

**SCHEME OF ARRANGEMENT**

**IN THE NATURE OF AMALGAMATION**

**BETWEEN**

**ALEOR DERMACEUTICALS LIMITED**  
**(‘TRANSFEROR COMPANY’)**

**AND**

**ALEMBIC PHARMACEUTICALS LIMITED**  
**(‘TRANSFeree COMPANY’)**

**AND**

**THEIR RESPECTIVE SHAREHOLDERS**  
**UNDER SECTIONS 230 TO 232 AND OTHER APPLICABLE PROVISIONS**  
**OF THE COMPANIES ACT, 2013 AND RULES FRAMED THEREUNDER**

## **PREAMBLE**

This Scheme of Arrangement ("Scheme", as more particularly defined below) is presented under Sections 230 to 232 and other applicable provisions of the Act (as defined below) and Section 2(1B) and other applicable provisions of the Income-tax Act, 1961, between Aleor Dermaceuticals Limited and Alembic Pharmaceuticals Limited and their respective shareholders.

This Scheme provides for the following -

- a) Amalgamation of Aleor Dermaceuticals Limited with Alembic Pharmaceuticals Limited with effect from the Appointed Date on the agreed terms and conditions as set out herein; and
- b) Various other matters consequential, supplemental and/ or otherwise integrally connected therewith.

## PART I

### (A) BACKGROUND OF THE COMPANIES

1. **Aleor Dermaceuticals Limited** (hereinafter referred to as '**Aleor**' or '**the Transferor Company**') is a public limited company, having Corporate Identification Number: **U24302GJ2016PLC092131**, incorporated on May 23, 2016, under the provisions of Companies Act, 2013. The registered office of Aleor is situated at 5<sup>th</sup> Floor, Administrative Building Alembic Limited, Alembic Road, Vadodara - 390003, India in the state of Gujarat. Aleor is engaged in the business of developing, manufacturing and selling of pharmaceutical (dermatology) products for global markets. The Transferor Company is a wholly owned subsidiary of Transferee Company.
  
2. **Alembic Pharmaceuticals Limited** (hereinafter referred to as '**Alembic**' or the '**Transferee Company**') is a public limited company and having its equity shares listed on BSE Limited and National Stock Exchange of India Limited, having Corporate Identification Number: **L24230GJ2010PLC061123**, incorporated on June 16, 2010, under the provisions of Companies Act, 1956. The registered office of Alembic is situated at Alembic Road, Vadodara - 390003, India in the state of Gujarat. Alembic is an integrated pharmaceutical company principally engaged in the development, manufacturing and marketing of pharmaceuticals products i.e. Active Pharmaceuticals Ingredients and Formulations.

### (B) RATIONALE FOR SCHEME OF AMALGAMATION

The proposed amalgamation between the Transferor Company and the Transferee Company shall result in the following benefits, amongst others, to both the Companies and their respective shareholders:

- a) The amalgamation will enable the Transferee Company to integrate its business operations and provide impetus to the operations of the Transferee Company. The consolidation of the activities by way of an amalgamation will provide seamless access to the assets of the Transferor Company as well as technical expertise and financial strength of the Transferee Company to the new business vertical. This will lead to synergies in operations, reduction in overheads including administrative, managerial and other expenditure, operational rationalization, organizational efficiency, competitive

advantage and optimal utilization of resources eventually enhancing the growth and reputation of the group.

- b) The combined entity will have a bigger portfolio of products and direct access to markets, which will strengthen its capabilities to serve more efficiently its customers. This will also enable the Transferee Company to consolidate its offering of branded products to its existing customer base across different therapies for various markets, both overseas as well as domestic where it has already a strong presence with requisite resources, address the competitive regulatory environment, risks and policies, better management of supply chain, better product profiling, greater differentiation, ability to strategize the business for long term growth, consolidation and creation of shareholder value. Further the growth of business of branded products envisages adequate capital and resources commitments and hence the merger of the Transferor Company into the Transferee Company shall enable the pooling of abundant resources of the Transferee Company to the business of the Transferor Company and impetus to the growth at a consolidated level.
- c) The amalgamation will result in cost saving for the Transferor Company and the Transferee Company as they are engaged in the similar business activities including common geographies, which is expected to result in cost saving, operational efficiency on account of scale, efficient and optimum resource utilization and thereby enhancing the business value for the Transferee Company through faster and effective decision making and avoiding duplication of efforts. It is believed that the faster decision making would be in the best interests of the shareholders, employees and other stakeholders.
- d) Reduction in the multiplicity of legal and regulatory compliances required at present to be carried out by both the Transferor Company and the Transferee Company.
- e) The Boards of Transferor Company as well as Transferee Company believe that this merger will contribute to smooth integration of both the Companies and would benefit the shareholders, employees and

other stakeholders of the Transferor Company and the Transferee Company.

In view of the aforesaid advantages, the Board of Directors of Transferor Company and Transferee Company have considered and proposed the Scheme under provisions of Sections 230 to 232 and other applicable provisions of the Act and the rules framed thereunder.

**(C) OPERATION OF THE SCHEME**

This Scheme provides for amalgamation of the Transferor Company on a going concern basis with the Transferee Company in the manner set out in this Scheme and other applicable provisions of Applicable Law.

**(D) TREATMENT OF THE SCHEME FOR THE PURPOSE OF THE INCOME-TAX ACT, 1961**

This Scheme has been drawn up to comply with the conditions relating to “Amalgamation” as specified under Section 2(1B) of the Income-tax Act, 1961. If any of the terms or provisions of this Scheme is/ are found or interpreted to be inconsistent with the provisions of Section 2(1B) of the Income-tax Act, 1961 at a later date including resulting from an amendment of law or for any other reason whatsoever, the provisions of Section 2(1B) of the Income-tax Act, 1961 shall prevail and the Scheme shall stand modified to the extent determined necessary to comply with the provisions of Section 2(1B) of the Income-tax Act, 1961.

**(E) PARTS OF THE SCHEME**

This Scheme is divided into the following parts:

- a) **Part I** deals with the background of the Companies, overview of businesses of the Companies and the rationale of the Scheme;
- b) **Part II** deals with the definitions; date of taking effect and operative date and the share capital of the Companies;
- c) **Part III** deals inter alia with the amalgamation of Transferor Company with Transferee Company pursuant to Sections 230 to 232 and other applicable provisions of the Act and Section 2(1B) and other applicable provisions of the Income-tax Act, 1961; and
- d) **Part IV** deals with the general terms and conditions applicable to this Scheme and other matters consequential and integrally connected thereto.

