

IN THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH, MUMBAI

CP(CAA)/4264/MB-III/2019

connected with

CA(CAA)/2204/MB-III/2019

In the matter of

The Companies Act, 2013

and

In the matter of

Sections 230-232 and other applicable
provisions of the Companies Act, 2013

and

In the matter of

Scheme of Amalgamation

of

Henkell & Company India Private Limited

(Transferor Company)

and

Allied Blenders and Distillers Private Limited

(Transferee Company)

Henkell & Company India Private Limited

CIN: U15549MH2006PTC166229 ...

Petitioner No.1/

Transferor Company

Allied Blenders and Distillers Private Limited

CIN: U15511MH2008PTC187368 ...

Petitioner No.2/

Transferee Company

Order pronounced on: 27th July 2020

Coram:

Shri Rajasekhar V.K.

: Member (Judicial)

Shri V Nallasenapathy

: Member(Technical)



Appearances (via videoconferencing):

For the Petitioners : Mr. Hemant Sethi i/b. Hemant
Sethi & Co., Advocates

For the Regional Director : Ms. Rupa Sutar, Deputy
D i r e c t o r

ORDER

Per: Rajasekhar V.K., Member (Judicial)

1. The Court is convened by videoconference today.
2. Heard learned counsel for parties. No objector has come before this Tribunal to oppose the Scheme nor has any party controverted any averments made in the Petition.
3. The sanction of the tribunal is sought under Sections 230 to 232 of the Companies Act, 2013 to a Scheme of merger by absorption of Henkell & Company India Private Limited (*Transferor Company*) by Allied Blenders and Distillers Private Limited (*Transferee Company*).
4. The Counsel for the Petitioner Companies further submits that the First Petitioner Company is in the business of sales and marketing and related services of leading Indian Made Foreign Liquor. The Second Petitioner Company is currently engaged in the business activity of manufacturing, marketing and sale of alcoholic beverages in India and overseas market.
5. The Counsel for the Petitioner Companies further submits that the Board of Directors of the First Petitioner Company and the Second Petitioner Company have reviewed, considered and proposed this Scheme under the provisions of Sections 230-232 and other relevant



provisions of the Companies Act, 2013. The merger would result in the following benefits:

- a. *The Transferor Company is a wholly owned subsidiary of the Transferee Company.*
- b. *The amalgamation will enable the Transferee Company to consolidate the businesses and lead to synergies in operation of marketing services and create a stronger financial base.*
- c. *It would be advantageous to combine the activities and operations of both companies into a single Company for synergistic linkages and the benefit of combined financial resources. This will be reflected in the profitability of the Transferee Company.*
- d. *This Scheme of amalgamation would result in merger and thus consolidation of business of the Transferor Company and the Transferee Company in one entity, all the shareholders of the merged entity will be benefited by result of the amalgamation of Business and availability of a common operating platform.*
- e. *The Amalgamation of the Transferor Company with the Transferee Company will also provide an opportunity to leverage combined assets and build a stronger sustainable business. Specifically, the merger will enable optimal utilization of existing resources and provide an opportunity to fully leverage strong assets, capabilities, experience, expertise and infrastructure of both the companies. The merged entity will also have sufficient funds required for meeting its long term capital needs as provided for in the scheme.*
- f. *The Scheme of amalgamation will result in cost saving for both the companies as they are capitalizing on each other's core competency and resources which is expected to result in stability of operations, cost savings and higher profitability levels for the Amalgamated Company.*
- g. *Reduction in compliances and statutory filings with various government departments;*



- h. *It will improve and consolidate internal controls and enable functional integration at various level of the organization such as information technology, human resources, finance, secretarial, legal and general management leading to an efficient organization capable of responding swiftly to volatile and rapidly changing market scenarios; and*
- i. *In view of the above, the Board of Directors of the Transferor Company as well as Board of Directors of the Transferee Company have considered and proposed the merger of the Transferor Company with the Transferee Company in order to benefit the stakeholders of both the Companies.*
6. The Counsel for the Petitioner Companies further submits that the Board of Directors of the First Petitioner Company passed Resolution on 29th March 2019 and the Board of Directors of the Second Petitioner Company passed Resolution on 8th March 2019 approving the Scheme.
7. The Regional Director, Western Region, Mumbai in his Report dated 27th February 2020 and has in paragraph IV as under:
- (a) *In compliance of AS-14 (IND AS-103), the Petitioner Companies shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standards such as AS-5(IND AS-8) etc.*
- (b) *As per Definition of the Scheme, Appointed Date; For the purpose of this Scheme under the provisions of Section 232 (6) of the Companies act, 2013 and for Income Tax Act, 1961, the appointed date means the 01st April 2019 And Effective Date' means the last of the following dates, namely:*
- That on which the last of the consents, approvals, permissions, resolutions and order as mentioned in Clause 23(a) shall be obtained or passed;*



Or

That on which the last of the dates on which certified copy of the order of the Tribunal of the Relevant Jurisdiction under Section 230 to 232 of the Act sanctioning the Scheme is filed with the Registrar of Companies of the Relevant Jurisdiction.

Any reference in this scheme to the date of "coming into effect" shall mean the Effective Date"

In this regard, it is submitted that Section 232(6) of the Companies Act 2013 states that the Scheme under this section shall clearly indicate an appointed date from which the it shall be effective and the scheme shall be deemed to be effective from such date and not at a date subsequent to the appointed date. However, this aspect may be decided by the Hon'ble Tribunal taking into account its inherent powers.

Further the Petitioners may be asked to comply with the requirements as clarified vide circular No.7/12/2019/CL-1 dated 21.08.2019 issued by the Ministry of Corporate Affairs.

- (c) Petitioner Company have to undertake to comply with section 232(3)(i) of Companies Act 2013, where the transferor company is dissolved, the fees, if paid by the transferor company on its authorized capital shall be sett -off against any fees payable by the transferee company on its authorized capital subsequent to the amalgamation and therefore, petitioners to affirm that they comply the provisions of the section.*
- (d) ROC report dated 05.02.2020 inter alia mention that as MCA Authorized and Paid up share capital of the Transferee Company is Rs. 56,43,00,000/- and 53,93,15,130/- respectively and as per the Scheme the paid up share capital is Rs. 47,11,33,330/- which is no agreed with MCA Master data (sic)*
- (e) The Hon'ble Tribunal may kindly seek the undertaking that this Scheme is approved by the requisite majority of members and creditors as per Section 230(6) of the Act in meetings duly held in terms of Section*



232(1) read with sub section (3) and (5) of Section 230 of the Act and the Minutes thereof are duly placed before the Tribunal.

(f) The Petitioners under provisions of section 230(5) of the Companies Act, 2013 have to serve notices to concerned authorities which are likely to be affected by Amalgamation. Further, the approval of the scheme by this Hon'ble Tribunal may not deter such authorities to deal with any of the issues arising after giving effect to the scheme. The decision of such authorities is binding on the Petitioner Company(s).

8. In response to the Report of the Regional Director, the Petitioners have filed affidavit in reply, dated 11th March 2020 and have clarified as under:

(a) Apropos the observation of the Regional Director, Western Region, Mumbai, as stated in paragraph IV (a) of his report is concerned, the Transferee Company undertakes that in addition compliance of AS-14, (IND AS -103) the Transferee Company will pass such Accounting entries which are necessary in connection with the Scheme to comply with other applicable Accounting Standards such as AS-5 (IND AS-8), to the extent applicable .

(b) Apropos the observation of the Regional Director, Western Region, Mumbai, as stated in paragraph IV (b) of his report is concerned, the Petitioner Companies confirm and undertake that the Appointed Date has been fixed as 1st day of April, 2019 which is in compliance with Section 232(6) of the Companies Act, 2013 and the Scheme shall be effective from such Appointed Date and not subsequent to the appointed date. Therefore the Scheme meets requirement of Circular No F 7/12/2019/CL-1 dated 21.08.2019 issued by the Ministry of Corporate affairs.

