NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT NO. II

CP (CAA) 12/AHM/2022

IN

CA (CAA) 70/230-232/AHM/2021

[Sections 230-232 and read with other applicable provisions of the Companies Act, 2013 read with The Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016]

In the matter of Scheme of Arrangement
in the nature of Amalgamation

of

VR Finechem Private Limited
(PetitionerCompany No. 1/Transferor Company)

and

Shiva Pharmachem Limited
(Petitioner Company No. 2/Transferee Company)

and
Their Respective Shareholders and Creditors

Order Pronounced on: 26/09/2022

<u>Coram:</u>
DR. DEEPTI MUKESH,
HON'BLE MEMBER (JUDICIAL)
AJAI DAS MEHROTRA,
HON'BLE MEMBER (TECHNICAL)

MEMO OF PARTIES

VR Finechem Private Limited
A company incorporated under the
Provisions of the Companies Act, 1956
Having its registered office situated at
Rajlaxmi Complex, 1st Floor,
Flat No. A/122, Old Padra Road,
Vadodara, Gujarat-390007.

…..Petitioner Company No.1/
Transferor Company

AND

Shiva Pharmachem Limited
A company incorporated under the
Provisions of the Companies Act, 1956
Having its registered office situated at
9th Floor, ABS Towersold, Padra Road,
Baroda, Gujarat-390007.

….Petitioner Company No.2/
Transferee Company

For the Petitioners: Mr. Navin Pahwa, Senior Advocate with Mr. Ravi Pahwa, Advocate appeared for the Petitioner Companies.

ORDER

1. This joint petition has been filed by the petitioner companies above named under Sections 230 and 232 of the Companies Act, 2013 (for brevity 'the Act') read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 to seek sanction of Scheme of Arrangement in the nature of amalgamation of M/s VR Finechem Private

Limited (for brevity Transferor Company) with M/s Shiva Pharmachem Limited (for brevity Transferee Company) and their respective shareholders and creditors.

2. From the records, it is seen that the first motion application seeking directions for convening/dispensing of the meeting of the Equity Shareholders, Secured and Unsecured Creditors of both the Petitioner Companies was allowed. Vide order dated 13.12.2021, the meetings of the Secured Creditors and Unsecured Creditors of the Petitioner Transferee Company were directed to be held on 25.01.2022.

3. Thereafter, the Petitioner Companies filed Co. A/55 of 2021 seeking change of name of Scrutinizer, which was allowed vide order dated 03.01.2022 appointing Mr. Ramesh Kheradiya as Scrutinizer for the Meetings of Secured Creditors and Unsecured Creditors of Transferee Company. The Chairperson filed the report declaring the result of the said meetings.

4. The Petitioner Companies filed 2nd motion joint petition within time prescribed. On 18.02.2022, this Tribunal passed an order issuing Notices to the connected Regulatory authorities and also directed publication in the newspapers English daily "Indian Express" and Gujarati Daily

"Sandesh" (Vadodara Edition). Both Petitioner Companies have filed respective compliance affidavits.

5. Pursuant to the said directions, notices were duly served on the statutory regulators and publications were duly made in the newspapers on 09.03.2022. An affidavit of service and publication confirming the same has been placed on record.

6. In response to notices the Regional Director, North Western Region, MCA and RoC, Ahmedabad has filed observations, seeking direction for following:

i) To comply withSec.232(3)(i) of the Act.

ii) To comply with Sec.61 r/w. 64 of the Act.

iii) There being foreign shareholders in the petitioner companies, therefore, petitioner companies may be directed to ensure about the compliances of FEMA and RBI guideline.

iv) To deal with observations made by the auditors;

v) To deal with observations made by the RoC;

vi) To pay amount of legal fees/cost to the central government.

7. The Petitioner Companies have filed a common affidavit in reply to the observations of Regional Director and with RoC, giving undertaking as under:

i. To comply with the provisions of Section 232(3)(i) of the Companies Act, 2013.

ii. To comply with the provisions of Section 61 r/w. 64 of the Companies Act, 2013.

iii. To comply with the provisions of FEMA Regulations and RBI guidelines for issue and allotment of shares to the Foreign National/NRI/Foreign bodies Corporate as the case may be.

iv. The observations by the auditors have been adequately dealt with by the Board of Directors of the Transferor Company by giving their clarification in each year's Board's Report. The clarification given by the Directors is in consonance with the provisions of the Companies Act, 2013. Even otherwise, post the sanction of the Scheme; the Transferee Company will not be dissolved. This will not affect the scheme in any manner whatsoever. This fact was also brought to the notice of the RD vide letter dated 3.1.2022.

v. There are no complaints against the Petitioner Companies and there is no complaint/ representation against the Scheme of Amalgamation of the Petitioner Companies.

vi. To pay the requisite fees to the Regional Director as may be quantified by this Tribunal.