## PART II

### 1. DEFINITIONS

In this Scheme, the following words and expressions shall, unless the context requires otherwise, have the following meanings ascribed to them:

- 1.1 **“Act”** means the Companies Act, 2013 and rules made there under and the circulars, guidelines, notifications and orders issued by Ministry of Corporate Affairs as may be applicable, including any statutory modification, re-enactments or amendments thereof for the time being in force;
- 1.2 **“Applicable Laws”** mean any statute, notification, bye laws, rules, regulations, guidelines, rule of common law, policy, code, directives, ordinance, orders or instructions having the force of law enacted or issued by any Appropriate Authority including any statutory modification or re-enactment thereof for the time being in force in India;
- 1.3 **“Appointed Date”** means 1<sup>st</sup> April, 2021 or such other date as may be approved by the National Company Law Tribunal or any other Appropriate Authority;
- 1.4 **“Appropriate Authority” or “Governmental Authority”** means and includes any applicable Central, State or Local Government, legislative body, regulatory or administrative authority, Registrar of Companies, Regional Director, Official Liquidator, agency or commission or any court, tribunal, board, bureau or instrumentality thereof or arbitration or arbitral body having jurisdiction on behalf of the Republic of India or any state or province or other political subdivision thereof or any municipality, district or other subdivision thereof over Transferor Company or Transferee Company, as the context may require;
- 1.5 **“Board of Directors” or “Board”** means the respective Board of Directors of each of the Companies under the Scheme and shall include any committee or sub-committee of Directors thereof constituted or appointed and authorized for the purposes of matters pertaining to this Scheme and or any other matter relating thereto;

- 1.6 **“Companies”** means collectively the Transferor Company and the Transferee Company;
- 1.7 **“Effective Date”** means the last of the date on which the conditions specified in Clause 18 of this Scheme are fulfilled with respect to the Scheme. References in this Scheme to the “date of coming into effect of this Scheme” or “upon the Scheme being effective” shall mean the Effective Date;
- 1.8 **“Encumbrance”** means (i) any charge, lien (statutory or other), or mortgage, any easement, encroachment, right of way, right of first refusal or other encumbrance or security interest securing any obligation of any person; (ii) pre-emption right, option, right to acquire, right to set off or other third party right or claim of any kind, including any restriction on use, voting, selling, assigning, pledging, hypothecating, or creating a security interest in, place in trust (voting or otherwise), receipt of income or exercise; or (iii) any equity, assignments hypothecation, title retention, restriction, power of sale or other type of preferential arrangements; or (iv) any agreement to create any of the above; and the term “Encumber” shall be construed accordingly;
- 1.9 **“National Company Law Tribunal” or “NCLT”** means the National Company Law Tribunal, Ahmedabad bench, having jurisdiction in relation to the Transferor Company and the Transferee Company and shall be deemed to include, if applicable, a reference to such other forum or authority which may be vested with any of the powers of NCLT to sanction the Scheme under the Act;
- 1.10 **“Registrar of Companies”** means Registrar of Companies, Ahmedabad;
- 1.11 **“Scheme” or “the Scheme” or “this Scheme”** means this Scheme of Arrangement among the Companies and their respective shareholders, in accordance with the provisions hereof and pursuant to the provisions of Sections 230-232 and other applicable provisions of the Act;

- 1.12 **“Transferee Company” or “Alembic”** means Alembic Pharmaceuticals Limited, a listed public limited company, incorporated under the provisions of the Companies Act, 1956 and having its registered office at Alembic Road, Vadodara - 390003, India in the state of Gujarat;
- 1.13 **“Transferor Company” or “Aleor”** means Aleor Dermaceuticals Limited, a public limited company, incorporated under the provisions of the Companies Act, 2013 and having its registered office at 5<sup>th</sup> floor, Administrative Building, Alembic Limited, Alembic Road, Vadodara - 390003, India in the state of Gujarat; and
- 1.14 **“Undertaking”** shall mean the operations and activities and the whole of the undertaking of the Transferor Company as a going concern, all their assets, rights, licenses, and powers, and all their debts, outstandings, liabilities, duties, obligations and employees as on the Appointed Date including, but not in any way limited to the following:
- a) All the assets and properties of the Transferor Company, whether movable or immovable, tangible or intangible, whether corporeal or incorporeal including, without limitation, offices, buildings, and structures, research and development units, capital work-in-progress, freehold, leasehold and any other title, interests or right in such immovable assets (including land and building being held as stock in trade), furniture, fixtures, office equipment, computers, plant and machineries, equipment, interests, appliances, tools, accessories, installations, intangible assets under development, vehicles, advances, deposits, cash and bank balances and all stocks as on the Appointed Date;
  - b) All investments (including shares, scripts, stocks, bonds, debentures, debenture stock, units of mutual funds and other securities), if any, including dividends declared or interest accrued thereon of the Transferor Company;
  - c) All the debts, liabilities, duties and obligations of the Transferor Company as on the Appointed Date both present and future, whether provided for or not in the books of accounts or disclosed in the balance sheet, whether secured or unsecured, all guarantees, assurances, commitments and obligations of any kind, nature or description, whether fixed, contingent or absolute, asserted or unasserted, matured or unmatured, liquidated or unliquidated,

accrued or not accrued, known or unknown, due or to become due, whenever or however arising pertaining to the Transferor Company; and

- d) Without prejudice to the generality of sub-clauses (a), (b) and (c) above, the Undertaking of the Transferor Company shall include:
- i). All movable and immovable properties, reserves, assets, including lease-hold rights, tenancy rights, industrial and other licenses, registrations, permits, authorisations, trademarks, patents and other industrial and intellectual properties, electrical connections, telephones, telex, facsimile and other communication facilities and equipment, rights and benefits of all agreements, pending applications and all other interests, rights and powers of every kind, nature and description whatsoever, privileges, liberties, easements, advantages, benefits and approvals of the Transferor Company;
  - ii). All assets, as are moveable in nature, whether present or future or contingent, tangible or intangible, in possession or not, corporeal or incorporeal, in each case, wherever situated (including plant and machinery, research and developments units, capital work in progress, furniture, fixtures, fixed assets, computers, air conditioners, appliances, accessories, office equipment, installations, vehicles, inventories, stock in trade, stores and spares, packing material, raw material, formulation, tablets, capsules, active pharmaceutical ingredients, drug intermediaries, tools and plants), actionable claims, debit notes, earnest monies and sundry debtors, prepaid expenses, bills of exchange, promissory notes, financial assets, investment and shares in entities / branches in India or overseas, outstanding loans and advances, recoverable in cash or kind or for value to be received, receivables, funds, cash and bank balances and deposits including accrued interest thereto with Government, semi-Government, local and other Appropriate Authorities and bodies, banks, customers and other persons, the benefits of any bank guarantees, performance guarantees and tax related assets and credits, including but not limited to service tax input credits, CENVAT credits, value added / sales tax / entry tax credits or set-offs, advance tax, tax deducted at source, tax