(c) Apropos the observation of the Regional Director, Western Region, Mumbai, as stated in paragraph IV (c) of his report is concerned, the Petitioners hereby confirms and undertakes that the fee, if any, paid by the Transferor Company on its authorized capital shall be set-off against



any fees payable by the Transferee Company on its authorized capital subsequent to the Amalgamation. The Petitioner Company confirms that they will comply the relevant provisions of various Act including the Companies Act, 2013 to the extent applicable.

- (d) *Apropos the observation of the Regional Director, Western Region, Mumbai, as stated in paragraph IV (d) of his report is concerned, Petitioners clarify that mismatch in the share capital between MCA portal where the Authorized and Paid up share capital of the Transferee Company is Rs. 56,43,00,000/- and 53,93,15,130/- respectively and as per the Scheme the paid up share capital is Rs. 47,11,33,330/- It is clarified by the Petitioners that figures reported in the scheme is as per Audited Financials as on 31/03/2019 as Equity Share Capital of Rs.47,11,33,330. However during the FY 19-20 , Transferee company has issued Preference Shares of Rs. 6,81,81,800 thus total Issued Share Capital becomes Rs.53,93,15,130 which was updated in MCA portal.*
- (e) *Apropos the observation of the Regional Director, Western Region, Mumbai, as stated in paragraph IV (e) of his report is concerned , the Petitioners submit that the meeting of the Equity shareholders of the first Petitioner Company was dispensed with in view of consents affidavit obtained by all the Equity Shareholders of the First Petitioner Company. In so far as Unsecured Creditors of the First Petitioner Company are concerned notices have been served upon all the unsecured creditors. Further the Transferee Company was not required to convene meetings of its equity shareholders and that meeting of its creditors in view of the fact that the First Petitioner Company is wholly owned subsidiary of the Second Petitioner Company in view of ratio laid down in judgement passed in CSA No 243 of 2017 in the matter of Housing Development Finance Corporation Limited.*
- (f) *Apropos the observation of the Regional Director, Western Region, Mumbai, as stated in paragraph IV (f) of his report is concerned , the Petitioners have given notices to all the Regulatory authorities such as Regional Director, Registrar of Companies, Income tax department and to the official liquidator in so far as the Transferor Company is*



concerned. It is further clarified that the approval of the scheme by this Tribunal shall not deter such authorities to deal with any of such issues arising after giving effect to the scheme and all issues arising under the scheme will be met in accordance with law.

9. The observations made by the Regional Director have been explained by the Petitioner in paragraphs 8(a) to 8(f) above. The clarifications and undertakings given by the Petitioner Companies are hereby accepted.
10. The Official Liquidator has filed his report dated 26th December 2019 stating that the affairs of the Transferor Company have been conducted in a proper manner.
11. From the material on record, the Scheme appears to be fair and reasonable and is not in violation of any provisions of law and is not contrary to public policy.
12. Since all the requisite statutory compliances have been fulfilled, the CP(CAA)/4264/MB.III/2019 filed jointly by the Petitioner Companies are made absolute in terms of prayer clause (a) of Company Petition.
13. The scheme is hereby sanctioned, with the Appointed Date fixed as 1st April 2019. The Transferor Company be dissolved without winding up.
14. The Petitioner Companies are directed to lodge a certified copy of this Order and this Scheme with the concerned Superintendent of Stamps, within 60 working days from the date of receipt of certified copy of order, for adjudication of stamp duty payable, if any on the above.



IN THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH, MUMBAI

CP (CAA)/4264/MB-III/2019
connected with CA (CAA)/2204/MB-III/2019

15. The Petitioner Companies are directed to lodge a certified copy of this Order along with a copy of the Scheme with the concerned Registrar of Companies, electronically in Form INC-28, in addition to physical copy, within 30 days from the date of issue of the Order duly certified by the Registry, duly certified by the Deputy/Assistant Registrar of this Tribunal.
16. All concerned regulatory authorities to act on a copy of this Order duly certified by the Deputy/Assistant Registrar of this Tribunal along with a copy of the Scheme.
17. Any person interested shall be at liberty to apply to this Tribunal in the above matter for any directions that may be necessary.
18. Pronounced today in Open Court. File be consigned to records.

Sd/-

V. Nallasenapathy
Member (Technical)

Sd/-

Rajasekhar V.K.
Member (Judicial)

Certified True Copy

Date of Application 27 July 2020

Number of Pages 09

Fee Paid Rs. 45

Amount called for collection copy on 18.08.2020

Copy on 18.08.2020

Copy issued on 18.08.2020


Assistant Registrar
National Company Law Tribunal, Mumbai Bench



SCHEME OF MERGER
BY AND AMONG
**HENKELL & COMPANY INDIA PRIVATE LIMITED ('TRANSFEROR
COMPANY')**
AND
ALLIED BLENDERS AND DISTILLERS PRIVATE LIMITED
('TRANSFeree COMPANY')
AND

THEIR RESPECTIVE MEMBERS

(Under Sections 230 to 232 or other applicable provisions of the Companies Act, 2013
as may be applicable and rules framed thereunder)

PRELIMINARY

1. OVERVIEW

- 1.1 This Scheme of Merger is presented *inter-alia* for the merger by way of absorption (amalgamation) of Henkell & Company India Private Limited by Allied Blenders And Distillers Private Limited, pursuant to Sections 230 to 232 and other relevant provisions of the Companies Act, 2013 and the rules made thereunder.
- 1.2 This Scheme seeks to amalgamate and consolidate the business of Henkell & Company India Private Limited ("Transferor Company") with that of Allied Blenders And Distillers Private Limited ("Transferee Company") which is a wholly owned subsidiary of the Transferee Company. The Board of Directors of the Transferor Company and the Transferee Company (together referred to as the "Amalgamating Company") have resolved that the merger by way of absorption (amalgamation) of the Transferor Company into the Transferee Company would be in the interests of all the stakeholders of the Amalgamating Company, as it would result in increased operational efficiencies, bring economies of scale and result in synergetic integration of businesses presently being carried on by the Amalgamating Company.
- 1.3 This Scheme also provides for various other matters consequential or otherwise integrally connected herewith.

2. DESCRIPTION OF AMALGAMATING COMPANIES

2.1 Transferor Company

- **Henkell & Company India Private Limited** is a company incorporated under the Companies Act, 1956, having CIN – U15549MH2006PTC166229, with its registered office at 12, Evergreen Industrial Estate, Shakti Mills Lane, Off Haines Road, Mahalaxmi, Mumbai 400 011, India ("Transferor Company" or "Henkell"). Henkell is in the business of sales and marketing and related services of leading Indian Made Foreign Liquor.



2.2 Transferee Company

Allied Blenders And Distillers Private Limited is a private limited company incorporated under the Companies Act, 1956, having CIN U15511MH2008PTC187368, with its registered office at 394-C, Lamington Chambers, Lamington Road, Mumbai 400 004, Maharashtra, India, Maharashtra, India ("Transferee Company" or "Allied Blenders"). The Transferee Company is currently engaged in the business activity of manufacturing, marketing and sale of alcoholic beverages in India and overseas market.

The Transferor Company is a wholly owned subsidiary of the Transferee Company.

