

**SCHEME OF AMALGAMATION**

**UNDER SECTIONS 391 TO 394 READ WITH SECTION 100 AND OTHER APPLICABLE PROVISIONS OF THE COMPANIES ACT, 1956**

**AMONGST**

**HOLCIM (INDIA) PRIVATE LIMITED** ... Transferor / Amalgamating Company

**AND**

**AMBUJA CEMENTS LIMITED** ... Transferee / Amalgamated Company

**AND**

**THEIR RESPECTIVE SHAREHOLDERS AND CREDITORS**

**PART I – GENERAL**

- A. The Amalgamating Company is a private company limited by shares incorporated in the year 2002 under the Act (*as hereinafter defined*), having its registered office at Suite 304, Third Floor, DLF South Court, Plot A-1 Saket District Centre, Saket, Delhi – 110017. The Amalgamating Company was originally incorporated in the year 2002 under the name ‘Holdcem Cements Private Limited’ and its name was changed to ‘Holcim (India) Private Limited’ in the year 2005. The equity shares of the Amalgamating Company are not listed on any stock exchange in India. HIL (*as hereinafter defined*) and Mr. Dinesh Kothari are the only members of the Amalgamating Company. HIL holds 5,69,03,85,094 (Five Hundred and Sixty Nine Crores Three Lakhs Eighty Five Thousand and Ninety Four) equity shares of the Amalgamating Company of the face value of Rs.10/- (Rupees Ten Only) each. The remaining 1 (One) equity share of the Amalgamating Company of the face value of Rs.10/- (Rupees Ten Only) is held by Mr. Dinesh Kothari with the beneficial owner being HIL.
- B. The Amalgamating Company is primarily engaged in the cement business, through its downstream investments in cement manufacturing ventures in India.
- C. As on the date of filing of this Scheme (*as hereinafter defined*), the Amalgamating Company holds 9.76% (Nine Point Seven Six Percent) of the total issued and paid-up equity share capital of the Amalgamated Company.
- D. The Amalgamated Company is a public company limited by shares incorporated in the year 1981 under the Act, having its registered office at P. O. Ambujanagar, Taluka Kodinar, Junagadh, Gujarat – 362715. The Amalgamated Company was originally incorporated in the year 1981 under the name ‘Ambuja Cements Private Limited’ as a private limited company. The Amalgamated Company changed its name to ‘Ambuja Cements Limited’ in 1983, thereafter to ‘Gujarat Ambuja Cements Limited’ in 1983 and finally to ‘Ambuja Cements Limited’ in 2007. The equity shares of the Amalgamated Company are listed on the National Stock Exchange of India Limited (“NSE”) and the BSE Limited (“BSE”) (collectively, the “Stock Exchanges”). The global depository receipts issued by the Amalgamated Company are listed on the Euro MTF Platform of the Luxemburg Stock Exchange.
- E. The Amalgamated Company is engaged in the business of manufacturing and marketing of cement and clinker for domestic and export markets.
- F. The rationale for the Amalgamating Company proposing the proposed amalgamation is that it will allow the shareholder of the Amalgamating Company to streamline its holding in India and benefit from the operational and other synergies between its group companies in India.

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*Rajiv Gandhi*  
Rajiv Gandhi  
Company Secretary

- G. The rationale for the Amalgamated Company proposing the proposed amalgamation is set out below:
- (i) the Amalgamating Company currently holds 50.01% (Fifty Point Zero One Percent) equity shares in ACC (*as hereinafter defined*) which consequent upon the proposed amalgamation will vest with the Amalgamated Company. ACC is amongst the leading cement companies in India;
  - (ii) The proposed Amalgamation will enable the Amalgamated Company to explore the opportunities of synergizing its several functions with ACC;
  - (iii) The Amalgamated Company will immensely benefit by way of sharing of best practices, coordination in several back end processes such as supply chain and logistic alignment, benefit from increased scale of operations, saving in fixed costs etc.;
  - (iv) This will thus enable the Amalgamated Company to realize huge potential savings and improve its revenue and margins. Further, the size of the profits and net worth of the consolidated business of the Amalgamated Company is likely to increase from the current levels consequent upon the proposed amalgamation; and
  - (v) The proposed amalgamation is likely to enhance significantly the values and synergies for both Amalgamated company as well as ACC and for all the stakeholders.
- H. Consequently, the Board of Directors (*as hereinafter defined*) of the Amalgamating Company and the Board of Directors of the Amalgamated Company have considered and proposed the amalgamation of the Amalgamating Company with the Amalgamated Company.
- I. This Scheme provides for the amalgamation of the Amalgamating Company with the Amalgamated Company and cancellation of equity shares of the Amalgamated Company held by the Amalgamating Company and issuance of equity shares of the Amalgamated Company to shareholders of the Amalgamating Company in accordance with the Share Exchange Ratio, per the terms of this Scheme and pursuant to Sections 391 to 394, Section 100 and other relevant provisions of the Act, and various other matters consequential to or otherwise integrally connected with the above in the manner provided for in the Scheme.
- J. This Scheme has been drawn up to comply with the conditions relating to “amalgamation” as defined and specified under Section 2(1B) of the Income Tax Act (*as hereinafter defined*). If any terms or provisions or parts of this Scheme is/are inconsistent with the provisions of Section 2(1B) of the Income Tax Act, the provisions of Section 2(1B) of the Income Tax Act shall prevail and the Scheme shall stand modified to the extent necessary to comply with Section 2(1B) of the Income Tax Act and such modifications shall not affect other parts of the Scheme.
- K. The amalgamation of the Amalgamating Company with the Amalgamated Company pursuant to this Scheme shall take place with effect from the Appointed Date (*as hereinafter defined*).
- L. The Stock Exchanges have issued an observation letter as contemplated under the SEBI Circular (*as hereinafter defined*), indicating their ‘no-objection’ and including the comments received by them from the Securities and Exchange Board of India. The observation letters are provided as **Annexure I**.
- M. This Scheme is divided into the following parts:
- (i) **Part I**, which deals with the introduction and definitions, and sets out the share



capital of the Amalgamating Company and the Amalgamated Company;

- (ii) **Part II**, which deals with the amalgamation of the Amalgamating Company with the Amalgamated Company;
- (iii) **Part III**, which deals with the cancellation of equity shares of the Amalgamated Company held by the Amalgamating Company and consequent reduction of capital of the Amalgamated Company;
- (iv) **Part IV**, which deals with the dissolution of the Amalgamating Company; and
- (v) **Part V**, which deals with the general terms and conditions applicable to this Scheme.