- collected at source, self assessment tax, right to carry forward and set-off accumulated losses and unabsorbed depreciation, right to carry forward and set-off book losses (including unabsorbed depreciation), set-off or credit of Minimum Alternate Tax, Goods and Services tax (GST), Equalization levy, Dividend Distribution Tax, and other indirect taxes and tax refunds;
- iii). All permits, licenses, permissions, approvals including but not limited to Abbreviated New Drug Applications ('ANDAs'), tentative and/or final, clearances, consents, benefits, registrations, rights, entitlements, credits, certificates, awards, sanctions, allotments, quotas, no objection certificates, exemptions, concessions, subsidies, incentives, tax deferrals and exemptions and other benefits (in each case including the benefit of any applications made for the same), income tax benefits, deductions and exemptions, liberties and advantages, approval for commissioning of project and other licenses or clearances, granted / issued / given by any Appropriate Authorities, organizations or companies including those relating to privileges, powers, facilities of every kind and description of whatsoever nature and the benefits thereto;
  - iv). All application monies, advance monies, earnest monies and/or security deposits paid or deemed to have been paid and payments against other entitlements of the Transferor Company;
  - v). All books, records, files, papers, engineering and process information, software licenses (whether proprietary or otherwise), test reports, computer programs, drawings, manual, data, databases including databases for procurement, commercial and management, catalogues, quotations, sales and advertising materials, product registrations, dossiers, product master cards, list of present and former customers and suppliers including service providers, other customer information, customer credit information, customer / supplier pricing information, and all other books and records, whether in physical or electronic form;
  - vi). All intellectual property rights (including applications for registrations of the same and the right to use such intellectual property rights), applications, trade names, service names and

- marks, patents, copyrights, project design, market authorization, approvals, marketing intangibles, special status, trade secrets, research and studies, technical know-how, confidential information, domain names, books, records, files, papers, software licenses (whether proprietary or otherwise), and other intellectual property rights of any nature whatsoever and data and all other records and documents, whether in physical or electronic form relating to the activities and operations of the Transferor Company;
- vii). Amounts claimed by the Transferor Company whether or not recorded in the books of account of the Transferor Company from any person including Governmental Authority, under any law, act or rule in force, as refund of any tax, duty, cess or of any excess payment;
- viii). Approvals of whatsoever nature (including but not limited to benefits of all tax holiday, tax relief / benefit available/ to be available to the eligible units, exemption / deduction under Chapter III of Income-tax Act, 1961, deduction under Chapter VI-A of Income-tax Act, 1961 for the eligible period) and wheresoever situated, belonging to or in the ownership, power or possession or control of or vested in or granted in favour of or enjoyed by the Transferor Company as on the Appointed Date or any other benefits and advantages of whatsoever nature and wheresoever situated belonging to or in the ownership, power, use or possession and in the control of or vested in or granted in favour of or enjoyed by the Transferor Company;
- ix). Right to any claim not preferred or made by the Transferor Company in respect of any refund of tax, duty, cess or other charge, including any erroneous or excess payment thereof made by the Transferor Company and any interest thereon, with regard to any law, act or rule or scheme made by the Governmental Authority, and in respect of set-off, carry forward of unabsorbed losses, deferred revenue expenditure, deduction, exemption, rebate, allowance, amortization benefit, etc. under the Income-tax Act, 1961, or taxation laws of other countries, or any other or like benefits under the said acts or under and in accordance with any law or act, whether in India or anywhere outside India;

- x). All rights to use and avail telephones, facsimile, email, internet, leased line connections and installations, utilities, electricity and other services, reserves, provisions, funds, benefits of assets or properties or other interests held in trusts, registrations, engagements, arrangements of all kind, privileges and all other rights, easements, liberties and advantages of whatsoever nature and wheresoever situated belonging to or in the ownership, power or possession and in control of or vested in or granted in favour of or enjoyed by the Transferor Company and all other interests of whatsoever nature belonging to or in the ownership, power, possession or control of or vested in or granted in favour of or held for the benefit of or enjoyed by the Transferor Company;
- xi). All rights, contracts, agreements, engagements, guarantees, purchase orders / service orders, operation and maintenance contracts, memoranda of understandings, memoranda of agreements, memoranda of agreed points, bids, tenders, tariff policies, expressions of interest, letters of intent, hire and purchase arrangements, power purchase agreements, lease / license agreements, tenancy rights, joint development agreements, agreements / panchnamas for right of way, equipment purchase agreements, agreement with customers, purchase and other agreements with the supplier / manufacturer of goods / service providers, other arrangements, undertakings, deeds, bonds, schemes, concession agreements, insurance covers and claims, clearances and other instruments of whatsoever nature and description, whether vested or potential and written, oral or otherwise and all rights, title, interests, claims and benefits thereunder forming part of the Transferor Company;
- xii). All liabilities including all debts (whether in Indian Rupees or foreign currency), loans raised and used, obligations incurred, whether specific or otherwise, duties of any kind, nature or description and undertakings of every kind or nature, contingent liabilities, bank/ corporate guarantees, duties, taxes, obligations under any licenses or permits or schemes and the all other liabilities of any description whatsoever, whether present or future, and howsoever raised or incurred

or utilized along with any charge, Encumbrance, lien or security thereon;

xiii). All the employees of the Transferor Company; and

xiv). All legal or other proceedings of whatsoever nature against the/ initiated by the Transferor Company.

All the terms, words, expressions which are used in this Scheme and not defined in this Scheme shall, unless repugnant or contrary to the context or meaning thereof, have the same meaning ascribed to them under the Act and other Applicable Law, rules, regulations, byelaws, as the case may be or any statutory modification or re-enactment thereof from time to time. In this Scheme, unless the context otherwise requires:

- i. the words denoting the singular shall include the plural and vice versa;
- ii. headings and bold typefaces are only for convenience and shall be ignored for the purpose of interpretation;
- iii. references to the word “include” or “including” shall be construed without limitation;
- iv. a reference to an article, clause, section, paragraph, annexure or schedule is, unless indicated to the contrary, a reference to an article, clause, section, paragraph, annexure or schedule of this Scheme;
- v. reference to a document includes an amendment or supplement to, or replacement or novation of, that document; and
- vi. word(s) and expression(s) elsewhere defined in this Scheme will have the meaning(s) respectively ascribed to them.

## **2. DATE OF TAKING EFFECT AND OPERATIVE DATE**

This Scheme as set out herein in its present form or with any modification(s), as may be approved or imposed or directed by the NCLT or made as per Clause 20 of this Scheme, as the case may be, shall have legal effect and force or be effective from the Appointed Date and shall be operative from the Effective Date.

## **3. SHARE CAPITAL OF THE COMPANIES**

3.1. The authorised, issued, subscribed and paid-up share capital of Aleor as on February 28, 2022 is as under:

<b>Particulars</b>	<b>Amount (in Rs)</b>
<b>Authorised share capital</b>	
5,00,000 Equity shares of Rs. 10 each	50,00,000
<b>Total</b>	<b>50,00,000</b>
<b>Issued, subscribed and paid-up share capital</b>	
5,00,000 Equity shares of Rs. 10 each	50,00,000
<b>Total</b>	<b>50,00,000</b>

There is no change in the authorised, issued, subscribed and paid up share capital of Aleor after the aforesaid date. Further, as on the date of approval of Scheme by Board of Directors of the Companies, the Transferee Company (along with its nominees) holds 100% of issued, subscribed and paid-up share capital of the Transferor Company.

There are 5,39,200 share warrants of Re. 1 each issued by the Transferor Company. The aforesaid share warrants are fully held by the Transferee Company.