8. In response to notices the Official Liquidator has filed observations seeking following directions:

i. To place on record the approval, if any, received from RBI/ FEMA.

ii. To place on record the modified Clause V post-merger to be incorporated in the Memorandum of Association.

iii. To clarify the status of Call Option contract, as the preference shares are going to be issued to the Shareholders of the Transferor Company.

iv. To preserve its books of accounts, papers and records which shall not be disposed of without prior permission of Central Government as per the provisions of Section 239 of the Companies Act, 2013.

v. To ensure statutory compliance of all applicable laws and also on sanctioning of the Scheme, the Transferor Company shall not be absolved from any act of its statutory liability, in any manner.

vi. The Transferor Company be dissolved without following the process of winding up in terms of Sub-Section 3(d) of Section 232 of Companies Act, 2013;

vii. The Transferee Company to pay such cost and expenses to the office of Official Liquidator for the Transferor Company.

viii. To lodge certified copy of order along with the Scheme with the concerned superintendent of stamps for the purpose of adjudication of stamp duty payable, if any.

ix. To comply with the provisions of Section 232 (5) of the Companies Act, 2013.

9. To observations of OL, the Petitioner Companies filed an affidavit inter alia contending as under:

i. The Transferor Company to be dissolved without following the process of winding up in terms of Sub-section 3(d) of Sec.232 of the Companies Act, 2013.

ii. The Transferor Company is having a foreign subsidiary/ sister concern viz. KCH Kischemicals Manufacture & Mercantile LLC having 60% holding in the said Company, but it is not true that the said Company would also be merged in the Transferee Company. Only the investment of the Transferor Company in the said subsidiary company will be transferred to the Transferee Company.

iii. The Scheme contains the effect of consolidation of the authorised capital as stipulated in Clause 17.2. Clause 17.2 read as under:-

> ***"17.2*** *The existing capital clause contained in the Memorandum of Association of the Transferee Company shall without any act, instrument or deed be and stand altered, modified and amended pursuant to Sections 13, 61 and 64 of the Act and Section 232 and other applicable provisions of the Act, as may be applicable.*

A perusal of Clause 17.2 would disclose that the existing capital clause contained in the Memorandum of Association of the

Transferee Company shall without any act, instrument or deed be altered, modified and amended as per the provisions referred to therein through single window clearance, in a scheme of arrangement.

iv. With regards to the observation made in Para 18 of the Report, it is submitted that pre-sanction of the Scheme of Arrangement, the Transferee Company holds call option on shares held by Shri Gaurav Astik and Smt Zull Patel held in the Transferor Company. Under the call option agreement, the Transferee Company has the right to purchase shares held by Shri Gaurav Astik and Smt. Zull Patel in the Transferor Company at a fixed price. Upon the sanction of the scheme of arrangement, the shares held in the Transferor Company will become the shares held in the Transferee Company. The net effect would be that the call option will have to be understood in the context of the shares of the Transferee Company and not the Transferor Company. This aspect is further clarified if a reference is made to Clause 16.1.7 of the Scheme.

v. With regard to OL's observation to direct the petitioner Transferor Company to preserve its books of accounts, papers and records and that the petitioner does not dispose the documents without prior permission of Central Government as per the provisions of Sec. 239 of the Act, it is submitted that the Petitioner Transferor

Company shall preserve its books of accounts, papers and records and shall not dispose the same without prior permission of Central Government as required u/s. 239 of the Act.

vi. In Para 23 of the report, the Official Liquidator has sought directions against the petitioner Transferor Company to ensure statutory compliance of all applicable laws. It is submitted that the petitioner Transferor Company shall ensure statutory compliance of all the applicable laws. It is submitted that it is also understood that upon sanction of the Scheme, the petitioner Transferor Company shall not be absolved from any of its statutory liability, if any, in any manner.

vii. So far as the request made by the Official Liquidator in Para 25 for the expenses are concerned, it is submitted that the petitioner Transferee Company undertakes to pay the requisite fees to the Official Liquidator as may be quantified by this Tribunal.

viii. In Para 26 of the report, the Official Liquidator has requested this Tribunal to direct the Petitioner Company to lodge a certified copy of the order along with the Scheme with the concerned Superintendent of Stamps for the purpose of adjudication of stamp duty payable, if any. It is submitted that the Petitioner Company undertakes to lodge a certified copy of the order along with the

Scheme with the concerned Superintendent of Stamps for the purpose of adjudication of stamp duty payable, if any.

10. The Petitioner Companies thereafter have filed separate additional affidavit dated 20.07.2022 in response to the report of Official Liquidator dated 04.02.2022 inter alia contending that:-

> It was further submitted that during the pendency of captioned petition, the petitioner Transferee Company has altered/ enhanced its authorised share capital by including preference share capital of 6,00,000 preference shares of Rs. 100/- each. This alteration was done so as to issue preference shares to the shareholders of the petitioner Transferor Company being the consideration as contemplated under the Scheme. Accordingly, upon the Scheme becoming effective, the authorised share capital of the Transferor Company, comprising of 55,00,000 equity shares of Rs. 10/- each, aggregating to Rs. 5,50,00,000/- (Rupees Five Crores Fifty Lakhs Only) shall be consolidated with the latest authorised share capital of Transferee Company comprising of 80,00,000 equity shares of Rs. 10/- each and 6,00,000 preference shares of Rs. 100/- each, aggregating to Rs. 14,00,00,000/- only (Rupees Fourteen Crores Only) and thereupon, the existing capital clause contained in the