## 1. DEFINITIONS AND INTERPRETATION

1.1 In the Scheme, unless repugnant to the meaning or context thereof, the following expressions shall have the following meanings:

“**ACC**” means ACC Limited, a public company limited by shares incorporated in India under the Act and having its registered office at Cement House, 121, Maharshi Karve Road, Mumbai – 400 020, India;

“**Act**” means the Companies Act, 1956 or any statutory modification or re-enactment or amendments thereof for the time being in force;

“**Amalgamated Company / Transferee Company**” means Ambuja Cements Limited;

“**Amalgamating Company / Transferor Company**” means Holcim (India) Private Limited;

“**Appointed Date**” means the opening of business on April 1, 2013, or such other date as may be determined by the Boards of Directors of the Amalgamating Company and the Amalgamated Company and is the date with effect from which this Scheme shall, upon being sanctioned by the High Courts, be operative;

“**Audit Committee**” means the audit committee of the Amalgamated Company, as constituted from time to time;

“**Board of Directors**” or “**Board**” in relation to each of the Amalgamating Company and the Amalgamated Company, as the case may be, means the board of directors of such company;

“**BSE**” has the meaning ascribed to it in paragraph D of **Part I** hereof;

“**Complaints Report**” means the report prepared in accordance with the SEBI Circular, setting out the complaints received in relation to the Scheme and the status of the same;

“**Effective Date**” means such date as the Amalgamating Company and the Amalgamated Company mutually agree being a date on the last of the dates or post the last of the dates on which all the conditions and matters referred to in sub-Clause 23(a) of the Scheme occur or have been fulfilled or waived in accordance with this Scheme. References in this Scheme to date of ‘coming into effect of the Scheme’ or ‘effectiveness of the Scheme’ shall mean the Effective Date;

“**Employees**” means all the permanent employees of the Amalgamating Company as on the Effective Date;



“**Encumbrance**” means any options, pledge, mortgage, lien, security, interest, claim, charge, pre-emptive right, easement, limitation, attachment, restraint or any other encumbrance of any kind or nature whatsoever, and the term “**Encumbered**” shall be construed accordingly;

“**Governmental Authority**” means any applicable central, state or local government, legislative body, regulatory or administrative authority, agency or commission or any court, tribunal, board, bureau, instrumentality, judicial or arbitral body, statutory body or stock exchange, including but not limited to the Reserve Bank of India, the Securities and Exchange Board of India and the Foreign Investment Promotion Board, or any other organization to the extent that the rules, regulations and standards, requirements, procedures or orders of such authority, body or other organization have the force of law;

“**High Courts**” means the High Court of Judicature at New Delhi having jurisdiction in relation to the Amalgamating Company and the High Court of Gujarat having jurisdiction in relation to the Amalgamated Company and shall include the National Company Law Tribunal, as applicable or such other forum or authority as may be vested with any of the powers of a High Court under the Act;

“**HIL**” means Holderind Investments Ltd., a company incorporated under the laws of Mauritius and having its registered office at Level 3B, 31 Cybercity, Ebene, Mauritius;

“**Income Tax Act**” means the Income Tax Act, 1961, including any statutory modifications, re-enactments or amendments thereof for the time being in force;

“**Liabilities**” means all debts and liabilities, both present and future comprised in the Undertaking, whether or not provided in the books of accounts or disclosed in the balance sheet of the Amalgamating Company, including all secured and unsecured debts, liabilities (including deferred tax liabilities, contingent liabilities), duties and obligations (including under any licenses or permits or schemes of every kind) and undertakings of the Amalgamating Company of every kind, nature and description whatsoever and howsoever arising, raised or incurred or utilised for its business activities and operations along with any charge, Encumbrance;

“**NSE**” has the meaning ascribed to it in paragraph D of **Part I** hereof;

“**Record Date**” means the date to be fixed by the Board of Directors of the Amalgamated Company and the Amalgamating Company for the purpose of determining the equity shareholders (members) of the Amalgamating Company, to whom fully paid up equity shares of the Amalgamated Company will be allotted pursuant to this Scheme;

“**Registrar of Companies**” means the Registrar of Companies, New Delhi and/or the Registrar of Companies, Gujarat, as applicable;

“**Scheme**” means this scheme of amalgamation, pursuant to Sections 391 to 394 read with Section 100 and other applicable provisions, if any, of the Act, in its present form (along with any annexures, schedules, etc, attached hereto), with such modifications and amendments as may be made from time to time, and with appropriate approvals including approvals of the shareholders/ creditors and sanctions from the High Courts and the regulatory authorities as may be required under the Act and under all applicable laws;

“**SEBI Circular**” means the circular number CIR/CFD/DIL/5/2013 dated February 4, 2013 read with circular number CIR/CFD/DIL/8/2013 dated May 21, 2013 (which provides clarifications with respect to the aforementioned circular), both issued by the Securities and Exchange Board of India;



**“Share Exchange Ratio”** has the meaning ascribed to it in sub-Clause 18(a) hereof;

**“Stock Exchanges”** has the meaning ascribed to it in paragraph D of **Part I** hereof; and

**“Undertaking”** means all the undertakings and entire business of the Amalgamating Company as a going concern, including, without limitation:

- (a) all the assets and properties (whether movable or immovable, tangible or intangible, real or personal, in possession or reversion, corporeal or incorporeal, present, future or contingent of whatsoever nature) of the Amalgamating Company, whether or not recorded in the books of accounts of the Amalgamating Company including, without limitation, investments of all kinds (i.e., shares, scrips, stocks, bonds, debenture stocks, units or pass through certificates), furniture, fixtures, office equipment, computers, fixed assets, current assets, cash and bank accounts (including bank balances), contingent rights or benefits, benefits of any deposits, receivables, advances or deposits paid by or deemed to have been paid by the Amalgamating Company, financial assets, vehicles, rights to use and avail of telephones, telexes, facsimile, email, internet, leased line connections and installations, utilities, electricity and other services, reserves, provisions, funds, benefits of assets or properties or other interest held in trust, registrations, contracts, engagements, arrangements of all kind, privileges and all other rights, easements, privileges, liberties and advantages of whatsoever nature and where-so-ever situate belonging to or in the ownership, power or possession and in the control of or vested in or granted in favour of or enjoyed by the Amalgamating Company or in connection with or relating to the Amalgamating Company and all other interests of whatsoever nature belonging to or in the ownership, power, possession or the control of or vested in or granted in favour of or held for the benefit of or enjoyed by the Amalgamating Company, whether in India or abroad;
- (b) all permissions, approvals, consents, subsidies, privileges, income tax benefits and exemptions, indirect tax benefits and exemptions, all other rights, benefits and liabilities related thereto, licenses, powers and facilities of every kind, nature and description whatsoever, provisions and benefits of all agreements, contracts and arrangements and all other interests in connection with or relating to the Amalgamating Company;
- (c) all contracts, agreements, memoranda of understanding, letters of intent, other arrangements, undertakings, deeds, bonds, insurance covers and claims, clearances and other instruments of whatsoever nature and description, if any, whether written, oral or otherwise, to which the Amalgamating Company is a party to, or to the benefit of which the Amalgamating Company may be eligible;
- (d) all intellectual property rights of any nature whatsoever, books, records, files, papers, software licenses (whether proprietary or otherwise), and all other records and documents, whether in physical or electronic form relating to business activities and operations of the Amalgamating Company;
- (e) all Liabilities, lien or security thereon, whether in Indian rupees or foreign currency and whether or not provided for in the books of account or disclosed in the balance sheet of the Amalgamating Company; and
- (f) all Employees engaged by the Amalgamating Company.

1.2 All terms and words used but 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, the Securities Contracts (Regulation) Act, 1956, the Depositories Act, 1996 and other applicable laws, rules, regulations, bye-laws, as the case may be or any statutory modification or re-enactment thereof for the time being in force.

- 1.3 References to clauses and recitals, unless otherwise provided, are to clauses and recitals of and to this Scheme.
- 1.4 The headings herein shall not affect the construction of this Scheme.
- 1.5 The singular shall include the plural and vice versa; and references to one gender include all genders.
- 1.6 Any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.7 References to a person include any individual, firm, body corporate (whether incorporated or not), government, state or agency of a state or any joint venture, association, partnership, works council or employee representatives body (whether or not having separate legal personality).
- 1.8 References to any of the terms taxes, duty, levy, cess in the Scheme shall be construed as reference to all of them whether jointly or severally.
- 1.9 Any reference to any statute or statutory provision shall include:
  - (a) All subordinate legislations made from time to time under that provision (whether or not amended, modified, re-enacted or consolidated from time to time) and any retrospective amendment; and
  - (b) Such provision as from time to time amended, modified, re-enacted or consolidated (whether before or after the filing of this Scheme) to the extent such amendment, modification, re-enactment or consolidation applies or is capable of applying to the matters contemplated under this Scheme and (to the extent liability there under may exist or can arise) shall include any past statutory provision (as amended, modified, re-enacted or consolidated from time to time) which the provision referred to has directly or indirectly replaced.