3. RATIONALE FOR THE SCHEME

- a. The Transferor Company is a wholly owned subsidiary of the Transferee Company.
- b. The amalgamation will enable the Transferee Company to consolidate the businesses and lead to synergies in operation of marketing services and create a stronger financial base.
- c. It would be advantageous to combine the activities and operations of both companies into a single Company for synergistic linkages and the benefit of combined financial resources. This will be reflected in the profitability of the Transferee Company.
- d. This Scheme of amalgamation would result in merger and thus consolidation of business of the Transferor Company and the Transferee Company in one entity, all the shareholders of the merged entity will be benefited by result of the amalgamation of Business and availability of a common operating platform.
- e. The Amalgamation of the Transferor Company with the Transferee Company will also provide an opportunity to leverage combined assets and build a stronger sustainable business. Specifically, the merger will enable optimal utilization of existing resources and provide an opportunity to fully leverage strong assets, capabilities, experience, expertise and infrastructure of both the companies. The merged entity will also have sufficient funds required for meeting its long term capital needs as provided for in the scheme.
- f. The Scheme of amalgamation will result in cost saving for both the companies as they are capitalizing on each others core competency and resources which is expected to result in stability of operations, cost savings and higher profitability levels for the Amalgamated Company.
- g. Reduction in compliances and statutory filings with various government departments;
- h. It will improve and consolidate internal controls and enable functional integration at various level of the organization such as information technology, human resources, finance, secretarial, legal and general management leading to an efficient organization capable of responding swiftly to volatile and rapidly changing market scenarios; and
- i. The Scheme does not affect the rights and interests of the shareholders or the creditors of the Transferee/ Transferor Company. The shareholding



and other rights of the members of the Transferee Company will remain unaffected as no new shares are proposed to be issued by the Transferee Company and there is no change in the capital structure. Further, the creditors of the Transferee Company/ Transferor Company will not be affected by the Scheme since the combined assets of the Transferee Company are more than its combined liabilities.

In view of the above, the Board of Directors of the Transferor Company as well as Board of Directors of the Transferee Company have considered and proposed the merger of the Transferor Company with the Transferee Company in order to benefit the stakeholders of both the Companies.

Accordingly, the Board of Directors of the Transferor Company and the Transferee Company have formulated this Scheme of Merger by Absorption pursuant to the provisions of Sections 230 to 232 or other applicable provisions of the Companies Act, 2013 as may be applicable and rules framed thereunder.

PARTS OF THE SCHEME

The Scheme of merger is divided into following three parts:

- (i) **Part I** – Deals with the definitions and share capital;
- (ii) **Part II**– Deals with merger of Henkell & Company India Private Limited with Allied Blenders And Distillers Private Limited ; and
- (iii) **Part III** – Deals with the dissolution of the Transferor Company and General Clauses, Terms and Conditions applicable to the Scheme.

PART I – DEFINITIONS, INTERPRETATION AND SHARE CAPITAL

1. DEFINITIONS AND INTERPRETATION

In this Scheme, unless repugnant to the meaning or context thereof, (i) terms defined in the introductory paragraphs and recitals shall have the same meanings throughout this Scheme and (ii) the following words and expressions, wherever used (including in the recitals and the introductory paragraphs above), shall have the following meanings:

1.1 'Act' or 'the Act' means the Companies Act, 2013 and Rules made thereunder.

1.2 'Applicable Law(s)' means any statute, notification, bye laws, rules, regulations, guidelines, rule or common law, policy, code, directives, ordinance, schemes, notices, orders or instructions law enacted or issued or sanctioned by any Appropriate Authority including any modification or re-enactment thereof for the time being in force.

1.3 'Appointed Date' For the purpose of this Scheme under provision of Section 232 (6) of the Companies Act 2013 and for Income Tax Act, 1961, the appointed date means the 01st April 2019. ,

1.4 'Acquisition Date' for the purpose of the scheme Acquisition Date under para 8 and para 9 of Ind-AS 103 shall be deemed to be "Appointed Date" as per para 1.3 above i.e. 01st April 2019.

1.5 'Appropriate Authority' means any governmental, statutory, regulatory, departmental or public body or authority of the Relevant Jurisdiction including Registrar of Companies of Maharashtra and Allahabad , the National Company Law Tribunal of Relevant Jurisdiction



1.6 "Board of Directors" or "Board" in relation to the Transferor Company and the Transferee Company, as the case may be, means the board of directors of such company, and shall include a committee duly constituted and authorised for the purposes of matters pertaining to the merger, this Scheme and/or any other matter relating thereto;

1.7 'Effective Date' means the last of the following dates, namely:

- a. That on which the last of the consents, approvals, permissions, resolutions and orders as mentioned in Clause 23(a) shall be obtained or passed; or
- b. That on which the last of the dates on which certified copy of the order of the Tribunal of the Relevant Jurisdiction under Sections 230 to 232 of the Act sanctioning the Scheme is filed with the Registrar of Companies of the Relevant Jurisdiction.

Any references in this Scheme to the date of "coming into effect of this Scheme" or "effectiveness of this Scheme" or "Scheme taking effect" shall mean the Effective Date;

1.8 "Governmental Authority" means (i) a national government, political subdivision thereof; (ii) an instrumentality, board, commission, court, or agency, whether civilian or military, of any of the above, however constituted; and (iii) a government-owned/ government-controlled association, organization in the Republic of India;

1.9 'Relevant Jurisdiction' means the territories of the State of Maharashtra.

1.10 'Scheme' or 'the Scheme' or 'this Scheme' means this Scheme of Merger by absorption (amalgamation) in its present form as submitted to the Tribunal of Relevant Jurisdiction with any modification(s) made under Clause 25 of the Scheme as approved or directed by the Tribunal or such other competent authority, as may be applicable.

1.10 'Tribunal' means the National Company Law Tribunal, Mumbai Bench and/or the National Company Law Tribunal, Allahabad Bench as constituted and authorized as per the applicable provisions of the Companies Act, 2013 for approving any scheme of arrangement, compromise or reconstruction of companies under Section 230 to 240 of the Companies Act, 2013, if applicable.

1.11 "Undertaking" means all the undertakings and entire business of the Transferor Company as a going concern, including, without limitation:

- i. 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 Transferor Company, whether situated in India or abroad, including, without limitation, all manufacturing units and facilities, all land, buildings and structures, offices, residential and other premises, capital work-in-progress, machines and equipments, furniture, fixtures, office equipment, computers, appliances, accessories, power lines, stocks (including work-in-progress and transit), current assets (including inventories, sundry debtors, bills of exchange, loans and advances), investments of all kinds (including shares, scrips, stocks, bonds, debenture stocks, units or pass through certificates), cash and bank accounts (including bank balances), contingent rights or benefits, benefits of any deposits, earnest monies, receivables, advances or deposits paid by or deemed to have been paid by the Transferor Company.



financial assets, benefit of any bank guarantees, performance guarantees and letters of credit, leases (including lease rights), hire purchase contracts and assets, lending contracts, rights and benefits under any agreement, benefit of any security arrangements or under any guarantees, reversions, powers, tenancies in relation to the office and/or residential properties, guest houses, godowns, warehouses, vehicles, D.G. sets, share of any joint assets, 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, other benefits (including tax benefits), tax holiday benefit, incentives, deductions, exemptions, rebates, allowances, amortizations, credits (including tax credits), Minimum Alternate Tax Credit entitlement ("MAT Credit") and advance income tax payments, unabsorbed depreciation and carried forward business losses (if available) under Income Tax Act 1961, the input credit balances (including SGST, CGST and IGST credits) under the Good and Service Tax (GST) laws, all customs duty benefits and exemptions, export and import incentives and benefits or any other benefits/incentives/ exemptions given under any policy announcements issued or promulgated by the government of India, any state government or any other government body or authority or any other like benefits under any statute and advantages of whatsoever nature belonging to or in the control of or vested in or granted in favour of or enjoyed by the Transferor Company, including but without being limited to recognition or approvals received from government departments/ authorities, the CENVAT/MODVAT credit balances under the Central Excise Act, 1944, duty drawback claims, rebate receivables, refunds and advances, contracts entered into by the Transferor Company (including but not limited to government contracts procured by the Transferor Company), privileges and all other rights, easements, privileges, liberties and advantages of whatsoever nature and wheresoever 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 Transferor Company or in connection with or relating to the Transferor 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 Transferor Company, whether in India or abroad;