3.2. The authorised, issued, subscribed and paid-up share capital of Alembic as on February 28, 2022 is as under:

<b>Particulars</b>	<b>Amount (in Rs)</b>
<b>Authorised share capital</b>	
20,00,00,000 Equity shares of Rs. 2 each	40,00,00,000
<b>Total</b>	<b>40,00,00,000</b>
<b>Issued, subscribed and paid-up Share Capital</b>	
19,65,63,124 Equity shares of Rs. 2 each	39,31,26,248
<b>Total</b>	<b>39,31,26,248</b>

There is no change in the authorised, issued, subscribed and paid-up share capital of Alembic after the aforesaid date.

### **PART III**

#### **4. TRANSFER AND VESTING OF THE UNDERTAKING OF TRANSFEROR COMPANY WITH THE TRANSFEREE COMPANY**

- 4.1. Upon the Scheme being effective and subject to the provisions of this Scheme in relation to the mode of transfer and vesting, the Undertaking of the Transferor Company shall, without any further act, instrument or deed, be and stand transferred to and vested in, and/ or be deemed to have been and stand transferred to and vested in, the Transferee Company, on and from the Appointed Date, so as to become, the estate, assets, rights, title, interest and authorities of the Transferee Company as part of and consequent upon the amalgamation pursuant to provisions of Sections 230 to 232 of the Act and all other applicable provisions of the Act and in compliance with the provisions of Section 2(1B) of the Income-tax Act, 1961;
- 4.2. Without prejudice to the aforesaid, all the immovable property (including but not limited to the land, buildings, offices, factories, sites, tenancy rights related thereto, and other immovable property, including accretions and appurtenances), whether or not included in the books of the Transferor Company, whether freehold or leasehold (including but not limited to any other document of title, rights, interest and easements in relation thereto, and any shares in cooperative housing societies associated with such immovable property) shall stand transferred to and be vested in the Transferee Company, as successor to the Transferor Company, without any act or deed to be done or executed by the Transferor Company, as the case may be and/ or the Transferee Company;
- 4.3. Upon the Scheme being effective, with respect to the assets forming part of the Undertaking of the Transferor Company that are movable in nature or are otherwise capable of being transferred by manual delivery or endorsement and/ or delivery, the same shall stand transferred to and vested in, without any further act or execution of an instrument with the intent of vesting such assets in the Transferee Company as on the Appointed Date. The vesting pursuant to this sub-clause shall be deemed to have occurred by manual delivery or endorsement and/ or delivery, as appropriate to the property being vested, and the title to such property shall be deemed to have been transferred and vested accordingly. No additional stamp duty shall be payable on the transfer

of such movable properties upon its transfer and vesting in the Transferee Company;

- 4.4. With respect to the assets of the Undertaking of the Transferor Company, other than those referred to in the Clauses above, including sundry debtors, bank balances, receivables, bills, credits, promissory notes, debit notes, outstanding loans and advances, if any, recoverable in cash or in kind or for value to be received, bank balances and deposits, if any, with government, semi-government, local and other authorities and bodies or with any company or other person etc., shall, without any further act, instrument or deed, with effect from the Appointed Date, be transferred to and vested in and/ or be deemed to be transferred to and vested in the Transferee Company pursuant to the provisions of Sections 230 to 232 and all other applicable provisions of the Act. It is hereby clarified that all the investments made by the Transferor Company shall, pursuant to Sections 230 to 232 and all other applicable provisions of the Act, if any, and the provisions of this Scheme, without any further act or deed, be transferred to and vested in or be deemed to have been transferred to and vested in the Transferee Company;
- 4.5. For the avoidance of doubt, it is clarified that upon the coming into effect of this Scheme, in accordance with the provisions of relevant laws, consents, permissions, licences, certificates, authorities (including for the operation of bank accounts), powers of attorney given by, issued to or executed in favour of the Transferor Company, and the rights and benefits under the same, and all quality certifications and approvals, trademarks, brands, patents and domain names, copyrights, industrial designs, trade secrets and other intellectual property and all other interests relating to the goods or services being dealt with by the Transferor Company shall be transferred to and vested in the Transferee Company without any further act or deed, and shall be appropriately mutated by the statutory authorities concerned therewith in favour of the Transferee Company. Upon the Scheme being effective, the benefit of all statutory and regulatory permissions, environmental approvals and consents, registrations or other licenses and consents shall vest in and become available to the Transferee Company, pursuant to the Scheme, on the same terms and conditions with effect from the Appointed Date. In so far as various incentives including export incentive, duty drawback, subsidies, rehabilitation schemes, special status, advance licenses and

other benefits or privileges enjoyed, granted by any Government body, local authority or by any person or availed of by the Transferor Company, are concerned, the same shall vest with and be available to the Transferee Company on the same terms and conditions;

- 4.6. Upon the Scheme being effective and subject to the other provisions of the Scheme, all contracts, deeds, bonds, agreements and other instruments of whatsoever nature to which the Transferor Company is a party subsisting or having effect on or immediately before the Effective Date shall remain in full force and effect against or in favour of the Transferee Company and shall be binding on and be enforceable by and against the Transferee Company as fully and effectually as if the Transferee Company had at all times been a party thereto. Any inter-se contracts (including lease agreement) between the Transferor Company and the Transferee Company shall stand cancelled and cease to operate upon the coming into effect of this Scheme;
- 4.7. Upon the Scheme being effective, in so far as the various incentives, tax exemption, deductions, benefits, subsidies, grants, special status, registrations and other benefits or privileges enjoyed including in respect of income-tax [including Minimum Alternative Tax (MAT)], excise (including Modvat / Cenvat), customs, VAT, sales tax, service tax, goods and service tax etc., granted by any Appropriate Authority, or availed of by the Transferor Company are concerned, the same shall, without any further act or deed, vest with and be available to the Transferee Company on the same terms and conditions with effect from the Appointed Date;
- 4.8. Any tax holiday/deduction/exemption/carry forward losses (including loss as per books of accounts) and unabsorbed depreciation (including unabsorbed depreciation as per books of accounts) entitled to/enjoyed/availed by the Transferor Company under the provisions of Income Tax Act, 1961 shall stand transferred to and vested in or deemed to be transferred to and vested in the Transferee Company and be entitled to /enjoyed/availed/utilised by the Transferee Company on and from the Appointed Date in the same manner as would have been entitled to /enjoyed/availed/utilised by the Transferee Company before implementation of this Scheme;