## 2. SHARE CAPITAL

### (a) Amalgamating Company

- The share capital structure of the Amalgamating Company as on June 30, 2013 is as under:

<b>A. Authorised Share Capital</b>	<b>Amount in Rupees</b>
7,50,00,00,000 equity shares of Rs. 10 each*	75,00,00,00,000
<b>Total</b>	<b>75,00,00,00,000</b>

*\*Pursuant to the re-classification approved by the shareholders in the annual general meeting held on April 30, 2013.*



**B. Issued, Subscribed and Paid Up Share Capital** **Amount in Rupees**

5,69,03,85,095 equity shares of Rs. 10/- each fully paid up 56,90,38,50,950

**Total** **56,90,38,50,950**

- The shareholding pattern of the Amalgamating Company as on June 30, 2013 is as under:

S.No.	Name of Shareholder	Number of Shares	Percentage (%)
1.	HIL	5,69,03,85,094	99.999
2.	Dinesh Kothari	1	-
<b>Total</b>		<b>5,69,03,85,095</b>	<b>100</b>

- The Amalgamating Company, Amalgamated Company and HIL have entered into an agreement pursuant to which the Amalgamated Company will purchase 1,36,56,92,423 (One Hundred and Thirty Six Crores Fifty Six Lakhs Ninety Two Thousand Four Hundred and Twenty Three) shares of the Amalgamating Company from HIL. As on July 31, 2013, there are no other changes in the issued, subscribed and paid-up capital of the Amalgamating Company.

(b) Amalgamated Company

- The share capital structure of the Amalgamated Company as on June 30, 2013 is as under:

**A. Authorised Share Capital** **Amount in Rupees**

2,50,00,00,000 Equity Shares of Rs. 2 each 5,00,00,00,000

15,00,00,00,000 Preference Shares of Rs. 10 each 1,50,00,00,000

**Total** **6,50,00,00,000**

**B. Issued, Subscribed & Paid up Share Capital\*** **Amount in Rupees**

1,54,37,63,286 equity shares of Rs. 2 each fully paid up 3,08,75,26,572

**Total** **3,08,75,26,572**

*\*This includes equity shares underlying 3,48,27,481 Global Depository Receipts of the Amalgamated Company.*

- The promoter shareholding pattern of the Amalgamated Company as on June 30, 2013, is as under:

S.No.	Name of Shareholder	Number of Shares	Percentage (%)
1.	HIL	62,96,38,433	40.79
2.	HIPL	15,06,70,120	9.76
<b>Total</b>		<b>78,03,08,553</b>	<b>50.55</b>



- The equity shares of the Amalgamated Company are listed on the NSE and the BSE. The global depository receipts issued by the Amalgamated Company are listed on the Euro MTF Platform of the Luxemburg Stock Exchange.
- As on June 30, 2013, the Amalgamated Company has outstanding (i) stock options exercisable into 85,70,425 (Eighty Five Lakh Seventy Thousand Four Hundred and Twenty Five) equity shares of the face value of Rs. 2 (Rupees Two Only) each fully paid up; and (ii) tradable warrants kept in abeyance exercisable into 1,86,690 (One Lakh Eighty Six Thousand Six Hundred and Ninety) equity shares of the face value of Rs. 2 (Rupees Two Only) each fully paid up; and (iii) rights shares kept in abeyance exercisable into 1,39,830 (One Lakh Thirty Nine Thousand Eight Hundred and Thirty) equity shares of the face value of Rs. 2 (Rupees Two Only) each fully paid up.

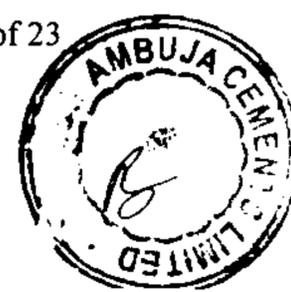
## **PART II – AMALGAMATION OF THE AMALGAMATING COMPANY WITH THE AMALGAMATED COMPANY**

### **Section 1 – Transfer**

3. Upon the coming into effect of the Scheme and with effect from the Appointed Date, the Undertaking shall, pursuant to the sanction of the Scheme by the High Courts and pursuant to the provisions of Sections 391 to 394, Section 100 and other applicable provisions, if any, of the Act, be and stand transferred to and vested in and/or be deemed to have been transferred to and vested in the Amalgamated Company, as a going concern, in accordance with Section 2(1B) of the Income Tax Act without any further act, instrument, deed, matter or thing so as to become, as and from the Appointed Date, the undertaking of the Amalgamated Company by virtue of and in the manner provided in this Scheme.
4. Without prejudice to the generality of Clause 3 above, upon the coming into effect of the Scheme and with effect from the Appointed Date,

#### Transfer of Assets

- (a) all the estate, assets (including intangible assets), properties, investments of all kinds (that is, shares, scrips, stocks, bonds, debenture stocks, units or pass through certificates), rights, claims, title, interest and authorities including accretions and appurtenances, whether or not provided in the books of accounts, comprised in the Undertaking of whatsoever nature and where-so-ever situate shall, under the provisions of Sections 391 to 394 of the Act and all other provisions of applicable law, if any, without any further act, instrument or deed, cost or charge and without any notice or other intimation to any third party for the transfer of the same, be and stand transferred to and vested in the Amalgamated Company and/or be deemed to be transferred to and vested in the Amalgamated Company as a part of the transfer of the Undertaking as a going concern so as to become, as and from the Appointed Date, the estate, assets (including intangible assets), properties, investments of all kinds (that is, shares, scrips, stocks, bonds, debenture stocks, units or pass through certificates), rights, claims, title, interest and authorities including accretions and appurtenances of the Amalgamated Company.
- (b) such of the assets and properties of the Amalgamating Company as are movable in nature or incorporeal property or are otherwise capable of transfer by delivery or possession, or by endorsement and/or delivery shall, under the provisions of Sections 391 to 394 of the Act and all other provisions of applicable law, if any, without any



further act, instrument or deed, cost or charge and without any notice or other intimation to any third party for the transfer of the same, be and stand transferred to and vested in the Amalgamated Company and/or be deemed to stand transferred to the Amalgamated Company as a part of the transfer of the Undertaking as a going concern so as to become from the Appointed Date, the assets and properties of the Amalgamated Company.

- (c) such of the assets and properties comprised in the Undertaking (other than those referred to in sub-Clause 4(b) above) including investments of all kinds (that is, shares, scrips, stocks, bonds, debenture stocks, units or pass through certificates), sundry debtors, receivables, bills, credits, loans and advances, if any, whether recoverable in cash or in kind or for value to be received, bank balances, deposits with any Government, quasi government, local or other authority or body or with any company or other person, the same shall, under the provisions of Sections 391 to 394 of the Act and all other provisions of applicable law, if any, without any further act, instrument or deed, cost or charge and without any notice or other intimation to any third party for the transfer of the same, be and stand transferred to and vested in the Amalgamated Company and/or deemed to have been transferred to and vested in the Amalgamated Company as a part of the transfer of the Undertaking as a going concern, so as to become from the Appointed Date, the assets and properties of the Amalgamated Company.

