hereof unless extended by mutual written consent of the Parties.

The Receiving Party will not engage in any direct or indirect communication with the client of Disclosing Party without the knowledge of the Disclosing Party. If the Receiving Party engages in any direct or indirect communication with the client of Disclosing Party during the tenor of this Agreement without the knowledge of the Disclosing Party, it will be treated as material breach of Agreement by the Receiving Party. The Receiving Party will be liable to pay damages to the Disclosing Party.

This right may be in addition to any other remedy available to the Disclosing Party in law or equity.

SURVIVAL: Each party's duty of confidentiality under this Agreement regarding the Confidential Information shall survive the termination of this Agreement.

GENERAL: This Agreement shall be binding upon and for the benefit of the parties and their respective successors and assigns. Failure to enforce any provision of this Agreement shall not constitute a waiver of any term hereof. This Agreement supersedes and replaces any existing agreement entered into by the parties relating generally to the same subject matter, and may be modified only in writing signed by the parties.

This Agreement contains the entire agreement between the parties with respect to the subject matter hereof, and shall be governed by the laws of India. This Agreement may be executed in separate counterparts, each of which shall be an original, but all of which taken together shall constitute one and the same instrument.

Any dispute, controversy or claim arising out of or relating to this letter shall be referred to and finally resolved by arbitration in accordance with the UNCITRAL Arbitration Rules for the time being in force amended as follows: the place of arbitration shall be Ahmedabad, India. There shall be one arbitrator; the language of the arbitration shall be English. The parties undertake to be bound by and implement the arbitration award. This letter and the terms shall be governed by and construed in accordance with the laws of India. However before going for arbitration, both the parties will need to make all reasonable efforts to settle the matter amicably between themselves.

This Agreement constitutes the entire Agreement between George Samuel and _____ . Any modification shall be in writing and signed by both parties.

The Agreement may be executed in counterparts. This Agreement, and its terms and provisions, shall be binding upon, and inure to, the benefit of the parties, their successors, administrators, executors and assigns, except as otherwise provided herein. This Agreement will come into effect upon both parties signing this page.

ACCEPTED AND AGREED:

CMA George Samuel
Resolution Professional
(DISCLOSING PARTY)

In Presence of

Resolution Applicant

Mr. _____
(RECEIVING PARTY)

In Presence of