- ii. all permits, quotas, rights, entitlements, industrial and other licenses, more particularly set out in Annexure A of the application, bids, tenders, letters of intent, expressions of interest, development rights (whether vested or potential and whether under agreements or otherwise), municipal permissions, approvals, consents, subsidies, privileges, income tax benefits and exemptions in respect of the profits of the undertaking for the residual period, i.e., for the period remaining as on the Appointed Date out of the total period for which the benefit or exemption is available in law if the merger pursuant to this Scheme does not take place, all other rights including sales tax deferrals and exemptions and other benefits, receivables, 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 Transferor Company;
- iii. all debts, borrowings, obligations, duties and liabilities, both present and future (including deferred tax liabilities, contingent liabilities and the Liabilities and obligations under any licenses or permits or schemes) of



every kind, nature and description whatsoever and howsoever arising, raised or incurred or utilized, whether secured or unsecured, whether in Rupees or foreign currency, whether provided for or not in the books of accounts or disclosed in the balance sheet of the Transferor Company. Provided that, any reference in the security documents or arrangements entered into by the Transferor Company and under which, the assets of the Transferor Company stand offered as a security, for any financial assistance or obligation, the said reference shall be construed as a reference to the assets pertaining to that Undertaking of the Transferor Company only as are vested in the Transferee Company by virtue of the Scheme and the Scheme shall not operate to enlarge the security for any loan, deposit or facility created by the Transferor Company which shall vest in the Transferee Company by virtue of the merger and the Transferee Company shall not be obliged to create any further or additional security therefore after the merger has become effective.

- iv. All other obligations of whatsoever kind, including liabilities of the Transferor Company with regard to its employees, with respect to the payment of gratuity, pension benefits and the provident fund or compensation, if any, in the event of resignation, death, voluntary retirement or retrenchment.
- v. all trade and service names and marks, patents, copyrights, brands, knowhow, designs, trade secrets, customer contracts, established customer base and information, supplier contracts, domain name, Unpatented proprietary technology, product and process, a time tested range of products with significant sales coming from unrelated parties, skilled labour, strategic location of the factories and other intellectual property rights of any nature whatsoever constituting in the overall goodwill of the business, books, records, files, papers, engineering and process information, software licenses (whether proprietary or otherwise), drawings, computer programs, manuals, data, catalogues, quotations, sales and advertising material, lists of present and former customers and suppliers, other customer information, customer credit information, customer pricing information and all other records and documents, whether in physical or electronic form relating to business activities and operations of the Transferor Company;
- vi. Amounts claimed by the Transferor Company whether or not so recorded in the books of accounts of the Transferor Company from any Governmental Authority, under any law, act or rule in force, as refund of any tax, duty, cess or of any excess payment.

All terms and words 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 laws, rules, regulations, bye-laws, as the case may be or any statutory modification or re-enactment thereof for the time being in force.

References to clauses and recitals, unless otherwise provided, are to clauses and recitals of and to this Scheme.

The headings herein shall not affect the construction of this Scheme. Unless the context otherwise requires:

- i. the singular shall include the plural and vice versa, and references to one gender include all genders.



- ii. references to a person include any individual, firm, body corporate (whether incorporated), 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).
- iii. Whenever the words include, includes or including are used, they will be deemed to be followed by the words "without limitation", whether or not they are in fact followed by those words or words of like import;
- iv. reference to any law or to any provision thereof or to any rule or regulation promulgated thereunder includes a reference to such law, provision, rule or regulation as it may, from time to time, be amended, supplemented or re-enacted, or to any law, provision, rule or regulation that replaces it.

2. DATE OF TAKING EFFECT AND OPERATIVE DATE

The Scheme set out herein in its present form with or without any modification(s) approved or imposed or directed by the Tribunal or made as per the Scheme, shall be effective from the Appointed Date but shall be operative from the Effective Date.

Any references in the Scheme to 'upon the Scheme becoming effective' or 'effectiveness of the Scheme' shall mean the Effective Date.

3. SHARE CAPITAL

3.1 The share capital of Transferor Company as at 1st April 2019 is as under:

Particulars	Amount (Rupees)
Authorized Capital	
1,60,00,000 Equity Shares of Rs. 10 each	16,00,00,000
Total	16,00,00,000
Issued	
1,55,80,000 Equity Shares of Rs. 10 each	15,58,00,000
Subscribed and Paid – up	
1,55,80,000 Equity Shares of Rs. 10 each	15,58,00,000
Total	15,58,00,000

Subsequent to 1st April 2019 and up to the date of approval of this Scheme by the Board of Transferor Company, there is no change in the stated capital of Transferor Company.

As on the date of approval of this Scheme by the Board of Directors, the entire Equity Share Capital of the Transferor Company is held by the Transferee Company along with its nominee. Accordingly, the Transferor Company is a wholly owned subsidiary of the Transferee Company.

There are no existing commitments, obligations or arrangements by the Transferor Company as on the date of sanction of this Scheme by the Board of Directors to issue any further shares or convertible securities.



3.2 The share capital of Transferee Company as at 1st April 2019 is as under

Particulars	Amount (Rupees)
Authorized Capital	
28,21,50,000 Equity Shares of Rs. 2 each	56,43,00,000
Total	56,43,00,000
Issued	
23,55,66,665 Equity Shares of Rupees 2 each fully paid up.	47,11,33,330
Subscribed and Paid – up	
23,55,66,665 Equity Shares of Rupees 2 each fully paid up.	47,11,33,330
Total	47,11,33,330

Subsequent to 1st April 2019 and up to the approval of this Scheme by the Board of the Transferee Company, there is no change in the stated capital of Transferor Company.

There are no existing commitments, obligations or arrangements by the Transferee Company as on the date of sanction of this Scheme by the Board of Directors to issue any further shares or convertible securities except to issue shares on exercise of options granted under any of its existing employee stock option schemes.

PART II – MERGER OF HENKELL & COMPANY INDIA PRIVATE LIMITED WITH ALLIED BLENDERS AND DISTILLERS PRIVATE LIMITED

4. TRANSFER AND VESTING

4.1 Upon the coming into effect of this Scheme and with effect from the Appointed Date, pursuant to the sanction of this Scheme by the Tribunal of Relevant Jurisdiction and pursuant to the provisions of Sections 230 to 232 and other applicable provisions, if any, of the Act, the Undertakings of the Transferor Company shall be and stand vested in or be deemed to have been vested in the Transferee Company, as a going concern without any further act, instrument, deed, matter or thing so as to become, as and from the Appointed Date, the undertaking of the Transferee Company by virtue of and in the manner provided in this Scheme.