4.9. Upon the Scheme being effective and with effect from the Appointed Date, all income, expense, debts, liabilities, including, without limitation, all secured and unsecured debts, sundry creditors, contingent liabilities, duties, obligations and undertakings of the Transferor Company, of every kind, nature and description whatsoever and howsoever arising, raised, incurred or utilised for its operations and activities, shall, pursuant to the sanction of this Scheme by the NCLT and under the provisions of Sections 230 to 232 and other applicable provisions, if any, of the Act, without any further act, instrument, deed, matter or thing being made, done or executed, be transferred to and vested in, or be deemed to have been transferred to and vested in, the Transferee Company and shall be assumed by the Transferee Company to the extent they are outstanding as on the Effective Date so as to become, as on and from the Appointed Date, the income, expenses, liabilities, debts, duties and obligations of the Transferee Company on the same terms and conditions as were applicable to the Transferor Company, and the Transferee Company shall meet, discharge and satisfy the liabilities and it shall not be necessary to obtain the consent of any third party or other person who is a party to any contract or arrangement by virtue of which such liabilities have arisen in order to give effect to the provisions of this Clause;

4.10. All loans raised and utilised and all debts, liabilities, duties, and obligations incurred or undertaken by the Undertaking of the Transferor Company on or after the Appointed Date and prior to the Effective Date shall be deemed to have been raised, used, incurred or undertaken for and on behalf of the Transferee Company and to the extent they are outstanding on the Effective Date, shall, upon the coming into effect of this Scheme and under the provisions of Sections 230 to 232 of the Act, without any further act, instrument or deed be and stand transferred to and vested in and be deemed to have been transferred to and vested in the Transferee Company and shall become the loans and liabilities, duties and obligations of the Transferee Company which shall meet, discharge and satisfy the same;

4.11. Upon the Scheme being effective, where any of the liabilities and obligations of the Transferor Company subsisting as on the Appointed Date or which has arisen after the Appointed Date but prior to the Effective Date, have been discharged by the Transferor Company on or

after the Appointed Date and prior to the Effective Date, such discharge shall be deemed to have been for and on behalf of the Transferee Company;

4.12. The vesting of the Undertaking of the Transferor Company, as aforesaid, shall be subject to the Encumbrances, if any, over or in respect of any of the assets or any part thereof, provided however that such Encumbrances shall be confined only to the relevant assets of Transferor Company or part thereof on or over which they are subsisting on and vesting of such assets in Transferee Company and no such Encumbrances shall extend over or apply to any other asset(s) of Transferee Company. Any reference in any security documents or arrangements (to which Transferor Company is a party) related to any assets of Transferor Company shall be so construed to the end and intent that such security shall not extend, nor be deemed to extend, to any of the other asset(s) of the Transferee Company. Similarly, Transferee Company shall not be required to create any additional security over assets vested under this Scheme for any loans, debentures, deposits, or other financial assistance already availed of/ to be availed of by it, and the Encumbrances in respect of such indebtedness of Transferee Company shall not extend or be deemed to extend or apply to the assets so vested;

4.13. If and to the extent there are investments, loans, deposits, or balances inter-se between the Transferor Company and the Transferee Company, the obligations in respect thereof shall, on and from the Appointed Date, come to an end and suitable effect shall be given in the books of the Transferee Company upon the Scheme being Effective;

4.14. Upon the Scheme being effective, any tax liabilities under the Income-tax Act, 1961, Customs Act, 1962, Central Excise Act, 1944, value added tax laws, entertainment tax as applicable in any State in which the Transferor Company operates, Central Sales Tax Act, 1956, any other State Sales Tax laws/ Value Added Tax laws, or Service Tax laws, or Goods and Service Tax laws or Corporation Tax laws, or other applicable laws/ regulations dealing with taxes/ duties/ levies/cess (hereinafter in this Clause referred to as "**Tax Laws**") to the extent not provided for or covered by tax provision in the Transferor Company's accounts made as on the date immediately preceding the Appointed Date shall be

transferred to the Transferee Company. Any surplus in the provision for taxation / duties/ levies account including advance tax, self assessment tax and tax deducted/collected at source as on the date immediately preceding the Appointed Date will also be transferred to the account of and belong to the Transferee Company;

- 4.15. Any amount including refund under the Tax Laws due to Transferor Company consequent to the assessment proceedings or otherwise and which have not been received by the Transferor Company as on the date immediately preceding the Appointed Date shall also belong to and be receivable by the Transferee Company upon the Scheme being effective;
- 4.16. Without prejudice to the above, all benefits, including the benefits under Tax Laws, to which the Transferor Company is entitled to in terms of the applicable Tax Laws of the Union and State Governments, shall be available to and vest in the Transferee Company upon the Scheme being effective;
- 4.17. Pursuant to this Scheme becoming effective, the Transferee Company shall be entitled to secure the record of the change in the legal ownership upon the vesting of the Undertaking of the Transferor Company in accordance with the provisions of Sections 230 to 232 and all other applicable provisions, if any, of the Act. The Transferor Company and the Transferee Company shall be jointly and severally authorized to execute any writings and/ or carry out any formalities or compliances or do any act, thing or deed in this regard;
- 4.18. Without prejudice to the other provisions of this Scheme and notwithstanding the fact that vesting of the Undertaking of the Transferor Company occurs by virtue of this Scheme, the Transferee Company may, at any time after the coming into effect of this Scheme, in accordance with the provisions hereof, if so required under any law or otherwise, take such actions and execute such deeds (including deeds of adherence), confirmations or other writings or tripartite arrangements with any party to any contract or arrangement to which the Transferor Company is a party, as may be necessary in order to give formal effect to the provisions of this Scheme. The Transferee Company shall, under the provisions of this Scheme, be deemed to be authorized to execute any such writings on behalf of the Transferor Company to carry out or

perform all such formalities or compliances referred to above on the part of the Transferor Company, as the case may be, to be carried out or performed; and

4.19. It is hereby clarified that if any assets (including but not limited to any estate, rights, title, interest in or authorities relating to such assets) in relation to the Transferor Company cannot be transferred to the Transferee Company for any reason whatsoever, then directors of the Transferor Company shall hold such assets in trust for the benefit of the Transferee Company till such period the transfer is effectively carried out in favour of the Transferee Company.

## **5. STAFF, WORKMEN & EMPLOYEES**

5.1. Upon this Scheme coming into effect and with effect from the Effective Date, the Transferee Company undertakes to engage all the employees of the Transferor Company on the terms and conditions not less favourable than those on which they are engaged by the Transferor Company without any interruption of service as a result of the amalgamation of the Transferor Company with the Transferee Company. The Transferee Company also agrees that the services of all such employees with the Transferor Company prior to the amalgamation of the Transferor Company with the Transferee Company shall be taken into account for the purposes of all existing benefits to which the said employees may be eligible, including for the purpose of payment of any retrenchment compensation, gratuity and other retiral / terminal benefits and to this effect the accumulated balances, if any, standing to the credit of the employees in the existing provident fund, gratuity fund, superannuation fund and such other fund of which they are members will be transferred to such provident fund, gratuity fund, superannuation fund and such other fund nominated by the Transferee Company and/or such new provident fund, gratuity fund, superannuation fund, such other fund to be established and caused to be recognized by the Appropriate Authorities, by the Transferee Company, or to the government provident fund in relation to the employees of the Transferor Company who are not eligible to become members of the provident fund maintained by the Transferee Company; and

5.2. Pending the transfer as aforesaid, the provident fund, gratuity fund, superannuation fund and such other dues of the employees would be continued to be deposited in the existing provident fund, gratuity fund, superannuation fund and such other fund respectively of the Transferor Company.