Transfer of Permissions and Approvals

- (d) all permissions, approvals, consents, subsidies, privileges, income tax benefits and exemptions, indirect tax benefits and exemptions, all other rights, benefits and liabilities related thereto, licenses, powers and facilities of every kind, nature and description whatsoever, provisions and benefits of all agreements, contracts and arrangements and all other interests in connection with or relating to the Amalgamating Company enjoyed or conferred upon or held or availed of by the Amalgamating Company and all rights and benefits that have accrued or which may accrue to the Amalgamating Company, whether on, before or after the Appointed Date, if any, shall, under the provisions of Sections 391 to 394 of the Act and all other provisions of applicable law, if any, without any further act, instrument or deed, cost or charge and without any notice or other intimation to any third party for the transfer of the same be and stand transferred to and vest in and/or be deemed to be transferred to and vested in the Amalgamated Company as a part of the transfer of the Undertaking as a going concern, so as to become, as and from the Appointed Date, the permissions, approvals, consents, subsidies, privileges, income tax benefits and exemptions, indirect tax benefits and exemptions, all other rights, benefits and liabilities related thereto, licenses, powers and facilities of every kind, nature and description whatsoever, provisions and benefits of all agreements, contracts and arrangements, of the Amalgamated Company and shall remain valid, effective and enforceable on the same terms and conditions. It is further clarified that they shall be deemed to have originally been given by, issued to or executed in favour of the Amalgamated Company, and the Amalgamated Company shall be bound by the terms thereof and the obligations and duties thereunder, and the rights and benefits under the same shall be available to the Amalgamated Company.

Transfer of Contracts

- (e) all contracts, agreements, memoranda of understanding, letters of intent, other arrangements, undertakings, deeds, bonds, insurance covers and claims, clearances and other instruments of whatsoever nature and description, if any, whether written, oral or otherwise, to which the Amalgamating Company is a party, or to the benefit of



which the Amalgamating Company may be eligible, and which are subsisting or have effect immediately before the Effective Date, shall under the provisions of Sections 391 to 394 of the Act and all other provisions of applicable law, if any, without any further act, instrument or deed, cost or charge and without any notice or other intimation to any third party for the transfer of the same, be and stand transferred to and vested in the Amalgamated Company as a part of the transfer of the Undertaking as a going concern and shall continue in full force and effect on or against or in favour, as the case may be, of the Amalgamated Company and may be enforced as fully and effectually as if, instead of the Amalgamating Company, the Amalgamated Company had been a party or beneficiary or obligee thereto or thereunder.

Transfer of Intellectual Property

- (f) all the intellectual property rights of any nature whatsoever, including but not limited to intangible assets appertaining to the Amalgamating Company, whether or not provided in books of accounts of the Amalgamating Company, shall under the provisions of Sections 391 to 394 of the Act and all other provisions of applicable law, if any, without any further act, instrument or deed, cost or charge and without any notice or other intimation to any third party for the transfer of the same, be and stand transferred and vested in the Amalgamated Company as a part of the transfer of the Undertaking as a going concern, so as to become, as and from the Appointed Date, the intellectual property of the Amalgamated Company.
- (g) all intangible assets including various business or commercial rights, etc belonging to but not recorded in books of account of the Amalgamating Company shall be transferred to and vested with the Amalgamated Company. Such intangible assets shall, for all purposes, be regarded as intangible assets in terms of Explanation 3(b) to Section 32(1) of the Income Tax Act and shall be eligible for depreciation there under at the prescribed rates.

Transfer of Corporate Approvals

- (h) benefits of any and all corporate approvals as may have already been taken by the Amalgamating Company, whether being in the nature of compliances or otherwise, shall under the provisions of Sections 391 to 394 of the Act and all other provisions of applicable law, if any, without any further act, instrument or deed, cost or charge and without any notice or other intimation to any third party for the transfer of the same, be and stand transferred and vested in the Amalgamated Company as a part of the transfer of the Undertaking as a going concern, and the said corporate approvals and compliances shall be deemed to have originally been taken / complied with by the Amalgamated Company.
- (i) the resolutions, if any, of the Amalgamating Company, which are valid and subsisting on the Effective Date, shall under the provisions of Sections 391 to 394 of the Act and all other provisions of applicable law, if any, without any further act, instrument or deed, cost or charge and without any notice or other intimation to any third party for the transfer of the same, be and stand continue to be valid and subsisting and be considered as resolutions of the Amalgamated Company and if any such resolutions have any monetary limits approved under the provisions of the Act, or any other applicable statutory provisions, then the said limits shall be added to the limits, if any, under like resolutions passed by the Amalgamated Company and shall constitute the aggregate of the said limits in the Amalgamated Company.
- (j) such of the assets comprised in the Undertaking and which are acquired by the Amalgamating Company on or after the Appointed Date but prior to the Effective



Date, shall under the provisions of Sections 391 to 394 of the Act and all other provisions of applicable law, if any, without any further act, instrument or deed, cost or charge and without any notice or other intimation to any third party for the transfer of the same, be and stand transferred to and vested in and be deemed to have been transferred to and vested in the Amalgamated Company as a part of the transfer of the Undertaking as a going concern, so as to become, as and from the Appointed Date, the assets of the Amalgamated Company.

5. Transfer of Liabilities

Pursuant to the transfer of the Undertaking as provided in Clause 3 and 4 above, upon the coming into effect of this Scheme and with effect from the Appointed Date,

- (a) all the Liabilities, whether or not provided in the books of the Amalgamating Company, shall, under the provisions of Sections 391 to 394 of the Act and other provisions of applicable law, if any, without any further act, instrument, deed, cost or charge and without any notice or other intimation to any third party for the transfer of the same, be and stand transferred to and vested in and be deemed to have been transferred to and vested in the Amalgamated Company as a part of the transfer of the Undertaking as a going concern and the same shall be assumed by the Amalgamated Company, to the extent they are outstanding on the Effective Date and shall become as and from the Appointed Date the Liabilities of the Amalgamated Company on the same terms and conditions as were applicable to the Amalgamating Company, and the Amalgamated Company shall meet, discharge and satisfy the same.
- (b) all Liabilities comprised in the Undertaking, and which are incurred or which arise or accrue to the Amalgamating Company on or after the Appointed Date but prior to the Effective Date, shall under the provisions of Sections 391 to 394 of the Act and all other provisions of applicable law, if any, without any further act, instrument or deed, cost or charge and without any notice or other intimation to any third party for the transfer of the same, be and stand transferred to and vested in and be deemed to have been transferred to and vested in the Amalgamated Company as a part of the transfer of the Undertaking as a going concern, so as to become, as and from the Appointed Date, the Liabilities of the Amalgamated Company on the same terms and conditions as were applicable to the Amalgamating Company, and the Amalgamated Company shall meet, discharge and satisfy the same.
- (c) any Liabilities of the Amalgamating Company as on the Appointed Date that are discharged by the Amalgamating Company on or after the Appointed Date but prior to the Effective Date, shall be deemed to have been discharged for and on account of the Amalgamated Company.
- (d) all loans raised and utilised, liabilities, duties and taxes and obligations incurred or undertaken by the Amalgamating Company on or after the Appointed Date but prior to the Effective Date shall be deemed to have been raised, used, incurred or undertaken for and on behalf of the Amalgamated Company and shall, under the provisions of Sections 391 to 394 and other provisions of applicable law, if any, without any further act, instrument, deed, cost or charge and without any notice or other intimation to any third party for the transfer of the same be and stand transferred to and vested in and be deemed to have been transferred to and vested in the Amalgamated Company as a part of the transfer of the Undertaking as a going concern and the same shall be assumed by the Amalgamated Company and to the extent they are outstanding on the Effective Date, the Amalgamated Company shall meet, discharge and satisfy the same.