Memorandum of Association of Transferee Company shall stand modified, altered, amended and read as under:

> ***"Clause V***
>
> *The authorised share capital of Company is Rs. 19,50,00,000/-(Rupees Nineteen Crores Fifty Lakhs Only) divided into 1,35,00,000(One Crore Thirty FiveLakhs) equity shares of Rs. 10/- (Rupees Ten only) each and 6,00,000 (Six Lakhs) preference shares of Rs. 100/- (Rupees Hundred Only) each."*

A copy of Form SH-7 filed with Registrar of Companies along with Master Data of the Petitioner Transferee Company was also placed on record.

11. Shri Suresh Srivastava appeared for the Official Liquidator, made a statement that pursuant to the filing of additional affidavit by the Petitioner Companies, the Official Liquidator has no objection to the Scheme.

12. The Ld. Counsel for the Income Tax Department submitted report with following observations:

i. That outstanding demand of Rs. 15,771/- for A.Y. 2016-17 is pending in the case of Transferor Company.

ii. That there is outstanding demand of Rs. 8,12,805/- for A.Y. 2017-18 is pending in the case of Transferee Company.

13. The Petitioner Companies filed explanation to the report of the Income Tax Department submitting as follows:

i. As regards the outstanding demand of Rs. 15,771/- of the Transferor Company, the same has already been settled under *VivadSe Vishwas Scheme*. The Income Tax Authority has passed an order dated 24.12.2018 u/s. 250 of the Income Tax Act, 1961.

ii. As regards the pending demand of Rs. 8,12,805/- in respect of Transferee Company an appeal before Income Tax Appellate Tribunal is pending. Even otherwise, the Transferee Company is not being dissolved after the approval of Scheme of Amalgamation.

The office of Deputy Commissioner of Income Tax Circle 2(1)(1), Vadodara vide letter No. BRD/DCIT/Cir 2(1)(1)/NCLT/2022-23 dated 29.07.2022 has given its no objection for the proposed Scheme of Arrangement.

14. The Petitioner Companies have placed on record the Valuation Report.

15. The petitioner companies have filed their respective audited financial statements as on 31st March 2021 and unaudited financial statements as on 30th September 2021.

16. An affidavit sworn on behalf of the Transferor Company by Mr. Chirag Shivabhai Patel and for Transferee Company Mr. Rakesh Shiwebhagwan

Agrawal are filed, as respective authorised representatives of Petitioner Companies, stating that no investigation proceedings are pending against Petitioner Companies under Section 210-217, 219, 220, 223, 224, 225, 226 and 227 of the Act and the like. Also, no winding up petitions are pending against the Petitioner Companies.

17. In compliance with the proviso to sub-section (7) of Section 230 of the Companies Act, 2013, both the Petitioner Companies have placed on record the Certificates of the Statutory Auditors confirming that the accounting treatment envisaged under the Scheme of Arrangement is in compliance with the applicable accounting standards notified by the Central Government in Section 133 of the Companies Act, 2013.

18. Heard submissions and perused documents placed on record. The approval is accorded by the members and creditors of the Petitioner Companies to the proposed Scheme. The objections by the regulatory authorities being dealt with by the Petitioner Companies and satisfying respective regulators, thereby NOC also is granted by them during hearing. The petitioner companies have also filed undertaking to comply the requirements raised by the respective regulators. As a consequence, sanction is hereby granted to the Scheme under Section 230-232 of the Companies Act, 2013. The Petitioners shall, however, remain bound to comply with the statutory requirements in accordance with law and other

directions as pointed by the Regional Director. The schedule of property of the Transferor Company is annexed with the pursis.

19. Notwithstanding the above, if there is any deficiency found or, violation committed qua any enactment, statutory rule or regulation, the sanction granted by this Tribunal to the scheme will not come in the way of action being taken, albeit, in accordance with law, against the concerned persons, directors and officials of the Petitioners.

20. While approving the Scheme as above, we further clarify that this order should not be construed as an order in any manner granting exemption from payment of stamp duty, or taxes including income tax, GST etc., or any other charges or payment in accordance with law, or any kind of waiver in respect of any permission/compliance with any other requirement which may be specifically required under any law.