## **6. LEGAL PROCEEDINGS**

6.1. Upon the Scheme becoming effective, any suit, cause of actions, appeal or other legal, quasi-judicial, arbitral or other administrative proceedings of whatever nature ("**Proceedings**") by or against the Transferor Company pending and/ or arising before the Effective Date shall not abate or be discontinued or be in any way prejudicially affected by reason of the transfer of the Undertaking of the Transferor Company pursuant to this Scheme or by anything contained in this Scheme but the Proceedings shall be continued, prosecuted and enforced by or against the Transferee Company, as the case may be in the same manner and to the same extent as they would or might have been continued, prosecuted and enforced by or against the Transferor Company as if the Scheme had not been made. On and from the Effective Date, the Transferee Company shall and may continue any Proceedings which were earlier in the name of the Transferor Company;

6.2. The Transferee Company undertakes to have, all respective legal or other Proceedings initiated by or against the Transferor Company, transferred into its name and to have the same continued, prosecuted and enforced by or against the Transferee Company, as the case may be, to the exclusion of the Transferor Company; and

6.3. The transfer and vesting of the Undertaking of the Transferor Company under the Scheme and the continuation of the Proceedings by or against the Transferee Company under Clause 6.1 and 6.2 above, shall not affect any transaction or Proceedings already completed by the Transferor Company on or after the Appointed Date and prior to this Scheme becoming effective to the end and intent that the Transferee Company accepts and adopts all acts, deeds and things done and executed by the Transferor Company as acts, deeds and things being done and executed by and on behalf of the Transferee Company.

## **7. VALIDITY OF EXISTING RESOLUTIONS, ETC**

Upon the coming into effect of this Scheme, the resolutions of the Transferor Company, as are considered necessary by the Board of Directors of the Transferee Company and which are valid and subsisting on the Effective Date shall continue to be valid and subsisting and be considered as resolutions of the Transferee Company and if any such resolutions have any monetary limits approved under the provisions of the Act, or any other applicable statutory provisions, then said limits, as are considered necessary by the Board of Directors of the Transferee Company, shall be added to the limits, if any, under like resolutions passed by the Transferee Company and shall constitute the aggregate of the said limits in the Transferee Company.

## **8. CONTRACTS, DEEDS, ETC.**

- 8.1. Notwithstanding anything to the contrary contained in the contract, deed, bond, agreement or any other instrument, but subject to the other provisions of this Scheme, all contracts, deeds, bonds, agreements and other instruments, if any, of whatsoever nature and subsisting or having effect on the Effective Date and relating to the Transferor Company shall continue in full force and effect against or in favour of the Transferee Company and may be enforced effectively by or against the Transferee Company as fully and effectually as if, instead of the Transferor Company, the Transferee Company had been a party thereto; and
- 8.2. The Transferee Company shall at any time after the coming into effect of this Scheme in accordance with the provisions hereof, if so required, under any law or otherwise, enter into, or issue or execute deeds, writings, confirmations, novations, declarations, or other documents with, or in favour of any party to any contract or arrangement to which the Transferor Company is a party or any writings as may be necessary to be executed in order to give formal effect to the above provisions. Transferee Company shall, be deemed to be authorized to execute any such writings on behalf of Transferor Company and to carry out or perform all such formalities or compliances required for the purposes referred to above on the part of Transferor Company.

## **9. PERMITS**

With effect from the Appointed Date, all the permits held or availed of by, and all rights and benefits that have accrued to, the Transferor

Company, pursuant to the provisions of Sections 230 to 232 of the Act, shall without any further act, instrument or deed, be transferred to, and vested in, or be deemed to have been transferred to, and vested in, and be available to, the Transferee Company so as to become, from the Effective Date, the permits, estates, assets, rights, title, interests and authorities of the Transferee Company and shall remain valid, effective and enforceable on the same terms and conditions to the extent permissible in Applicable Laws. Upon the Appointed Date and until the permits are transferred, vested, recorded, effected, and/ or perfected, in the record of the Appropriate Authority, in favour of the Transferee Company, the Transferee Company is authorized to carry on business in the name and style of the Transferor Company and under the relevant license and/ or permit and/ or approval, as the case may be, and the Transferee Company shall keep a record and/ or account of such transactions.

## **10. TAX CREDITS**

- 10.1. The Transferee Company will be successor of the Transferor Company. Hence, it will be deemed that the benefit of any tax credits whether central, state or local, availed by the Transferor Company and the obligations if any for payment of tax on any assets of the Transferor Company shall be deemed to have been availed by the Transferee Company or as the case may be deemed to be the obligations of Transferee Company. As the Scheme does not contemplate removal of any asset by the Transferee Company from the premises in which it is installed, no reversal of any tax credit needs to be made;
- 10.2. With effect from the Appointed Date and upon the Scheme becoming effective, all taxes, duties, cess payable/ receivable by the Transferor Company including all or any refunds/ credit including MAT/ claims relating thereto shall be treated as the asset/ liability or refunds/ credit, including MAT/ claims as the case may be, of the Transferee Company. The Transferee Company shall be entitled to get credit/ claim refund of any tax paid and/ or tax deduction at source or tax collected at source on or after the Appointed Date by the Transferor Company; and
- 10.3. In order to give effect of this Scheme, the Transferor Company and the Transferee Company shall be entitled to, amongst others, file/ revise its income tax returns, TDS/ TCS returns, wealth tax returns, service tax,

excise duty, sales tax, value added tax, goods and services tax, entry tax, cess, professional tax or any other statutory returns, if required, claim credit for advance tax paid, tax deducted at source, tax collected at source, claim for sum prescribed under Section 43B of the Income-tax Act, 1961 on payment basis, claim for deduction of provisions written back by the Transferee Company previously disallowed in the hands of Transferor Company under the Income-tax Act, 1961, credit of tax under Section 115JB read with Section 115JAA of the Income-tax Act, 1961, credit of foreign taxes paid/ withheld etc., if any, as may be required consequent to implementation of this Scheme, even if the prescribed time limits for filing or revising such returns have lapsed without incurring any liability on account of interest, penalty, late fee or any other sum. Transferee Company shall have the right to claim refunds, tax credits, set-offs and/ or adjustments relating to its income or transactions entered into by it, by virtue of this Scheme with effect from Appointed Date. The taxes or duties paid by, for, or on behalf of the Transferor Company relating to the period on or after Appointed Date shall be deemed to be the taxes or duties paid by the Transferee Company, and accordingly the Transferee Company shall be entitled to claim credit or refund for such taxes or duties.

#### **11. SAVING OF CONCLUDED TRANSACTIONS**

Subject to the terms of this Scheme, the transfer of the Undertaking, licences, permits, registrations, memberships and approvals as specified under this Scheme and the continuance of Proceedings by or against the Transferee Company under Clause 6 above shall not affect any transaction or Proceedings already concluded by the Transferor Company on or before the Appointed Date, or after the Appointed Date till the Effective Date, to the end and intent that the Transferee Company accepts and adopts all acts, deeds and things made, done and executed by the Transferor Company as acts, deeds and things made, done and executed by or on behalf of the Transferee Company.