4.2 Vesting of Assets

a. Without prejudice to the generality of Clause 8.1 above, upon the coming into effect of this Scheme and with effect from the Appointed Date, all the estate, assets, properties, rights, claims, title, interest and authorities including accretions and appurtenances comprised in the Undertakings of whatsoever nature and where so ever situate shall, under the provisions of Sections 230 to 232 of the Act and all other applicable provisions of Applicable Law, if any, without any further act or deed, be and stand transferred to and vested in the Transferee Company and/or be deemed to be transferred to and vested in the Transferee Company as a going concern so as to become, as and from the Appointed Date, the estate, assets, properties, rights, claims, title, interest and authorities of the Transferee Company. Provided that the movable assets of the Transferor Company shall vest in the Transferee



Company in the manner laid down hereunder:

- b. Without prejudice to the provisions of Clause 4.1 above, in respect of such of the assets and properties of the Transferor Company as are movable in nature or incorporeal property or are otherwise capable of vesting or transfer by delivery or possession, or by endorsement and/or delivery, the same shall stand so transferred or vested by the Transferor Company upon the coming into effect of this Scheme, and shall, become the assets and property of the Transferee Company with effect from the Appointed Date pursuant to the provisions of Sections 230 to 232 of the Act, without requiring any deed or instrument of conveyance for transfer or vesting of the same.
- c. In respect of such of the assets and properties belonging to the Transferor Company (other than those referred to in Clause (i) above) including 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, investments, earnest money and deposits with any government, quasi government, local or other authority or body or with any company or other person, the same shall stand transferred to and vested in the Transferee Company and/or be deemed to have been transferred to and vested in the Transferee Company, without any further act, instrument or deed, cost or charge and without any notice or other intimation to any third party, upon the coming into effect of this Scheme and with effect from the Appointed Date pursuant to the provisions of Sections 230 to 232 of the Act.
- d. All assets, rights, title, interest, investments and properties of the Transferor Company as on the Appointed Date, whether or not included in the books of the Transferor Company, and all assets, rights, title, interest, investments and properties, which are acquired by the Transferor Company on or after the Appointed Date but prior to the Effective Date, shall be deemed to be and shall become the assets, rights, title, interest, investments and properties of the Transferee Company, and shall under the provisions of Sections 230 to 232 and all other applicable provisions, if any, 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 upon the coming into effect of this Scheme and with effect from the Appointed Date pursuant to the provisions of Sections 230 to 232 of the Act.
- e. All the licenses, permits, registrations, quotas, entitlements, approvals, permissions, registrations, incentives, tax deferrals, exemptions and benefits, subsidies, concessions, grants, rights, claims, leases, tenancy rights, liberties, special status and other benefits or privileges enjoyed or conferred upon or held or availed of by the Transferor Company and all rights and benefits that have accrued or which may accrue to the Transferor Company, whether on, before or after the Appointed Date, including income tax benefits and exemptions, shall, under the provisions of Sections 230 to 232 of the Act and all other applicable provisions, if any, without any further act, instrument or deed, cost or charge be and stand transferred to and vest in and/or be deemed to be transferred to and vested in and be available to the Transferee Company so as to become the licenses, permits, registrations, quotas, entitlements, approvals, permissions, registrations, incentives, tax deferrals, exemptions and



benefits, subsidies, concessions, grants, rights, claims, leases, tenancy rights, liberties, special status and other benefits or privileges of the Transferee Company and shall remain valid, effective and enforceable on the same terms and conditions.

- f. All assets and properties of the Transferor Company as on the Appointed Date, whether or not included in the books of the Transferor Company, and all assets and properties which are acquired by the Transferor Company on or after the Appointed Date but prior to the Effective Date, shall be deemed to be and shall become the assets and properties of the Transferee Company, and shall under the relevant provisions 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 upon the coming into effect of this Scheme pursuant to the relevant provisions of the Act.
- g. All intangible assets (including but not limited to goodwill) belonging to but not recorded in the books of accounts of the Transferor Company and all intangible assets (including but not limited to goodwill) arising or recorded in the process of merger in the books of the Transferee Company, shall, for all purposes, be regarded as intangible assets in terms of Explanation 3(b) to Section 32(1) of the Income-tax Act, 1961 and the Transferee Company shall be eligible for depreciation there under at the prescribed rates.
- h. From the Appointed Date, all immovable properties, of the Transferor Company, as described in the Schedule A, including land together with the buildings and structures standing thereon and rights and interests in immovable properties of the Transferor Company, whether freehold or leasehold or otherwise, and all documents of title, rights and easements in relation thereto, shall, stand vested in and/or be deemed to have been vested in the Transferee Company. The Transferee Company shall upon the Scheme becoming effective, be always entitled to all the rights and privileges attached in relation to such immovable properties and shall be liable to pay appropriate rent, rates and taxes and fulfil obligations in relation thereto or as applicable to such immovable property. Upon the Scheme becoming effective, the title to such properties shall be deemed to have been mutated and recognized as that of the Transferee Company and the mere filing thereof with the appropriate registrar or sub-registrar of assurances or with the relevant Government Authorities shall suffice as record of continuing titles with the Transferee Company and shall constitute a deemed mutation and substitution thereof. The Transferee Company shall, subsequent to the Scheme becoming effective, be entitled to the delivery and possession of all documents of title to such immovable property in this regard. It is hereby clarified that all the rights, title and interest of the Transferor Company in any leasehold or freehold properties shall, pursuant to the provisions of this Scheme, without any further act, instrument or deed, be vested in, or be deemed to have been vested in, the Transferee Company.
- i. Upon the scheme coming into effect and with effect from the Appointment date, the title to the immovable properties of the Transferred Undertakings shall be deemed to have been mutated and recognised as that of the Transferee Company and the mere filing of the certified true copy of the vesting order of the Court sanctioning the Scheme with the appropriate Registrar or Sub—registrar of Assurances



or with the relevant Government agencies shall suffice as record of continuing title of the immovable properties of the Transferred Undertakings with the Transferee Company pursuant to the Scheme becoming effective and shall constitute a deemed mutation and substitution thereof.

5. CONTRACTS, DEEDS ETC.

- a. Upon the coming into effect of this Scheme, and subject to the provisions of this Scheme, all contracts, deeds, bonds, agreements, schemes, arrangements, insurance, letters of Intent, undertakings, policies and other instruments of whatsoever nature, to which the Transferor Company is a party or to the benefit of which the Transferor Company may be eligible, and which are subsisting or have effect immediately before the Effective Date, shall continue in full force and effect on or against or in favour of, as the case may be, the Transferee Company and may be enforced as fully and effectually as if, instead of the Transferor Company, the Transferee Company had been a party or beneficiary or obligee thereto or thereunder.
- b. Without prejudice to the other provisions of this Scheme and notwithstanding that vesting of the Undertakings occurs by virtue of this Scheme itself, 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 arrangements with any party to any contract or arrangement to which any of the Transferor Company is a party or any writings as may be necessary in order to give formal effect to the provisions of this Scheme. The Transferee Company shall, after the Effective Date, under the provisions of this Scheme, be deemed to be authorised to execute any such writings on behalf of the Transferor Company and to carry out or perform all such formalities or compliances referred to above on the part of the Transferor Company to be carried out or performed.
- c. Without prejudice to the generality of the foregoing, upon the coming into effect of this Scheme and with effect from the Appointed Date, all consents, permissions, licenses, certificates, clearances, authorities, powers of attorney given by, issued to or executed in favour of the Transferor Company shall stand transferred to the Transferee Company as if the same were originally given by, issued to or executed in favour of the Transferee Company, and the Transferee Company shall be bound by the terms thereof, the obligations and duties thereunder, and the rights and benefits under the same shall be available to the Transferee Company.

6. TRANSFER OF LIABILITIES

- a. Upon the coming into effect of this Scheme and with effect from the Appointed Date all debts and liabilities of the Transferor Company including all secured and unsecured debts (in whatsoever currency), liabilities (including contingent liabilities), duties and obligations of the Transferor Company of every kind, nature and description whatsoever whether present or future, and howsoever arising, along with any charge, encumbrance, lien or security thereon (herein referred to as the "Liabilities") shall, pursuant to the sanction of this Scheme by the Tribunal and under the provisions of Sections 230 to 232 of the Act and other applicable provisions, if any, of the Act, without any further act, instrument, deed, matter or thing, be and stand transferred to and vested in and be deemed to have been transferred to and vested in the Transferee Company, to the extent they are outstanding on the Effective Date so as to become as and from the Appointed Date



the Liabilities 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 same and further 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 10.