21. **The Scheme is sanctioned with following directions:**

i. All properties, rights and powers of the Transferor Company specified in the schedule of assets attached hereto at Annexure-A, and all the other properties, rights and powers of the Transferor Company be transferred without further act or deed to the Transferee Company and accordingly the same shall pursuant to Section 234 read with Sections 230 to 232 and all

other applicable provisions, if any, of the Act be transferred to and vested in the Transferee Company for all the estate and interest of the Transferor Company, but subject nevertheless to all charges now affecting the same, if any.

ii. All licenses, permissions, permits, approvals, certificates, clearances, authorities, leases, tenancy, assignments, rights, claims, liberties, special status, other benefits or privileges and any power of attorney relating to the Transferor Company shall stand transferred to and vested in the Transferee Company, without any further act or deed. 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.

iii. All the liabilities and duties of the Transferor Company be transferred, without further act or deed, to the Transferee Company and accordingly the same shall pursuant to Sections 230 & 232 of the Companies Act, 2013, be transferred to and become the liabilities and duties of the Transferee Company.

iv. All contracts, agreements, insurance policies, bonds and all other instruments of whatsoever nature or description, of the Transferor Company, shall stand transferred to and vested in the Transferee Company and be in full force and effect in favour

of the Transferee Company and may be enforced by or against it as fully and effectually against the Transferee Company.

v. All taxes paid or payable by the Transferor Company including existing and future incentives, un-availed credits and exemptions, benefit of carried forward losses and other statutory benefits, shall be available to and vest in the Transferee Company. The Tax liability of the Transferor Company shall become liability of the Transferee Company and any proceedings against the Transferor Company shall continue against the Transferee Company.

vi. All proceedings now pending by or against the Transferor Company shall be continued by or against the Transferee Company.

vii. All employees in the service of the Transferor Company, shall be deemed to have become employees and staff of the Transferee Company on date on which the scheme finally takes effect on the basis that their services shall be deemed to have been continuous and not having been interrupted by reasons of the said transfer and on term and conditions no less favourable than those on which they were / are engaged, as on the Effective Date.

viii. The Transferee Company shall as proposed in the Scheme and without further application, allot to the members of the Transferor Company, whose name is recorded in the register of members of the Transferor Company on the record date, the shares in the Transferee Company to which they are entitled in the following ratio:

> *"One fully paid-up Preference Share of INR 100 (Indian Rupees Hundred) of SPL, the Transferee Company, for every Ten equity shares of INR 10 (Indian Rupees Ten) each of VFPL, the Transferor Company, held by such shareholder whose name is recorded in the register of members of the Transferor Company, on the record date."*

ix. The Petitioner Company shall within thirty days of the date of the receipt of this order cause a certified copy of this order to be delivered to the Registrar of Companies for registration.

x. The Petitioner Company is directed to lodge a copy of this Order and the approved Scheme (Annexure-B) duly authenticated by the Registrar of this Tribunal, with the concerned Superintendent of Stamps, for adjudication of stamp duty, if any, within 60 days from the date of this Order.

xi. Upon Scheme being effective, the Transferor Company shall do needful to comply with the applicable laws for the purpose of dissolution of the Transferor Company without winding up.

xii. The legal fees/expenses of the office of the Regional Director and Official Liquidator are quantified at Rs. 10,000/- each in respect of the Scheme of Arrangement. The said fees to the Regional Director and Official Liquidator shall be paid by Petitioner Transferee Company.

xiii. All concerned authorities to act on a copy of this order along with the Scheme of Arrangement duly authenticated by the Registrar of this Tribunal. The Registrar of this Tribunal shall issue the authenticated copy of this order along with the Scheme of Arrangement immediately.

xiv. Any person aggrieved shall be at liberty to apply to the Tribunal in the above matter for any directions that may be necessary.

22. Company Petition is allowed and disposed of in terms of the above order.

-SD-

AJAI DAS MEHROTRA
MEMBER (TECHNICAL)

-SD-

DR. DEEPTI MUKESH
MEMBER (JUDICIAL)

Abhishek Steno/Mansi

CP (CAA) 12/AHM/2022
IN
CA (CAA) 70/230-232/AHM/2021

Annexure – "A"

VR Finechem Private Limited

C.P. (CAA) No.12/NCLT/AHM/2022
Connected with
CA (CAA) NO. 70/NCLT/AHM/2021

SCHEDULE OF ASSETS

Name of the Transferor Company	VR Finechem Private Limited
Corporate Identification Number (CIN)	U24233GJ2015PTC082888
Registered Office	FLAT NO. A/1-22, 1ST FLOOR, RAJLAXMI COMPLEX, NR. ABS TOWERS, OLD PADRA ROAD, VADODARA-390 007 GUJARAT (INDIA).
Permanent Account Number (PAN)	AAFCV0886K
Tax Deduction & Collection Account Number (TAN)	BRDV02262B
GST Registration Number	N.A.
Bank Account Details	

Account Number	0378-10300-000-2424
Account Name	VR FINECHEM PRIVATE LIMITED
Bank IFSC Code	IBKL0001976
Bank Name	IDBI Bank Ltd
Account Type	Current Account
Branch Address	C-268 & 269 Swaminarayan Nagar Nr Reliance Digital, Nizampura Main Road ,Vadodara ,Gujarat -390002

Fixed Deposit	Nil,N.A.
Other investments	Investment in Kis Chemicals Manufacturing and Mercantile LLC. UIN No AHJAZ20191001 Date : As on 31-July-2022 Amount: 16,60,92,110.84/-- Holding: 60%
Electric Connections (Madhya Gujarat Vij Company Limited)	Nil,N.A.

IMMOVALBE PROPERTIES
Nil,N.A.