- (e) loans, advances and other obligations (including any arrangement which may give rise to a contingent liability in whatever form), if any, due or which may at any time in future become due between the Amalgamating Company and the Amalgamated Company shall, under the provisions of Sections 391 to 394 of the Act and other provisions of applicable law, if any, without any further act, instrument, deed, cost or charge, stand discharged and come to an end and there shall be no liability in that behalf on any party and the appropriate effect shall be given in the books of accounts and records of the Amalgamated Company.

6. Encumbrances

- (a) upon the coming into effect of this Scheme and with effect from the Appointed Date, all Encumbrances, if any, existing prior to the Effective Date over the assets of the Amalgamating Company which secure or relate to the Liabilities shall, without any further act, instrument, deed, cost or charge and without any notice or other intimation to any third party for the transfer of the same, continue to relate and attach to such assets or any part thereof to which they were related or attached prior to the Effective Date and are transferred to the Amalgamated Company. It being clarified that the aforesaid Encumbrances shall not be extended to any assets of the Amalgamating Company which were earlier not Encumbered or the other assets of the Amalgamated Company. The absence of any formal amendment which may be required by a lender or trustee or third party shall not affect the operation of the above.
- (b) any reference in any security documents or arrangements (to which the Amalgamating Company is a party) to the Amalgamating Company and its assets and properties, shall be construed as a reference to the Amalgamated Company and the assets and properties of the Amalgamating Company transferred to the Amalgamated Company pursuant to this Scheme.
- (c) without prejudice to the foregoing provisions, the Amalgamated Company may execute any instruments or documents or do all the acts and deeds as may be considered appropriate, including the filing of necessary particulars and/or modification(s) of charge, with the Registrar of Companies to give formal effect to the above provisions, if required.
- (d) the provisions of this Clause 6 shall operate notwithstanding anything to the contrary contained in any instrument, deed or writing or the terms of sanction or issue or any security document; all of which instruments, deeds or writings shall stand modified and/or superseded by the foregoing provisions.

7. Employees and Directors

7.1 Upon the coming into effect of this Scheme and with effect from the Appointed Date,

- (a) all Employees, if any, of the Amalgamating Company shall, under the provisions of Sections 391 to 394 of the Act and other provisions of applicable law, if any, without any further act, instrument, deed, cost or charge and without any notice or other intimation to any third party for their transfer, become the employees of the Amalgamated Company.
- (b) the Amalgamating Company does not have any provident fund, gratuity fund, superannuation fund, trusts, retirement fund or benefits or any other funds for the benefit of the Employees. The Amalgamated Company shall extend its own funds to



the Employees and take necessary steps in this regard.

7.2 The terms and conditions of employment by the Amalgamated Company shall not be less favourable than those on which they are engaged by the Amalgamating Company and their employment will be without any interruption of or break in service as a result of the amalgamation of the Amalgamating Company with the Amalgamated Company. For the purpose of payment of any compensation, gratuity and other terminal benefits, the past services of such Employees with the Amalgamating Company and such benefits to which the Employees are entitled in the Amalgamating Company shall also be taken into account, and paid (as and when payable) by the Amalgamated Company.

7.3 Upon the coming into effect of this Scheme, the directors of the Amalgamating Company will not be entitled to any directorships in the Amalgamated Company by virtue of the provisions of this Scheme. It is clarified that this Scheme will not affect any directorship of a person who is already a director in the Amalgamated Company as on the Effective Date.

8. Legal, Taxation and other Proceedings

(a) all proceedings of whatsoever nature (legal and others, including any suits, appeals, arbitrations, execution proceedings, revisions, writ petitions, if any) by or against the Amalgamating Company shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer of the Undertaking or anything contained in this Scheme but the said proceedings, shall, till the Effective Date be continued, prosecuted and enforced by or against the Amalgamating Company, as if this Scheme had not been made.

(b) upon the coming into effect of this Scheme, all suits, actions, and other proceedings including legal and taxation proceedings, (including before any statutory or quasi-judicial authority or tribunal) by or against the Amalgamating Company, whether pending and/or arising on or before the Effective Date shall be continued and/or enforced by or against the Amalgamated Company as effectually and in the same manner and to the same extent as if the same had been instituted and/or pending and/or arising by or against the Amalgamated Company.

(c) the Amalgamated Company undertakes to have accepted on behalf of itself, all suits, claims, actions and legal proceedings initiated by or against the Amalgamating Company transferred to its name and to have the same continued, prosecuted and enforced by or against the Amalgamated Company.

9. Books and Records

All books, records, files, papers, information, databases, and all other books and records, whether in physical or electronic form, of the Amalgamating Company, to the extent possible and permitted under applicable laws, be handed over to the Amalgamated Company.

10. Without prejudice to the provisions of Clauses 3 to 9 above, with effect from the Appointed Date, all inter-party transactions between the Amalgamating Company and the Amalgamated Company shall be considered as intra-party transactions for all purposes.

11. Without prejudice to the other provisions of this Scheme and notwithstanding the fact that vesting of the Undertaking occurs by virtue of this Scheme itself, the Amalgamated Company may, at any time after the coming into effect of the 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 arrangements with any



party to any contract or arrangement to which the Amalgamating Company is a party or any writings as may be necessary in order to give formal effect to the provisions of this Scheme. The Amalgamated Company shall, under the provisions of this Scheme, be deemed to be authorised to execute any such writings on behalf of the Amalgamating Company and to carry out or perform all such formalities or compliances referred to above on the part of the Amalgamating Company to be carried out or performed.

## **Section 2 – Conduct of Business**

12. With effect from the Appointed Date and up to and including the Effective Date:
- (a) the Amalgamating Company shall carry on and be deemed to have carried on all business and activities and shall hold and stand possessed of and shall be deemed to hold and stand possessed of the entire Undertaking for and on account of, and in trust for, the Amalgamated Company;
  - (b) all profits and income accruing or arising to the Amalgamating Company, and losses and expenditure arising or incurred by it for the period commencing from the Appointed Date shall, for all purposes, be treated as and be deemed to be the profits, income, losses or expenditure, as the case may be, of the Amalgamated Company;
  - (c) any of the rights, powers, authorities or privileges exercised by the Amalgamating Company shall be deemed to have been exercised by the Amalgamating Company for and on behalf of, and in trust for and as an agent of the Amalgamated Company. Similarly, any of the obligations, duties and commitments that have been undertaken or discharged by the Amalgamating Company shall be deemed to have been undertaken for and on behalf of and as an agent of the Amalgamated Company;
  - (d) all taxes, where applicable, (including but not limited to advance income tax, tax deducted at source, taxes withheld/paid in a foreign country, indirect taxes, tax refunds) payable by or refundable to the Amalgamating Company, including all or any tax refunds or tax liabilities or tax claims arising from pending tax proceedings, under any law, on or before the Effective Date, shall be treated as or deemed to be treated as the tax liability or tax refunds/ tax claims (whether or not recorded in the books of the Amalgamating Company) as the case may be, of the Amalgamated Company, and any advance income tax, unabsorbed tax losses and depreciation, etc., as would have been available to the Amalgamating Company on or before the Effective Date, shall be available to the Amalgamated Company upon the Scheme coming into effect; and
  - (e) the Amalgamating Company shall not without the concurrence of the Amalgamated Company alienate, charge or otherwise deal with any of its assets, except in the ordinary course of business.
13. From the date of filing of this Scheme with the High Courts and up to and including the Effective Date, except with the written consent of the Amalgamated Company, the Amalgamating Company shall not amend its memorandum of association or articles of association and shall not alter or substantially expand its business.
14. From the date of filing of this Scheme with the High Courts and up to and including the Effective Date, the Amalgamating Company and the Amalgamated Company shall not, except in respect of outstanding stock options that may be exercised in terms of the Amalgamated Company's employees stock option scheme(s) or tradeable warrants or outstanding global depository receipts of the Amalgamated Company that may be exercised, or shares which