- b. Where any such debts, liabilities, duties and obligations of the Transferor Company as on the Appointed Date have been discharged by such Transferor Company on or after the Appointed Date and prior to the Effective Date, such discharge shall be deemed to be for and on account of the Transferee Company upon the coming into effect of this Scheme.
- c. All loans raised and utilised and all liabilities, duties and obligations incurred or undertaken by 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 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.
- d. Loans, advances and other obligations (including any guarantees, letters of credit, letters of comfort or any other instrument or arrangement which may give rise to a contingent liability in whatever form), if any, due or which may at any time from the Appointed Date to the Effective Date become due between the Transferor Company and the Transferee Company shall, ipso facto, 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 Transferee Company.

7. ENCUMBRANCES

- a. The transfer and vesting of the assets comprised in the Undertakings to the Transferee Company under Clause 4 and 5 of this Scheme shall be subject to the Encumbrances, if any, affecting the same as hereinafter provided.
- b. All Encumbrances, if any, existing prior to the Effective Date over the assets of the Transferor Company shall, after the Effective Date, without any further act, instrument or deed, continue to relate and attach to such assets or any part thereof to which they are related or attached prior to the Effective Date, provided that if any of the assets of the Transferor Company have not been Encumbered, such assets shall remain unencumbered and the existing Encumbrance referred to above shall not be extended to and shall not operate over such assets. Further, such Encumbrances shall not relate or attach to any of the other assets of the Transferee 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.
- c. The existing Encumbrances over the other assets and properties of the Transferee Company or any part thereof which relate to the Liabilities of the Transferee Company prior to the Effective Date shall continue to relate to such assets and properties and shall not extend or attach to any of the assets and properties of the Transferor Company transferred to and vested in the Transferee Company by virtue of this Scheme.



- d. Any reference in any security documents or arrangements (to which the Transferor Company is a party) to the Transferor Company and its respective assets and properties, shall be construed as a reference to the Transferee Company and the assets and properties of the Transferor Company transferred to the Transferee Company by virtue of this Scheme. Without prejudice to the foregoing provisions, the Transferee 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 of Relevant Jurisdiction to give formal effect to the above provisions, if required.
- e. Upon the coming into effect of this Scheme, the Transferee Company shall be liable to perform all obligations in respect of the Liabilities, which have been transferred to it in terms of this Scheme.
- f. It is expressly provided that, save as herein provided, no other term or condition of the Liabilities transferred to the Transferee Company is amended by virtue of this Scheme except to the extent that such amendment is required statutorily.
- g. The provisions of this Clause 11 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 or the terms of sanction or issue or any security document shall stand modified and/or superseded by the foregoing provisions.

8. EMPLOYEES OF THE TRANSFEROR COMPANY

- a. Upon the coming into effect of this Scheme, all Employees of the Transferor Company shall, become the employees of the Transferee Company, on same terms and conditions and shall not be less favorable than those on which they are engaged by the Transferor Company and without any interruption of or break in service as a result of the merger of the Transferor Company with the Transferee Company. For the purpose of payment of any compensation, gratuity and other terminal benefits, the past services of such Employees with the Transferor Company and such benefits to which the Employees are entitled in the Transferor Company shall also be taken into account, and paid (as and when payable) by the Transferee Company.
- b. It is clarified that save as expressly provided for in this Scheme, the Employees who become the employees of the Transferee Company by virtue of this Scheme, shall not be entitled to the employment policies and shall not be entitled to avail of any schemes and benefits (including employee stock options) that may be applicable and available to any of the other employees of the Transferee Company (including the benefits of or under any employee stock option schemes applicable to or covering all or any of the other employees of the Transferee Company), unless otherwise determined by the Transferee Company. The Transferee Company undertakes to continue to abide by any agreement/settlement, if any, entered into or deemed to have been entered into by the Transferor Company with any union/employee of the Transferor Company.
- c. On and from the Effective Date and with effect from the Appointed Date, the services of the employees of the Transferor Company will be treated as having been continuous, without any break, discontinuance or interruption, for the purpose of membership and the application of the rules or bye-laws of provident fund or gratuity fund or pension fund or superannuation fund or other statutory purposes as the case may be.



d. With regard to provident fund and gratuity fund or any other special funds or schemes created or existing for the benefit of such employees (hereinafter referred to as the "said Funds") of the Transferor Company, upon the Scheme becoming effective, the Transferee Company shall stand substituted for the Transferor Company for all purposes whatsoever relating to the administration or operation of such schemes or funds in relation to the obligations to make contributions to the said Funds in accordance with the provisions of such schemes or funds in the respective trust deeds or other documents. It is the aim and intent of the Scheme that all the rights, duties, powers and obligations of the Transferor Company in relation to such Funds shall become those of the Transferee Company. In the event that trustees are constituted as holders of any securities, trust funds or trust monies, in relation to any provident fund trust, gratuity trust, superannuation trust, welfare trust, or any other such trust existing for the benefit of the employees of the Transferor Company, such funds shall be transferred by such trustees of the trusts of the Transferor Company, to separate trusts and the trustees of the Transferee Company if set up for the same purpose and object and shall be deemed to be a transfer of trust property from one set of trustees to another set of trustees in accordance with the provisions of the relevant labour laws, Indian Trusts Act, 1882, the Income Tax Act, 1961 and relevant stamp legislations, as applicable. In such a case, appropriate deeds of trusts and/or documents for transfer of trust properties shall be executed upon the sanction of the Scheme in accordance with the terms hereof by the trustees of such trusts in favour of the trusts of the Transferee Company so as to continue the benefits of the employees. For this purpose, the trusts created by the Transferor Company shall be transferred/ merged with the respective trust(s) of the Transferee Company and/or be continued; by the Transferee Company, if permitted by law, failing which the Transferee Company shall establish similar trusts ensuring that there is continuity in this regard. The Trustees, including the Board of Directors of the Transferee Company, shall be entitled to adopt such course of action in this regard, as may be advised, provided however that there shall be no discontinuation or break-in the service of the employees of the Transferor Company. Notwithstanding the above, the Board of Directors of the Transferee Company, if it deems fit and subject to applicable law, shall be entitled to retain separate trusts/schemes within the Transferee Company for each of the erstwhile trusts/schemes of the Transferor Company.

9. LEGAL, TAXATION AND OTHER PROCEEDINGS

- a. 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, whether in India or abroad) by or against the Transferor Company pending on the Effective Date shall be continued and/ or enforced by or against the Transferee Company as effectually and in the same manner and to the same extent as if the same had been instituted by or against the Transferor Company.
- b. If any suit, appeal or other proceeding of whatever nature by or against the Transferor Company is pending, the same shall not abate or be discontinued or in any way be prejudicially affected by reason of or by anything contained in this Scheme, but the said suit, appeal or other legal proceedings may be continued, prosecuted and enforced by or against Transferee Company, as the case may be, in the same manner and to the same extent as it would or might have been continued, prosecuted and enforced by or against the Transferor Company as if this Scheme had not been made.



- c. In case of any litigation, suits, recovery proceedings which are to be initiated or may be initiated against the Transferor Company, Transferee Company shall be made party thereto and any payment and expenses made thereto shall be the liability of Transferee Company.
- d. Without prejudice to the provisions of Clauses 4 to 13, with effect from the Appointed Date, all inter-party transactions between the Transferor Company and the Transferee Company shall be considered as intra-party transactions for all purposes from the Appointed Date.

10. SAVING OF CONCLUDED TRANSACTIONS

The transfer and vesting of the undertaking of the Transferor Company and the continuance of proceedings by or against the Transferor Company of this Scheme shall not affect any transactions or proceedings already concluded by the Transferor Company on or before the Appointed Date or concluded 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.