VR FINECHEM PVT LTD. INDIA VADODARA

OTHER ASSETS	
(1) Plant & Machineries	Nil,N.A.
(2) Others Movable Assets	As on 31-July-2022 ○ Cash -in-hand = Nil ○ Bank Balance = 1,15,033.25/--

For **VR Finechem Private Limited**

Chirag Patel
Director
Din:07151988

Annexure-"B" Annexure-4

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SCHEME OF ARRANGEMENT
UNDER SECTIONS 230 TO 232 AND OTHER APPLICABLE PROVISIONS
OF
THE COMPANIES ACT, 2013
AMONGST
VR FINECHEM PRIVATE LIMITED
AND
SHIVA PHARMACHEM LIMITED
AND
THEIR RESPECTIVE SHAREHOLDERS AND CREDITORS

NATIONAL COMPANY LAW TRIBUNAL AHMEDABAD

1. PREAMBLE

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This Scheme of Arrangement is presented pursuant to the provisions of Section 230 to Section 232 of the Companies Act, 2013 and other applicable provisions of the Companies Act, 2013 (as may be applicable) for the merger of VR Finechem Private Limited (hereinafter referred to as **"VFPL"** or **"Transferor Company"** into Shiva Pharmachem Limited (hereinafter referred to as the "**SPL**" or "**Transferee Company**").

2. BACKGROUND OF THE COMPANIES

2.1 **VR Finechem Private Limited**, the **"Transferor Company" or 'VFPL'** is a private limited company incorporated on 15th April 2015 under the provisions of the Companies Act, 1956, bearing CIN U24233GJ2015PTC082888 having its registered office at Rajlaxmi Complex, 1st Floor Flat No. A/122, Old Padra Road Vadodara – 390007, Gujarat, India, registered with Registrar of Companies, Gujarat, Ahmedabad. The Transferor Company is a Core Investment Company holding 60% stake in its subsidiary, KCH Kischemicals Manufacture & Mercantile LLC ('KCH'), a Hungarian company, engaged in the manufacturing of agrochemical active ingredients.

2.2 **Shiva Pharmachem Limited**, the "**Transferee Company**" or **'SPL'** is an unlisted public limited company incorporated on 18 March 1999 under the provisions of the Companies Act, 1956, bearing CIN U24231GJ1999PLC035615 having its registered office at 9th Floor, ABS Towers, Old Padra Road, Vadodara - 390007, Gujarat, India, registered with Registrar of Companies, Gujarat, Ahmedabad. The Transferee Company is engaged in manufacturing and is the global supplier of acids chlorides and other multifunctional intermediates. SPL holds potential equity for 76% stake in VFPL by way of call option on shares ("Call Shares") obtained against loan given to the shareholders for purchase of such Call Shares. It also holds 10% stake directly in KCH.

2.3 Further, on account of the call option with SPL to acquire shares of VFPL, VFPL qualifies as a subsidiary of SPL under the Indian Accounting Standards (IND AS) and shall be reported as such in the financial statements of SPL prepared under Ind AS. Ind AS is applicable for SPL from 1st April 2021.

3. RATIONALE OF THIS SCHEME

3.1 The Transferee Company is a well-established specialty chemical manufacturing company having business of manufacturing of intermediates for the pharmaceutical and agrochemical industry. The companies seek to simplify the structure by reducing the number of layers. The merger of the Transferor Company with the Transferee Company will lead to elimination of VFPL and SPL shall directly hold KCH, hence achieving the said objective.

3.2 The Board of Directors of the said companies are of the opinion that the proposed arrangement in the nature of merger shall enable both the transferor and the transferee companies to synergize their efforts and shall be beneficial to members, creditors and employees of both the companies and will be in the public interest. It shall enhance operational flexibility and will enable all the companies to have sharp focus, retain and attract best talent and bring better value to the stakeholders. This will accelerate profitable growth and industry recognition in respective areas.

3.3 Further, the merger of the Transferor Company with the Transferee Company will lead to economies of scale, value creation, increase in financial capacity, enhanced growth prospects, increased market opportunities, gaining a competitive edge, access to better technology, broadening products line, concentrated effort, cost savings, and focus by the senior management to grow the business by eliminating duplicative communication and burdensome coordination efforts and to achieve synergistic integration.

4. OVERVIEW AND OPERATION OF THIS SCHEME

This Scheme provides for the merger of the Transferor Company with the Transferee Company on a *going concern* basis, and the consequent issue of shares by the Transferee Company towards consideration, in the manner set out in this Scheme.

5. PARTS OF THIS SCHEME

This Scheme is divided into the following parts:

PART I deals with the definitions of capitalized terms used in this Scheme and existing share capital of the concerned companies;

PART II deals with the merger of the Transferor Company with the Transferee Company and the consideration thereof;

PART III deals with the general terms and conditions that would be applicable to this Scheme.