#### **12. CANCELLATION OF SHARE CAPITAL, SHARE WARRANTS AND NON-CONVERTIBLE DEBENTURES OF TRANSFEROR COMPANY**

The Transferee Company (along with its nominees) holds 100% of the issued, subscribed and paid-up share capital of the Transferor Company. Accordingly, the Transferor Company is the wholly owned subsidiary of the Transferee Company. Upon the Scheme becoming

effective, no shares of the Transferee Company shall be allotted in lieu or exchange of the holding of the Transferee Company in the Transferor Company and the share capital of the Transferor Company shall stand cancelled on the Effective Date without any further act, instrument, or deed.

Further, upon the Scheme becoming effective, share warrants and Non-Convertible Debentures issued by the Transferor Company to the Transferee Company shall stand cancelled on the Effective Date without any further act, instrument, or deed.

### **13. ACCOUNTING TREATMENT IN THE BOOKS OF TRANSFEREE COMPANY**

Notwithstanding anything to the contrary herein, upon this Scheme becoming effective, the Transferee Company shall give effect to the accounting treatment in the books of accounts in accordance with the Accounting Standards specified under Section 133 of the Act read with the Companies (Indian Accounting Standards) Rules, 2015, or any other relevant or related requirement under the Act, as applicable on the Appointed Date.

Accordingly, the Transferor Company and Transferee Company, being entities under common control, the accounting would be done at Transferor Company carrying amounts as on the Appointed Date for all the assets and liabilities acquired by the Transferee Company of the Transferor Company by applying the principles as set out in Appendix C of Ind AS 103 'Business Combinations' and inter-company balances and inter-company investments, if any, between Transferor Company and Transferee Company shall stand cancelled.

### **14. DISSOLUTION OF THE TRANSFEROR COMPANY**

On and from the Effective Date, the Transferor Company shall stand dissolved without being wound up.

### **15. OPERATIONS, ACTIVITIES AND PROPERTIES IN TRUST AND CONDUCT OF OPERATIONS FOR TRANSFEREE COMPANY**

Unless otherwise stated herein under, with effect from the Appointed Date and up to and including the Effective Date:

- 15.1. The Transferor Company shall be deemed to have been carrying on and shall carry on its operations and activities and shall be deemed to have held and stood possessed of and shall hold and stand possessed of the Undertaking of the Transferor Company for and on account of, and in trust for the Transferee Company and shall account for the same to the Transferee Company. The Transferor Company hereby undertakes to hold the said Undertaking with utmost prudence until the Effective Date;
- 15.2. The Transferor Company shall carry on the business and activities, with reasonable diligence and business prudence;
- 15.3. All the surplus, income, taxes (including MAT credit, tax paid and tax deducted/ collected at source) or any costs, charges, expenditure, accumulated losses accruing to the Transferor Company or expenditure or losses arising or incurred or suffered by the Transferor Company shall for all purpose be treated and be deemed to be and accrue as the surplus, income, taxes (including MAT credit, tax paid and tax deducted/ collected at source) or any costs, charges, expenditure or accumulated losses of the Transferee Company, as the case may be;
- 15.4. The Transferor Company shall not vary the terms and conditions of employment of any of their employees, without the prior consent in writing of any of the persons authorized by the Board of Directors of the Transferee Company, except in the ordinary course of business; and
- 15.5. The Transferee Company shall be entitled, pending sanction of the Scheme, to apply to the concerned authorities and all other agencies, departments and authorities concerned as are necessary under any law for such consents, approvals, and sanctions which the Transferee Company may require to carry on the operations of the Transferor Company and to give effect to the Scheme.

## **16. APPLICATIONS TO NCLT OR OTHER APPROPRIATE AUTHORITIES**

- 16.1. The Transferor Company and the Transferee Company shall, with all reasonable dispatch, make necessary application under Sections 230 to 232 and/ or other applicable provisions of the Act to the NCLT or such other Appropriate Authority, for seeking order for dispensing with or convening, holding and conducting of, meeting of the shareholders and/or creditors of the Transferor Company and the Transferee

Company, as may be directed by NCLT or such other Appropriate Authority for sanction of this Scheme and all matters ancillary or incidental thereto; and

16.2. On the Scheme being approved by the requisite majorities of the shareholders and/ or creditors of the Transferor Company and the Transferee Company, whether at meeting or otherwise, as prescribed under the law and/ or as directed by the NCLT or such other Appropriate Authority, the Transferor Company and the Transferee Company shall, with all reasonable dispatch, apply to the NCLT or such other Appropriate Authority for sanctioning of the Scheme under Sections 230 to 232 of the Act, and for such other order or orders, as the NCLT or such other Appropriate Authority may deem fit for carrying this Scheme into effect.

## **17. CONSOLIDATION OF AUTHORISED SHARE CAPITAL**

17.1. Upon this Scheme becoming effective, the authorised share capital of the Transferor Company amounting to INR 50,00,000 (Rupees Fifty Lakh Only), as mentioned in Clause 3.1 above, shall be added to the authorised share capital of the Transferee Company, as on the Effective Date, without any further act or deed and without any further payment of any stamp duty or registration fees. For this purpose, the stamp duty and fees already paid on the authorised share capital of the Transferor Company shall be utilised and applied to the increased authorised share capital of the Transferee Company and there would be no requirement for any other further payment of stamp duty and/ or fee by the Transferee Company for increase in the authorised share capital to that extent. The authorised share capital of the Transferee Company will thus be increased to that effect by virtue of the Scheme becoming effective and no separate procedure shall be required to be followed under the Act;

17.2. Consequent upon the amalgamation, the authorised share capital of the Transferee Company will be amended / altered / modified as under:

<b>Authorised Share Capital</b>	<b>Amount (in Rs.)</b>
20,25,00,000 Equity shares of Rs. 2 each	40,50,00,000
<b>Total</b>	<b>40,50,00,000</b>

17.3. Consequently, Clause V of the Memorandum of Association of the Transferee Company shall, without any act, instrument, or deed, be and stand altered, modified, and amended pursuant to applicable provisions of the Act. The revised Capital Clause of the Transferee Company shall be as under:

*“The Authorised Share Capital of the Company is Rs. 40,50,00,000 (Rupees Forty Crores Fifty Lakhs only) divided into 20,25,00,000 (Twenty Crores and Twenty Five Lakhs) Equity Shares of Rs. 2 (Rupees Two) each.”*

17.4. It is clarified that the approval of the shareholders of the Transferee Company to the Scheme shall be deemed to be their consent/ approval also to the consequential alteration of the Memorandum of Association of the Transferee Company under Sections 13, 61 and 64 of the Act and other Applicable Laws and the Transferee Company shall not be required to seek separate consent/ approval of its shareholders for such alteration of the Memorandum of Association of the Transferee Company.