11. CONDUCT OF BUSINESS UNTIL THE EFFECTIVE DATE

With effect from the Appointed Date and up to and including the Effective Date:

- a. the Transferor 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 all its estates, assets, rights, title, interest, authorities, contracts and investments for and on account of, and in trust for, the Transferee Company;
- b. The Transferor Company shall carry on its business and activities with due business prudence and diligence and shall not, without prior written consent of the Transferee Company or pursuant to any preexisting obligation, sell transfer or otherwise alienate, charge, mortgage, encumber or otherwise deal with any part of its assets nor incur or accept or acknowledge any debt, obligation or liability except as is necessary in the ordinary course of business.
- c. all profits and income accruing or arising to the Transferor Company, and losses and expenditure arising or incurred by it (including taxes, if any, accruing or paid in relation to any profits or income) 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 (including taxes), as the case may be, of the Transferee Company;
- d. any of the rights, powers, authorities or privileges exercised by the Transferor Company shall be deemed to have been exercised by the Transferor Company for and on behalf of, and in trust for and as an agent of the Transferee Company. Similarly, any of the obligations, duties and commitments that have been undertaken or discharged by the Transferor Company shall be deemed to have been undertaken for and on behalf of and as an agent for the Transferee Company; and
- e. all taxes (including, without limitation, income tax, GST, sales tax, service tax, VAT, etc.) paid or payable by the Transferor Company in respect of the operations and/or the profits of the Transferor Company before the Appointed Date, shall be on account of the Transferee Company; and, insofar as it relates to the tax payments



(including, without limitation, income tax, GST, sales tax, service tax, VAT, etc.), whether by way of deduction at source, advance tax or otherwise howsoever, by the Transferor Company in respect of the profits or activities or operation of the Transferor Company with effect from the Appointed Date, the same shall be deemed to be the corresponding taxes paid by the Transferee Company, and, shall, in all proceedings, be dealt with accordingly.

- f. For the removal of doubt, it is clarified that to the extent there are intercompany loans, deposits, obligations, balances or other outstanding between the Transferor Company and the Transferee Company, the obligations in respect thereof shall come to an end and there shall be no liability in that behalf and corresponding effect shall be given in the books of accounts and records of the Transferee Company for the reduction of such assets or liabilities as the case may be.
- g. Pending sanction of the Scheme, the Transferor Company shall not, except by way of issue of shares / convertible debentures to the Transferee Company, increase its capital (by fresh issue of shares, convertible debentures or otherwise).
- h. Without prejudice to the above provisions, with effect from the Appointed Date, all inter-party transactions between the Transferor Company and the Transferee Company shall be considered as intra-party transactions for all purposes, except where any specific Indian law provides otherwise.

12. CANCELLATION OF SHARE CAPITAL OF TRANSFEROR COMPANY

12.1 The Transferor Company is a wholly owned subsidiary of the Transferee Company. Accordingly, 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 issued and paid-up capital of the Transferor Company shall stand cancelled on the Effective Date without any further act, instrument or deed.

13. INCREASE IN AUTHORIZED SHARE CAPITAL OF TRANSFEE COMPANY

13.1 As a part of this Scheme, and, upon the coming into effect of this Scheme, the authorized share capital of the Transferee Company shall automatically stand increased, without any further act, instrument or deed on the part of the Transferee Company including payment of stamp duty and fees payable to Registrar of Companies, by the aggregate authorized share capital of the Transferor Company.

13.2 It is clarified that for the purposes of Clause 13 above, the stamp duties and fees (including registration fee) paid on the authorised share capital of the Transferor Company shall be utilized and applied to the increased authorised share capital of the Transferee Company and there would be no requirement for any further payment of stamp duty and/or fee (including registration fee) by the Transferee Company for increase in the authorised share capital to that extent. The Transferee Company shall file requisite forms with the concerned Registrar of Companies.

PART III – DISSOLUTION OF TRANSFEROR COMPANY, GENERAL CLAUSES, TERMS AND CONDITIONS APPLICABLE TO THE SCHEME



14. ACCOUNTING TREATMENT

Upon the Scheme becoming Effective, the Transferee Company shall follow the accounting for the amalgamation in its books of account as per the pooling of interest method in accordance with the principles as laid down in the Indian Accounting Standard (Ind AS) 103 (Business Combination), other applicable Indian Accounting standards notified under Companies (Indian Accounting Standards) Rules, 2015 under section 133 of the Act and the applicable provisions of the Companies Act, 2013 .

All assets and liabilities and reserves (whether capital or revenue or arising on revaluation or fair valuation) as on the appointed date, of the Transferor Companies, transferred to the Transferee Company under the Scheme shall be recorded in the books of account of the Transferee Company at their existing carrying values and in the same form as recorded in the books of account of the Transferor Companies. The identity of reserves of Transferor Companies shall be preserved and they would appear in the financial statements of the Transferee Company in the same form in which they appeared in the financial statements of the Transferor Companies.

The difference between the amount recorded as share capital issued (plus any additional consideration in the form of cash or other assets) and the amount of share capital of the Transferor Companies shall be adjusted in Capital Reserves in the books of the Transferee Company and would be presented separately from other capital reserves with disclosure of its nature and purpose in the notes to the financial statements of the Transferee Company.

The inter-corporate deposits/loans and advances /balance outstanding if any between Transferee Company and Transferor Companies will stand cancelled, in case of any differences, same shall be adjusted in the Reserve and Surplus of the transferee Company and there shall be no further obligation in that behalf.

The shares held by the Transferee Company in the Transferor Company shall stand cancelled and there shall be no further obligation / outstanding in that behalf.

The difference between the amount recorded as share capital issued (plus any additional consideration in the form of cash or other assets) and the amount of share capital of the Transferor Companies shall be adjusted in reserves in the books of the Transferee Company.

In case of any difference in accounting policies between Transferor Companies and Transferee Company, the impact of the same till the appointed date will be quantified and adjusted in the reserves of Transferee Company to ensure that the financial statements of the Transferee Company reflect the financial position on the basis of consistent accounting policies.

Unrealized profits on balances of inventories/ fixed assets lying in the books of the Transferor Companies which were acquired by the Transferor Companies from each other or from the Transferee Company shall be eliminated and resulting difference adjusted in retained earnings.

If the common control existed prior to appointed date, the comparative accounting period presented in the financial statement of the Transferee Company shall be restated for the accounting impact of amalgamation, as stated above, as if the amalgamation had occurred from the beginning of the comparative period in the



All costs and expenses incurred in connection with the Scheme and to put the Scheme into operation and any other expenses or charges attributable to the implementation of the Scheme shall be debited to the Statement of Profit and Loss account of the Transferee Company.

15. APPLICABILITY OF PROVISIONS INCOME TAX ACT

The provisions of this Scheme as they relate to the merger of Transferor Company with Transferee Company has been drawn up to comply with the conditions relating to 'amalgamation' as defined under Section 2(1B) of the (Indian) Income-tax Act, 1961. If any terms or provisions of the Scheme are found or interpreted to be inconsistent with the provisions of the said Section of the (Indian) Income-tax Act, 1961, at a later date including resulting from an amendment of law or for any other reason whatsoever, the provisions of the said Section of the (Indian) Income-tax Act, 1961, shall prevail and the Scheme shall stand modified to the extent determined necessary to comply with Section 2(1B) of the (Indian) Income-tax Act, 1961. Such modification will, however, not affect the other parts of the Scheme.

Upon the Scheme becoming effective, the Transferee Company is expressly permitted to revise its 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 and other tax laws and to claim refunds and/or credits for taxes paid (including minimum alternate tax), and to claim tax benefits under the Income Tax Act, 1961 etc. and for matters incidental thereto, if required to give effect to the provisions of this Scheme.