PART I - DEFINITIONS AND SHARE CAPITAL

6. DEFINITIONS

In this Scheme, unless inconsistent with the subject or context thereof, (i) capitalised terms defined by inclusion in quotations and/ or parenthesis have the meanings so ascribed; (ii) all terms and words not defined in this Scheme shall have the same meaning ascribed to them under Applicable Laws; and (iii) the following expressions shall have the following meanings:

6.1 "**Act**" means the Companies Act, 2013 and shall include any other statutory amendments or re-enactments or restatements and the rules and/or regulations and/or other guidelines or notifications under law, made thereunder from time to time;

6.2 "**Appointed Date**" means 1st April, 2021; 367

6.3 "**Board**" in relation to the Transferor Company or Transferee Company as the case may be, means the Board of Directors of such company, and shall include a Committee of Directors or any person authorized by the Board of Directors, or such Committee of Directors duly constituted and authorized for the purpose of matters pertaining to the merger under this Scheme or any other matter relating thereto;

6.4 "**Effective Date**" means the day on which last of the conditions specified in Clause 24 (Conditions Precedent) of this Scheme are complied with or otherwise duly waived. Reference in this Scheme to the date of "**coming into effect of this Scheme**" or "**effectiveness of this Scheme**" shall mean the Effective Date;

6.5 "**Encumbrance**" means (i) any charge, lien (statutory or other), or mortgage, any easement, encroachment, right of way, right of first refusal or other encumbrance or security interest securing any obligation of any Person; (ii) pre-emption right, option (including call or put options), right to acquire, right to set off or other third party right or claim of any kind, including any restriction on use, voting, selling, assigning, pledging, hypothecating, or creating a security interest in, place in trust (voting or otherwise), receipt of income or exercise; or (iii) any equity, assignments, hypothecation, title retention, restriction, power of sale or other type of preferential arrangements; or (iv) any agreement to create any of the above; the term "Encumber" shall be construed accordingly;

6.6 **"Fair Market Value"** of equity shares of SPL means the value determined by a Registered Valuer, as specified under the Companies Act, 2013.

6.7 **"Preference Shares"** means 8.5%, non-cumulative, compulsorily-convertible, unsecured preference shares of INR 100 each, the terms of which are provided under **Annexure-A.**

6.8 **"Registrar of Companies"** means the Registrar of Companies, Ahmedabad, Gujarat.

6.9 "**Record Date**" means the date to be fixed by the Board of Directors of the Transferor Company in consultation with Transferee Company, as the case may be, for the purpose of determining the names of the equity shareholders of the Transferor Company, as the case may be, who shall be entitled to receive shares of the Transferee Company, as the case may be, upon coming into effect of this Scheme as specified in Clause 15, as the case may be, of this Scheme;

6.10 "**Scheme**" means this scheme of arrangement, with or without any modification approved or imposed or directed by the Tribunal;

6.11 "**Tax Laws**" means all Applicable Laws, acts, rules and regulations dealing with Taxes including but not limited to the income-tax, wealth

tax, sales tax / value added tax, service tax, goods and services tax, excise duty, customs duty or any other levy of similar nature;

6.12 **"Transferor Company"** means VFPL, which is a private limited company incorporated on 15th April 2015 under the provisions of the Companies Act, 1956, bearing CIN U24233GJ2015PTC082888 having its registered office at Rajlaxmi Complex, 1st Floor Flat No. A/122, Old Padra Road Vadodara - 390007, Gujarat, India, registered with Registrar of Companies, Gujarat, Ahmedabad;

6.13 **"Transferee Company"** means SPL, which is an unlisted public limited company incorporated on 18 March 1999 under the provisions of the Companies Act, 1956, bearing CIN U24231GJ1999PLC035615 having its registered office at 9th Floor, ABS Towers, Old Padra Road, Vadodara - 390007, Gujarat, India, registered with Registrar of Companies, Gujarat, Ahmedabad;

6.14 **"Tribunal"** means the National Company Law Tribunal, Ahmedabad bench having jurisdiction in relation to the Transferor Company and the Transferee Company and shall be deemed to include, if applicable, a reference to such other forum or authority which may be vested with any of the powers of NCLT to sanction the Scheme under the Act.

6.15 Any references in this Scheme to "upon this Scheme becoming effective" or "upon coming into effect of this Scheme" or "upon the Scheme coming into effect" shall mean the Effective Date. All terms and words which are used in the Scheme and not defined in this Scheme shall, unless repugnant or contrary to the context or meaning thereof, have the same meaning ascribed to them under the agreements executed between the Parties in relation to this Scheme, Act, the Income-tax Act, 1961 and other Applicable Laws, rules, regulations, bye laws, as the case may be, including any statutory modification or re-enactment thereof from time to time.

7. SHARE CAPITAL

7.1 The share capital structure of VFPL, the Transferor Company as on 31st March, 2021 is as follows:

Particulars	INR
Authorised Share Capital	
55,00,000 equity shares of INR 10 each	5,50,00,000
Total	5,50,00,000
Issued, Subscribed and Paid-up Capital	
55,00,000 equity shares of INR 10 each	5,50,00,000
Total	5,50,00,000

7.2 Subsequent to the above date, there has been no change in the authorized, issued, subscribed and paid- up share capital of VFPL till the date of approval of the Scheme by the Board of the Company.