may be issued pursuant to the rights shares kept in abeyance, make any change in its capital structure in any manner either by any increase (including by way of issue of equity and/or preference shares on a rights basis or by way of a public issue, bonus shares and/or convertible debentures or otherwise), decrease, reduction, reclassification, sub-division, consolidation, re-organization, or in any other manner which may, in any way, affect the Share Exchange Ratio, except with the prior approval of the Board of Directors of the Amalgamated Company and the Amalgamating Company respectively; provided that this Clause 14 shall not apply in the context of an issuance of equity shares by the Amalgamated Company or any cancellation of shares of the Amalgamating Company held by the Amalgamated Company pursuant to the coming into effect of this Scheme.

15. Subject to the terms of the Scheme, the transfer and vesting of the Undertaking as per the provisions of the Scheme shall not affect any transactions or proceedings already concluded by the Amalgamating Company on or before the Appointed Date or after the Appointed Date till the Effective Date, to the end and subject to compliance with Clauses 12(e) and Clause 13, the Amalgamated Company accepts and adopts all acts, deeds and things made, done and executed by the Amalgamating Company.
16. Upon the Scheme coming into effect, the Amalgamating Company (if required) and the Amalgamated Company are expressly permitted to revise, its financial statements.

### **Section 3: Issue of Equity Shares by the Amalgamated Company**

17. The provisions of this Section 3 of the Scheme shall operate notwithstanding anything to the contrary in any other instrument, deed or writing.
18.
  - (a) Upon the coming into effect of the Scheme and in consideration of the transfer and vesting of the Undertaking in the Amalgamated Company by virtue of this Scheme, the Amalgamated Company shall, without any further application, act, instrument or deed, issue and allot to each member of the Amalgamating Company (other than (i) the Amalgamated Company; and (ii) Mr. Dinesh Kothari since he is only entitled to fractional share), whose name is registered in the register of members of the Amalgamating Company on the Record Date or his/her/its legal heirs, executors or successors as the case may be, for every 74 (Seventy Four) equity shares of the face value of Rs. 10 (Rupees Ten Only) each (credited as fully paid-up) held by such member or his/her/its respective legal heirs, executors or successors in the Amalgamating Company, 10 (Ten) equity shares of the face value of Rs. 2 (Rupees Two Only) each (credited as fully paid up) of the Amalgamated Company. The ratio in which equity shares of the Amalgamated Company are to be issued and allotted to the members of the Amalgamating Company as set out above is herein referred to as the "**Share Exchange Ratio**". It is hereby clarified that the conversion of any global depository receipts, exercise of any stock option, tradable warrant or allotment of rights shares shall not require any adjustments to the Share Exchange Ratio. It is further clarified that (I) the Amalgamated Company shall not be issued any shares in exchange for any shares held by it in the Amalgamating Company on the Record Date; and (II) since Mr. Dinesh Kothari is only entitled to fractional share for the share held by him in the Amalgamating Company on the Record Date, he shall not be issued any share for such share held in the Amalgamating Company on the Record Date.
  - (b) The Audit Committee of the Amalgamated Company has taken into account the recommendations on the Share Exchange Ratio by BSR and Associates and Price Waterhouse & Co., both acting as independent chartered accountants, and the fairness



opinion provided by Axis Capital Limited, acting as the independent merchant banker. On the basis of their evaluations and its own independent judgement, the Audit Committee has recommended the Scheme, including the Share Exchange Ratio to the Board of Directors of the Amalgamated Company.

- (c) The Board of Directors of the Amalgamated Company have taken into account the independent recommendations of the Audit Committee.
- (d) The Board of Directors of the Amalgamating Company and the Amalgamated Company have taken into account the recommendations of the Share Exchange Ratio provided by BSR and Associates and Price Waterhouse & Co.
- (e) The Board of Directors of the Amalgamated Company have also taken into account the fairness opinion provided by Axis Capital Limited in relation to the Share Exchange Ratio.
- (f) The Boards of Directors of the Amalgamating Company and the Amalgamated Company based on the aforesaid advice/ opinions and on the basis of their independent judgment and evaluation have come to the conclusion that the Share Exchange Ratio is fair and reasonable and have approved the same at their respective meetings held on July 24, 2013.
- (g) In case any member's holding in the Amalgamating Company is such that the member becomes entitled to a fraction of an equity share of the Amalgamated Company, the Amalgamated Company shall not issue fractional share certificates to such member and such fractional holding shall stand cancelled.
- (h) As an integral part of the Scheme, and, upon the coming into effect of the Scheme, the authorised share capital of the Amalgamated Company shall automatically stand increased, without any further act, instrument or deed on the part of the Amalgamated Company including payment of stamp duty and fees payable to Registrar of Companies, by the authorized share capital of the Amalgamating Company.
- (i) As an integral part of the Scheme, and, upon the coming into effect of the Scheme, the capital clause of the Memorandum of Association of the Amalgamated Company shall, without any further act or deed, be replaced by the following clause:

#### **MEMORANDUM OF ASSOCIATION**

*“The authorised share capital of the Company is Rs. 81,50,00,00,000/- (Rupees Eight Thousand One Hundred and Fifty Crores Only) divided into 40,00,00,00,000 (Four Thousand Crore) equity shares of Rs. 2/- (Rupees Two Only) each, and 15,00,00,000 (Fifteen Crores) preference shares of Rs. 10/- (Rupees Ten Only) each, with power to increase and reduce the capital of the Company and to divide the shares in the capital for the time being, into several classes and to attach thereto such preferential, deferred, qualified guaranteed or special rights, privileges or conditions as may be determined by or accordance with the Articles of the Company for the time being and to vary, modify or abrogate any such rights, privileges, or conditions, in such manner as may be permitted by the Act or the Articles of the Company for the time being.”*

- (j) As an integral part of the Scheme, and, upon the coming into effect of the Scheme, the issued, subscribed and paid-up share capital of the Amalgamated Company shall stand suitably increased consequent upon the issuance of new equity shares in accordance with sub-Clause 18(a) above.