## **PART IV**

### **18 SCHEME CONDITIONAL ON APPROVALS / SANCTIONS**

18.1 The Scheme is and shall be conditional upon and subject to the followings:

- a) The Scheme being approved by requisite majority in numbers and value of such classes of persons including the shareholders and/or creditors of the Transferor Company and the Transferee Company, as required under the Act or as may be directed by the NCLT and/ or any other competent authority as may be applicable;
- b) The requisite consent, approval or permission of any other statutory or regulatory authority, which by law may be necessary for the implementation of this Scheme;
- c) The Scheme being sanctioned by the NCLT under Sections 230 to 232 and all other applicable provisions of the Act and/ or any Appropriate Authority; and
- d) Certified Copies of the Order of the NCLT or such other competent authority, as may be applicable, sanctioning this Scheme being filed with the Registrar of Companies having jurisdiction over the Companies.

### **19 EFFECT OF NON-RECEIPT OF PERMITS AND MATTERS RELATING TO REVOCATION/ WITHDRAWAL OF THIS SCHEME**

19.1 The Transferor Company and the Transferee Company acting through their respective Boards shall each be at liberty to withdraw from this Scheme: (a) in case any condition or alteration imposed by any Appropriate Authority is unacceptable to any of them; or (b) they are of the view that coming into effect of this Scheme could have adverse implications on the respective Companies;

19.2 In the event of revocation/ withdrawal under Clause 19.1, no rights and liabilities whatsoever shall accrue to or be incurred inter se the Transferor Company and the Transferee Company or their respective shareholders or creditors or employees or any other person, save and except in respect of any act or deed done prior thereto as is contemplated hereunder or as to any right, liability or obligation which has arisen or accrued pursuant thereto and which shall be governed and be preserved or worked out as is specifically provided in the Scheme or in accordance

with the Applicable Law and in such case, each Company shall bear its own costs, unless otherwise mutually agreed; and

19.3 If any Clause of this Scheme is held to be invalid, ruled illegal by any Court of competent jurisdiction, or unenforceable under present or future laws, then it is the intention of the Companies that such Clause shall be severable from the remainder of this Scheme, and this Scheme shall not be affected thereby, unless the deletion of such Clause shall cause this Scheme to become materially adverse to any party, in which case the Board of Directors of the Companies involved in the Scheme shall attempt to bring about a modification in this Scheme, as will best preserve for the parties the benefits, and obligations of this Scheme, including, but not limited to, such Clause.

## **20 MODIFICATIONS/ AMENDMENTS TO THE SCHEME**

20.1 The Boards of the Transferor Company and Transferee Company acting themselves or through authorized persons, may consent jointly but not individually, on behalf of all persons concerned, to any modifications or amendments of this Scheme at any time and for any reason whatsoever, or to any conditions or limitations that the NCLT or any other Appropriate Authority may deem fit to direct or impose or which may otherwise be considered necessary, desirable or appropriate by the Board of the Transferor Company and the Transferee Company and solve all difficulties that may arise for carrying out this Scheme and do all acts, deeds and things necessary for putting this Scheme into effect; and

20.2 For the purpose of giving effect to this Scheme or to any modification thereof, the Boards of the Transferor Company and the Transferee Company acting themselves or through authorized persons may jointly but not individually, give and are jointly authorized to give such directions including directions for settling any question of doubt or difficulty that may arise and such determination or directions, as the case may be, shall be binding on all parties, in the same manner as if the same were specifically incorporated in this Scheme. It is clarified that individual companies acting themselves or through authorized persons may individually approach the NCLT or any other Appropriate Authority to seek clarifications for implementation of the Scheme.

## **21 GENERAL TERMS AND CLAUSES**

21.1 Upon the Scheme becoming effective, the Transferor Company and Transferee Company shall have the right to revise their respective financial statements and returns along with prescribed forms, filings, and annexures under the Tax Laws and/ or Applicable Laws to give effect to the provisions of the Scheme. In order to give effect of this Scheme, the Transferor Company and the Transferee Company shall be entitled to, amongst others, file and/ or revise its income tax returns, TDS/ TCS returns, wealth tax returns, service tax, excise duty, sales tax, value added tax, goods and services tax, entry tax, cess, professional tax or any other statutory returns, if required, claim credit for tax paid, tax deducted at source, tax collected at source, claim for sum prescribed under Section 43B of the Income-tax Act, 1961 on payment basis, claim for deduction of provisions written back by Transferee Company previously disallowed in the hands of Transferor Company under the Income-tax Act, 1961, credit of tax under Section 115JB read with Section 115JAA of the Income-tax Act, 1961, credit of foreign taxes paid/ withheld etc. if any, as may be required consequent to implementation of this Scheme, even if the prescribed time limits for filing or revising such returns have lapsed without incurring any liability on account of interest, penalty, late fee or any other sum. Such returns shall be filed based on reconstructed accounts drawn up with effect from the Appointed Date and any tax including MAT shall be computed accordingly. Transferee Company shall have the right to claim refunds, tax credits, setoffs and/ or adjustments relating to its income or transactions entered into by it, by virtue of this Scheme with effect from Appointed Date. The taxes or duties paid by, for, or on behalf of the Transferor Company relating to the period on or after Appointed Date shall be deemed to be the taxes or duties paid by the Transferee Company, and accordingly the Transferee Company shall be entitled to claim credit or refund for such taxes or duties;

21.2 Upon this Scheme becoming effective, the Transferee Company is expressly permitted to prepare and/or revise their financial statements and returns along with prescribed forms, filings and annexures under the Income-tax Act, 1961 (including for minimum alternate tax purposes and tax benefits), service tax law, GST law and other tax laws, and to claim refunds and/or credits for taxes paid (including minimum alternate tax), and to claim tax benefits (including brought forward book

losses) under the Income-tax Act, 1961, etc., and for matters incidental thereto, if required to give effect to the provisions of this Scheme. The order of the jurisdictional NCLT sanctioning the Scheme shall be deemed to be an order of the Competent Authority permitting the Transferee Company to prepare and/or revise its financial statements and books of accounts and no further act shall be required to be undertaken by the Transferee Company;

21.3 It is hereby clarified that submission of the Scheme to the NCLT and to Appropriate Authorities for their respective approvals is without prejudice to all rights, interests, titles, or defences that the Transferor Company and the Transferee Company may have under or pursuant to all Applicable Law; and

21.4 On the approval of this Scheme by the shareholders of the Transferor Company and the Transferee Company and such other classes of persons of the said Companies, if any, such shareholders, and classes of persons shall also be deemed to have resolved and accorded all relevant consents under the Act and Applicable Law or otherwise to the same extent applicable in relation to the amalgamation, related matters and this Scheme itself.

## **22 COSTS, CHARGES AND EXPENSES**

All costs, charges and expenses including stamp duty and registration fee of any deed, document, instrument or NCLT's order including this Scheme or in relation to or in connection with negotiations leading up to the Scheme and of carrying out and implementing the terms and provisions of this Scheme and incidental to the completion of arrangement in pursuance of this Scheme shall be borne and paid by the Transferee Company.

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