7.3 The share capital structure of SPL, the Transferee Company as on 31st March 2021 is as follows:

Particulars	INR
Authorised Share Capital	
80,00,000 equity shares of INR 10 each	8,00,00,000
Total	8,00,00,000
Issued, Subscribed and Paid-up Capital	
70,80,200 equity shares of INR 10 each	7,08,02,000
Total	7,08,02,000

7.4 Subsequent to the above date, there has been no change in the authorized, issued, subscribed and paid up share capital of SPL till the date of approval of the Scheme by the Board of the Company.

8. DATE OF TAKING EFFECT AND IMPLEMENTATION OF THIS SCHEME

This Scheme as set out herein in its present form or with any modification(s), as may be approved or imposed or directed by the Tribunal or made as per Clause 23 of this Scheme, shall become effective from the Appointed Date and operative from the Effective Date.

PART II - AMALGAMATION OF TRANSFEROR COMPANY WITH TRANSFEREE COMPANY

9. TRANSFER OF ASSETS AND LIABILITIES

9.1 With effect from the opening of business hours of Appointed Date and subject to the provisions of this Scheme and pursuant to Section 232 of the Act and Section 2(lB) of the Income-tax Act, 1961, the Transferor Company shall stand amalgamated with the Transferee Company as a going concern and all assets, investments, liabilities, contracts, arrangements, employees, permits, licenses, records, approvals, etc. of the Transferor Company shall, without any further act, instrument or deed, stand transferred to and vest in or be deemed to have been transferred to and vested in the Transferee Company, so as to become as and from the Appointed Date, the assets, investments, liabilities, contracts, arrangements, employees, Permits, licenses, records, approvals, etc. of the Transferee Company by virtue of, and in the manner provided in this Scheme.

9.2 Without prejudice to the generality of the above and to the extent applicable, unless otherwise stated herein, with effect from the Appointed Date:

9.2.1 all assets of the Transferor Company that are movable in nature or are otherwise capable of being transferred by manual delivery or actual and/ or constructive delivery or by paying over or endorsement and/ or delivery, the same may be so transferred and delivered by the Transferor Company by operation of law without any further act or execution of an instrument with the intent of vesting such assets with the Transferee Company as on the Appointed Date;

9.2.2 subject to Clause 9.2.3 below, with respect to the assets of the Transferor Company, other than those referred to in Clause 9.2.1 above, including all rights, title and interests in the agreements (including agreements for lease or license of the properties) investments in shares, mutual funds, bonds and any other securities, sundry debtors, outstanding loans and advances, if any, recoverable in cash or in kind or for value to be received, bank balances and deposits, if any, with Government, semi-Government, local and other authorities and bodies, customers and other Persons, whether or not the same is held in the name of the Transferor Company, shall, without any further act, instrument or deed, be transferred to and vested in and/ or be deemed to be transferred to and vested in the Transferee Company, with effect from the Appointed Date by operation of law as transmission, as the case may be, in favour of Transferee Company;

9.2.3 all debts, liabilities, duties and obligations (debentures, bonds, notes or other debt securities) of the Transferor Company shall, without any further act, instrument or deed be transferred to, and vested in, and/ or deemed to have been transferred to, and vested in, the Transferee Company, so as to become on and from the Appointed Date, the debts, liabilities, duties and obligations of the Transferee Company on the same terms and conditions as were applicable to the Transferor Company, and it shall not be necessary to obtain the consent of any Person who is a party to contract or arrangement by virtue of which such liabilities have arisen in order to give effect to the provisions of this Clause 9;

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

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/to be availed of by it, and the Encumbrances in respect of such indebtedness of Transferee Company shall not extend or be deemed to extend or apply to the assets so vested;

9.2.5 on and from the Effective Date and till such time that the name of the bank accounts of the Transferor Company have been replaced with that of the Transferee Company, the Transferee Company shall be entitled to maintain and operate the bank accounts of the Transferor Company in the name of the Transferor Company for such time as may be determined to be necessary by the Transferee Company. All cheques and other negotiable instruments, payment orders received or presented for encashment which are in the name of the Transferor Company after the Effective Date shall be accepted by the bankers of the Transferee Company and credited to the account of the Transferee Company, if presented by the Transferee Company; and

9.2.6 without prejudice to the foregoing provisions of Clause 9.2 the Transferor Company, and the Transferee Company shall be entitled to execute any and all instruments or documents and do all the acts and deeds as may be required, including filing of necessary particulars and/ or modification(s) of charge, with the concerned RoC or filing of necessary applications, notices, intimations or letters with any Appropriate Authority or Person, to give effect to the above provisions.