- (k) It is hereby clarified that no further resolutions under Section 16, Section 31, Section 81(1A), Section 94, Section 100 or any other applicable provisions of the Act, shall be required to be passed by the Amalgamated Company separately in a general meeting for increase of the authorized capital, amendment of the capital clause of the Memorandum of Association, for issue of shares to the members of the Amalgamating Company (except the Amalgamated Company and Mr. Dinesh Kothari) under this Scheme and for reduction of the share capital due to cancellation of shares and on the members of the Amalgamated Company approving this Scheme, it shall be deemed that they have given their consent to the said increase of the authorized capital, amendment of the capital clause of the Memorandum of Association, the issue of equity shares of the Amalgamated Company to the members of the Amalgamating Company (except the Amalgamated Company) in the Share Exchange Ratio and reduction of the share capital due to cancellation of shares. The stamp duties and fees (including registration fee) paid on the authorized share capital of the Amalgamating Company shall be utilized and applied to the increased authorized share capital of the Amalgamated Company and there would be no requirement for any further payment of stamp duty and/or fee (including registration fee) by the Amalgamated Company for increase in the authorized share capital to that extent.
- (l) The shares issued to the members of the Amalgamating Company by the Amalgamated Company pursuant to sub-Clause 18(a) above shall be issued in dematerialised form by the Amalgamated Company, unless otherwise notified in writing by the members of the Amalgamating Company to the Amalgamated Company on or before such date as may be determined by the Board of Directors of the Amalgamated Company or a committee thereof. In the event that such notice has not been received by the Amalgamated Company, the shares shall be issued in dematerialised form provided that the members of the Amalgamating Company have an account with a depository participant and the details thereof and such other confirmations as may be required are provided to the Amalgamated Company. It is only thereupon that the Amalgamated Company shall issue and directly credit the dematerialised shares to the account of such member with the shares of the Amalgamated Company. In the event that the Amalgamated Company has received notice that shares are to be issued in physical form or if members of the Amalgamating Company has not provided the requisite details relating to its account with a depository participant or other confirmations as may be required, then the Amalgamated Company shall issue shares in physical form to such members of the Amalgamating Company.
- (m) The equity shares issued and allotted by the Amalgamated Company in terms of this Scheme shall rank *pari passu* in all respects with the then existing equity shares of the Amalgamated Company.
- (n) In the event of there being any pending share transfers, whether lodged or outstanding, of the shares of the Amalgamating Company, the Board of Directors of the Amalgamated Company shall be empowered in appropriate cases, prior to or even subsequent to the Record Date, to effectuate such a transfer as if such changes in registered holder were operative as on the Record Date, in order to remove any difficulties arising to the transfer of the share in the Amalgamating Company and in relation to the shares issued by the Amalgamated Company after the effectiveness of the Scheme. The Board of Directors of the Amalgamated Company shall be empowered to remove such difficulties as may arise in the course of implementation of this Scheme and registration of new members in the Amalgamated Company on account of difficulties faced in the transaction period.



- (o) The equity shares of the Amalgamated Company issued in terms of this Scheme will be listed and/or admitted to trading on the Stock Exchanges where the shares of the Amalgamated Company are listed and/or admitted to trading. The shares allotted pursuant to this Scheme shall remain frozen in the depositories system till relevant directions in relation to listing/trading are given by the relevant Stock Exchanges.
- (p) The transfer of shares in the Amalgamating Company held by its shareholders is made in consideration of the allotment of shares of the Amalgamated Company.

### **PART III – REDUCTION OF CAPITAL OF THE AMALGAMATED COMPANY**

19. Post allotment of shares by the Amalgamated Company in terms of Clause 18(a), the existing shareholding of the Amalgamating Company in the Amalgamated Company shall be cancelled without any further act or deed, in accordance with provisions of Sections 100 to 103 of the Act and the order of the High Courts sanctioning the Scheme shall be deemed to be also the order under Section 102 of the Act for the purpose of confirming the reduction. The reduction would not involve either a diminution of liability in respect of unpaid share capital or payment of paid-up share capital, and the provisions of Section 101 of the Act will not be applicable. Notwithstanding the reduction in the equity share capital of the Amalgamated Company, the Amalgamated Company shall not be required to add “And Reduced” as suffix to its name and the Amalgamated Company shall carry on its old name.

### **PART IV – DISSOLUTION OF THE AMALGAMATING COMPANY**

20. Upon the coming into effect of the Scheme, the entire share capital of the Amalgamating Company shall, without any further act, deed or instrument, stand cancelled and the share certificates representing such shares shall, without any further act, deed or instrument, be deemed to be automatically cancelled, extinguished and of no effect and the the Amalgamating Company shall, without any further act, instrument or deed, stand dissolved without winding-up.

### **PART V – OTHER TERMS AND CONDITIONS**

21. Approval of Members of the Amalgamated Company

The Amalgamated Company undertakes that the approval of the members of the Amalgamated Company of the Scheme shall be sought in a meeting of the members with voting occurring through postal ballot and e-voting as required under the Act and the SEBI Circular. The explanatory statement to the notice sent to the members for convening such meeting shall provide all requisite details as may be material for the members to consider whilst voting on the Scheme and shall enclose the joint valuation report obtained from BSR and Associates and Price Waterhouse & Co., fairness opinion obtained from Axis Capital Limited, the Complaints Report and the observation letters received from the Stock Exchanges as prescribed under the SEBI Circular.

22. Accounting Treatment

- (a) The Amalgamated Company shall record the assets (including intangible assets, if any, whether or not recorded in the books of Amalgamating Company) and liabilities of the Amalgamating Company vested in it pursuant to the Scheme at their respective fair values as per purchase method in accordance with Accounting Standard - 14 notified under the Companies Accounting Standards Rules, 2006, as amended. Equity shares of the Amalgamated Company held by Amalgamating Company shall not be recorded by



the Amalgamated Company as assets and shall be cancelled pursuant to Clause 19 of the Scheme.

- (b) The Amalgamated Company shall record issuance of shares at fair value and accordingly credit to its Share Capital Account the aggregate face value of the Equity Shares issued on Amalgamation. The excess, if any, of the fair value of the equity shares over the face value of the shares issued shall be credited to Securities Premium Reserve. The Securities Premium Reserve so credited shall be available for issuance of bonus shares.
- (c) Investment in the share capital of the Amalgamating Company held by the Amalgamated Company shall stand cancelled.
- (d) To the extent that there are inter-company loans, advances, deposits, balances, unpaid dividend or other obligations as between the Amalgamating Company and the Amalgamated Company, the obligation in respect thereof will come to an end and corresponding effect shall be given in the books of account and records of the Amalgamated Company as well as Amalgamating Company for the reduction of any assets or liabilities as the case may be and there would be no accrual of interest or any other charges in respect of such inter-company loans, deposits or balances, with effect from the Appointed Date.
- (e) Excess, if any, of the consideration, viz., fair value of new shares issued and cost of shares in Amalgamating Company cancelled, over the fair value of Net Assets (including identifiable intangible assets, if any) taken over and recorded and the face value of Amalgamated Company shares cancelled will be recognized as Goodwill in accordance with AS 14. In the event the result is negative, it shall be credited as Capital Reserve in the books of account of the Amalgamated Company which shall be available for issuance of bonus shares. However, recognition for such intangible assets will be restricted to an amount that does not create or increase any Capital Reserve arising at the date of the amalgamation. Fair value of new shares issued to the shareholder of Amalgamating Company, shall be allocated to assets (including intangible assets, if any, whether or not recorded by Amalgamating Company) and liabilities taken over and recorded by Amalgamated Company on the basis of their fair values as on the Appointed Date based on the valuation undertaken by Independent Valuer.
- (f) The Board of Directors may adopt any other accounting treatment for the amalgamation which is in accordance with Accounting Standards notified under the Companies Accounting Standards Rules, 2006, as amended

23. Conditions to effectiveness of the Scheme

- (a) The Scheme is conditional upon and subject to:
  - (i) the Scheme being approved by the requisite majority of the members and/or creditors of the Amalgamating Company as required under the Act and the requisite orders of the High Courts, or dispensation having been received from the High Courts in relation to obtaining such consent from the members and/or creditors;
  - (ii) the Scheme being approved by the requisite majority of the members and/or creditors of the Amalgamated Company as required under the Act, and the requisite orders of the High Courts, or dispensation having been received from the High Courts in relation to obtaining such consent from the creditors;