16. TREATMENT OF TAXES

- i. Upon the Scheme coming into effect, all taxes (direct and/or indirect)/ cess/ duties payable by or on behalf of the Transferor Company from the Appointed Date onwards including all or any refunds and claims, including refunds or claims pending with any Governmental Authority and including the right to claim credit for minimum alternate tax and carry forward of accumulated losses, and unutilized CENVAT credit, VAT credit or input tax credit etc shall, for all purposes, be treated as the tax/ cess/ duty, liabilities or refunds, claims, accumulated losses and unutilized CENVAT credits, VAT credit and rights to claim credit or refund etc of the Transferee Company. Accordingly, upon the Scheme becoming effective, the Transferee Company shall be permitted to revise, if it becomes necessary, its income tax returns, wealth tax returns, sales tax returns, excise and CENVAT returns, service tax returns, GST return, other statutory returns, and to claim refunds/ credits, pursuant to the provisions of this Scheme.
- ii. The Transferee Company shall also be permitted to claim refunds / credits in respect of any transaction between or amongst the Transferor Company inter se and the Transferor Company and the Transferee Company. Without prejudice to the generality of Clause 20)i) above, upon the Scheme becoming effective, the Transferee Company shall be permitted to revise, if it becomes necessary, its income tax returns and related withholding tax certificates, including withholding tax certificates relating to transactions between or amongst the Transferor Company inter se and the Transferor Company and the Transferee Company, and to claim refunds, advance tax and withholding tax credits, benefit of credit for minimum alternate tax and carry forward of accumulated losses etc., pursuant to the provisions of this Scheme.



- iii. The withholding tax/ advance tax/ minimum alternate tax, if any, paid by the Transferor Company under the Income Tax Act, 1961 or any other statute in respect of income of the Transferor Company assessable for the period commencing from the Appointed Date shall be deemed to be the tax deducted from/advance tax paid by the Transferee Company and credit for such withholding tax/advance tax/minimum alternate tax shall be allowed to the Transferee Company notwithstanding that certificates or challans for withholding tax/advance tax are in the name of the Transferor Company and not in the name of the Transferee Company.
- iv. Any refund under the Tax Laws received by / due to the Transferor Company consequent to the assessments made on the Transferor Company subsequent to the Appointed Date and for which no credit is taken on the date immediately preceding the Appointed Date shall also belong to and be received by the Transferee Company.
- v. Without prejudice to the generality of the above, all exemptions, deductions, benefits, losses, entitlements, incentives, drawbacks, licenses and credits (including but not limited to MAT credit, taxes withheld/ paid in foreign country etc) under the income tax, sales tax, customs duty, excise duty, GST, service tax, VAT, any Central Government/ State Government incentive schemes etc., to which the Transferor Company are/ would be 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.
- vi. The GST paid by the Transferor Company for the period commencing from the Appointed Date shall be deemed to be the GST paid by the Transferee Company and credit for such GST shall be allowed to the Transferee Company notwithstanding that challans for GST payments are in the name of the Transferor Company and not in the name of the Transferee Company.
- vii. Since each of the permissions, approvals, consents, sanctions, remissions, special reservations, service-tax exemptions, GST exemptions, incentives, concessions and other authorizations of the Transferor Company shall stand transferred by the order of the NCLT to the Transferee Company, the Transferee Company shall file the relevant intimations, for the record of the statutory authorities who shall take them on file, pursuant to the vesting orders of the NCLT.
- viii. All tax assessment proceedings/ appeals of whatsoever nature by or against the Transferor Company pending and/or arising at the Appointed Date and relating to the Transferor Company shall be continued and/or enforced until the Effective Date as desired by the Transferee Company. As and from the Effective Date, the tax proceedings shall be continued and enforced by or against the Transferee Company in the same manner and to the same extent as would or might have been continued and enforced by or against the Transferor Company.
- ix. Further, the aforementioned proceedings shall not abate or be discontinued nor be in any way prejudicially affected by reason of the merger by way of amalgamation of the Transferor Company by the Transferee Company or anything contained in the Scheme.
- x. Without prejudice to the generality of the above, all benefits, incentives, losses, book unabsorbed depreciation, tax unabsorbed depreciation, Carry forward tax



business losses , credits (including, without limitation service tax, applicable state value added tax etc.) shall be available to and vest in the Transferee Company)

17. RESOLUTIONS

Upon the coming into effect of the Scheme and with effect from the Appointed Date, the resolutions, power of attorney, letter of authority, if any, of the Transferor Company which are validly subsisting shall continue to be valid and subsisting and be considered as resolutions, power of attorney, letter of authority of the Transferee Company. If any such resolutions, power of attorney, letter of authority have any monetary limits approved under the provisions of the Act or of any other applicable statutory provisions, then the said limits shall be added to the limits, if any, under the like resolutions, power of attorney, letter of authority passed by the Transferee Company.

Upon the coming into effect of this Scheme, the borrowing limits of the Transferee Company in terms of Section 181 of the Act shall be deemed, without any further act or deed, to have been enhanced by the aggregate limits of the Transferor Company which are being transferred to the Transferee Company pursuant to the Scheme, such limits being incremental to the existing limits of the Transferee Company, with effect from the Appointed Date.

18. DISSOLUTION OF THE TRANSFEROR COMPANY

Upon the coming into effect of this Scheme, the Transferor Company shall stand dissolved without winding-up without any further act or deed.

19. CONDITIONS PRECEDENT

- a. The effectiveness of the Scheme is conditional upon and subject to:
 - i. The certified copy of the order of the Tribunal of Relevant Jurisdiction under Sections 230 to 232 and other applicable provisions of the Act sanctioning the Scheme being filed with the Registrar of Companies, Maharashtra at Mumbai by the Transferee Company and with the Registrar of Companies, Allahabad , Utter Pradesh by Transferor Company;
 - ii. such other approvals and sanctions as may be required under Applicable Law in respect of this Scheme being obtained.
- b. On the approval of this Scheme by the shareholders of the Transferor Company and the Transferee Company, if required, such shareholders shall also be deemed to have resolved and accorded all relevant consents under the Act or otherwise to the same extent applicable in relation to the merger set out in this Scheme, related matters and this Scheme itself.

20. APPLICATIONS

The Transferee Company and the Transferor Company, if required, shall, with all reasonable dispatch, make applications/ petitions to the National Company Law Tribunal of Relevant Jurisdiction under Section 230 to 232 and other applicable provisions, of the Act, for sanctioning of this Scheme.

The Transferor Company shall take all necessary steps for sanctioning of this Scheme and for its dissolution without winding up, and apply for and obtain such other approvals, if any, required under the law.



21. MODIFICATIONS OR AMENDMENTS TO THE SCHEME

- a) Subject to approval of the tribunal, the Transferor Company and the Transferee Company, through their respective Board of Directors, may assent from time to time on behalf of all the persons concerned to any modifications or amendments or additions to this Scheme subject to any conditions or limitations which the Tribunal and/or any other competent authorities, if any, under the law may deem fit and approve of or impose and which the Transferor Company and the Transferee Company may in their discretion deem fit and may resolve all doubts or difficulties that may arise for carrying out this Scheme and do and execute all acts, deeds, matters and things necessary for bringing this Scheme into effect. The aforesaid powers of the Transferor Company and the Transferee Company may be exercised by their respective Boards of Directors, a Committee of the concerned Board or any Director, authorized in that behalf by the concerned Board of Directors (hereinafter referred to as the 'delegate').
- b) For the purpose of giving effect to this Scheme or to any modifications or amendments thereof or additions thereto, the delegate of the Transferor Company or the Transferee Company may give and is hereby authorized to determine and give all such directions as are necessary including directions for settling or removing 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.

22. Costs, Charges and Expenses

All costs, charges, taxes, including stamp duties, levies and all other expenses, if any (save as expressly otherwise agreed) of the Transferor Company and the Transferee Company arising out of or incurred in carrying out and implementing this Scheme and matters incidental thereto shall be borne and paid by the Transferee Company.