- (iii) the Scheme being approved by the majority of public shareholders (members) of the Amalgamated Company (by way of voting through postal ballot and e-voting) as required under the SEBI Circular, i.e. the votes cast by public shareholders in favour of the resolution are more than the number of votes cast by public shareholders against it;
  - (iv) receipt of in-principle listing approval from the Stock Exchanges for listing of equity shares of the Amalgamated Company issued in terms of this Scheme;
  - (v) receipt of approval from the Foreign Investment Promotion Board for the Amalgamated Company to acquire shares of the Amalgamating Company;
  - (vi) receipt of such other approvals and sanctions and approvals including sanction of any Governmental Authority, lessor or contracting party as may be required by law or contract in respect of the Scheme;
  - (vii) the High Courts having accorded sanction to the Scheme and if any modifications have been prescribed the same being acceptable to both the Amalgamating Company and the Amalgamated Company; and
  - (viii) the certified copies of the court orders referred to in this Scheme being filed with the Registrar of Companies, Gujarat and the Registrar of Companies, New Delhi.
- (b) The Amalgamated Company (through its Board of Directors) and the Amalgamating Company (through its Board of Directors) may waive compliance of any conditions precedent to the effectiveness of this Scheme (as set out in Clause 23), as are capable of being waived, only if, and to the extent, required by the other Party. Any such waiver shall be binding on the Parties.
- (c) In case any of the conditions in the Scheme are not satisfied or waived, then the Amalgamating Company and/or the Amalgamated Company shall be at liberty to withdraw the Scheme.

24. Approvals and Consents

- (a) On the approval of the Scheme by the members of the Amalgamating Company and the Amalgamated Company, if required, in accordance with Section 391(1) of the Act, the members of these companies shall be deemed to have also resolved and accorded all relevant consents under the Act to the same extent the same may be considered applicable in relation to the amalgamation set out in this Scheme and related matters.
- (b) It is clarified that notwithstanding the approval of the Scheme by the members of the Amalgamating Company and the Amalgamated Company in accordance with Section 391(1) of the Act, the Amalgamated Company shall, in terms of the SEBI Circular, require the Scheme to be approved by majority of the public shareholders (members) of the Amalgamated Company.

25. Dividend

- (a) The Amalgamated Company and the Amalgamating Company shall be entitled to declare and pay dividends, whether interim or final, to their members in respect of the accounting period prior to the Effective Date.



- (b) The holders of the shares of the Amalgamated Company and the Amalgamating Company shall, save as expressly provided otherwise in this Scheme, continue to enjoy their existing rights under their respective articles of association including the right to receive dividends.
- (c) It is clarified that the aforesaid provisions in respect of declaration of dividends are enabling provisions only and shall not be deemed to confer any right on any member of the Amalgamating Company and/or the Amalgamated Company to demand or claim any dividends which, subject to the provisions of the Act, shall be entirely at the discretion of the Board of Directors of the Amalgamated Company and/or the Board of Directors of the Amalgamating Company, and subject to the approval, if required, of the members of the Amalgamating Company and the Amalgamated Company respectively.

26. Applications

- (a) The Amalgamating Company and the Amalgamated Company shall make necessary applications before the High Courts for the sanction of this Scheme under Sections 391 to 394, Section 100 and other applicable provisions of the Act.
- (b) The Amalgamated Company shall be entitled, pending the sanction of the Scheme, to apply to any Governmental Authority, if required, under any law for such consents and approvals which the Amalgamated Company may require to carry on the business of the Amalgamating Company.

27. Modifications to the Scheme, Withdrawal of the Scheme and Other Matters

The Amalgamating Company (by its Board of Directors) and the Amalgamated Company (by its Board of Directors), may, in their full and absolute discretion, jointly and as mutually agreed in writing:

- (a) assent to any alteration(s) or modification(s) to this Scheme which a High Court and/or any other Governmental Authority may deem fit to approve or impose, and/or effect any other modification or amendment jointly and mutually agreed in writing, including, without limitation, any modifications to the accounting treatment set out in the Scheme due to the International Financial Reporting Standards being made applicable to the Companies or to the matters set forth in this Scheme, and to do all acts, deeds and things as may be necessary, desirable or expedient for the purposes of this Scheme;
- (b) give such directions (acting jointly) as they may consider necessary to settle any question or difficulty arising under the Scheme or in regard to and of the meaning or interpretation of this Scheme or implementation hereof or in any matter whatsoever connected therewith, or to review the position relating to the satisfaction of various conditions of this Scheme and if necessary, to any of those (to the extent permissible under law and subject to requisite approval of the High Courts);
- (c) withdraw this Scheme prior to the Effective Date in any manner and at any time; or
- (d) determine jointly whether any asset, liability, employee, legal or other proceedings pertains to the Amalgamating Company or not, on the basis of any evidence that they may deem relevant for this purpose.



28. When the Scheme comes into operation

- (a) The Scheme set out herein shall be effective from the Appointed Date but shall be operative from the Effective Date.
- (b) With effect from the Effective Date, the Amalgamated Company shall carry on and shall be authorized to carry on the businesses of the Amalgamating Company. For the purposes of giving effect to the order of the High Courts under Section(s) 391 to 394, Section 100 and other applicable provisions of the Act, approving the Scheme, the Amalgamated Company shall at any time pursuant to such orders be entitled to get the recordal of the change in the legal right(s) upon the amalgamation of the Amalgamating Company in accordance with the provisions of the Section(s) 391 to 394 of the Act. The Amalgamated Company is and shall always be deemed to have been authorized to execute any pleadings, applications, forms etc. as may be required to remove any difficulties and carry out any formalities or compliance as are necessary for the implementation of the Scheme.
- (c) The Amalgamated Company shall be entitled to, amongst other, file/ or revise its income tax returns, TDS returns, wealth tax returns and other statutory returns, if required, credit for advance tax paid, tax deducted at source, claim for sum prescribed under Section 43B of the Income Tax Act on payment basis, claim for deduction of provisions written back by Amalgamated Company previously disallowed in the hands of Amalgamating Company under the Income Tax Act, credit of tax under Section 115JB read with Section 115JAA of the Income Tax Act, credit of foreign taxes paid/ withheld etc., if any, pertaining to the Amalgamating Company as may be required consequent to implementation of this Scheme. Likewise the Amalgamated Company shall be entitled to file/ or revise its income tax returns, TDS returns, wealth tax returns and other statutory returns as may be required under the respective statute.

29. Severability

If any part of this Scheme is found to be unworkable for any reason whatsoever, the same shall not, subject to the decision of the Amalgamating Company and the Amalgamated Company, affect the validity or implementation of the other parts and/or provisions of this Scheme.

30. Costs

Subject to the provisions of Clause 31 of the Scheme, all costs, charges and expenses (including, but not limited to, any taxes and duties, stamp duty, registration charges, etc.) of /payable by the Amalgamating Company and the Amalgamated Company in relation to or in connection with the Scheme and incidental to the completion of the amalgamation of the Amalgamating Company with the Amalgamated Company in pursuance of the Scheme shall be borne and paid by the Amalgamated Company.

31. Long Stop

In the event that this Scheme fails to take effect within such period or periods as may be decided by the Amalgamating Company and the Amalgamated Company, this Scheme shall stand revoked, cancelled and be of no effect and become null and void, and in that event, no rights and liabilities shall accrue to or be incurred inter se between the parties or their members or creditors or employees or any other person. In such case, each of the Amalgamating Company and the Amalgamated Company shall bear its own costs and expenses or as may be otherwise mutually agreed.

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**ANNEXURE I**

*(copy of observation letters to be inserted)*