10. PERMITS RELATING TO THE TRANSFEROR COMPANY

10.1 With effect from the Appointed Date, all the Permits (including the licenses granted by any Governmental, statutory or regulatory bodies) held or availed of by, and all rights and benefits that have accrued to, the Transferor Company, pursuant to the provisions of Section 232 of the Act, shall without any further act, instrument or deed, be transferred to, and vest in, or be deemed to have been transferred to, and vested in, and be available to, the Transferee Company so as to become as and from the Appointed Date, the Permits, estates, assets, rights, title, interests and authorities of the Transferee Company and shall remain valid, effective and enforceable on the same terms and conditions to the extent permissible in Applicable Laws. Upon the Effective Date and until the Permits are transferred, vested, recorded, effected, and/ or perfected, in the record of the Appropriate Authority, in favour of the Transferee Company, the Transferee Company is authorized to carry on business in the name and style of the Transferor Company, and under the relevant license and/ or Permit and/ or approval, as the case may be, and the Transferee Company shall keep a record and/or account of such transactions.

11. CONTRACTS, DEEDS ETC. RELATING TO THE TRANSFEROR COMPANY

11.1 All contracts, deeds, bonds, agreements, indemnities, guarantees or other similar rights or entitlements whatsoever, schemes, arrangements and other instruments, Permits, rights, entitlements, licenses (including the licenses granted by any Appropriate Authority)

for the purpose of carrying on the business of the Transferor Company, and in relation thereto, and those relating to tenancies, privileges, powers, facilities of every kind and description of whatsoever nature in relation to the Transferor Company, or to the benefit of which the Transferor Company may be eligible and which are subsisting or having effect immediately before this Scheme coming into effect, shall by endorsement, delivery or recordal or by operation of law pursuant to the order of the Appropriate Authority sanctioning the Scheme, and on this Scheme becoming effective be deemed to be contracts, deeds, bonds, agreements, indemnities, guarantees or other similar rights or entitlements whatsoever, schemes, arrangements and other instruments, Permits, rights, entitlements, licenses (including the licenses granted by any Appropriate Authority) of the Transferee Company. Such properties and rights described hereinabove shall stand vested in the Transferee Company and shall be deemed to be the property and become the property by operation of law as an integral part of the Transferee Company. Such contracts and properties described above shall continue to be in full force and continue as effective as hitherto in favour of or against the Transferee Company and shall be the legal and enforceable rights and interests of the Transferee Company, which can be enforced and acted upon as fully and effectually as if it were the Transferor Company. Upon this Scheme becoming effective, the rights, benefits, privileges, duties, liabilities, obligations and interest whatsoever, arising from or pertaining to contracts and properties, shall be deemed to have been entered into and stand assigned, vested and novated to the Transferee Company by operation of law and the Transferee Company shall be deemed to be the Transferor Company's substituted party or beneficiary or obligor thereto. It being always understood that the Transferee Company shall be the successor in the interest of the Transferor Company. In relation to the same, any procedural requirements required to be fulfilled solely by the Transferor Company (and not by any of its successors), shall be fulfilled by the Transferee Company as if it were the duly constituted attorney of the Transferor Company.

11.2 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, enter into, or issue or execute deeds, writings, confirmations, novations, declarations, or other documents with, or in favour of any party to any contract or arrangement to which the Transferor Company is a party or any writings as may be necessary to be executed in order to give formal effect to the above provisions. The Transferee Company shall be deemed to be authorised to execute any such writings on behalf and in the name of the Transferor Company and to carry out or perform all such formalities or compliances required for the purposes referred to above on the part of the Transferor Company.

11.3 The Transferee Company shall be entitled to the benefit of all insurance policies which have been issued in respect of the Transferor

Company and the name of the Transferee Company shall be substituted as "Insured" in the policies as if the Transferee Company was initially a party thereto.

12. EMPLOYEES RELATING TO THE TRANSFEROR COMPANY

12.1 On the Scheme becoming effective, all employees, whether temporary or permanent employees and including all employees on probation, trainees and interns of the Transferor Company in service on the Effective Date, shall be deemed to have become employees of the Transferee Company with effect from the Appointed Date or their respective joining date, whichever is later, without any break in their service and on the basis of continuity of service, and the terms and conditions of their employment with the Transferee Company shall not be less favorable than those applicable to them with reference to the Transferor Company on the Effective Date. The Transferee Company undertakes to continue to abide by any agreement/settlement, if any, validly entered into by the Transferor Company with any union/employee of the Transferor Company recognized by the Transferor Company. It is hereby clarified that the accumulated balances, if any, standing to the credit of the employees in the existing provident fund, gratuity fund and superannuation fund of which the employees of the Transferor Company are members shall be transferred to such provident fund, gratuity fund and superannuation fund of the Transferee Company or to be established and caused to be recognized by the Appropriate Authorities, by the Transferee Company.

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

12.3 Upon transfer of the aforesaid funds to the respective funds of the Transferee Company, the existing trusts created for such funds by the Transferor Company shall stand dissolved and no further act or deed shall be required to this effect. It is further clarified that the services of the employees of the Transferor Company will be treated as having been continuous, uninterrupted and taken into account for the purpose of the said fund or funds.

12.4 Without prejudice to the aforesaid, the Board of the Transferee Company, if it deems fit and subject to Applicable Laws, shall be entitled to retain separate trusts or funds within the Transferee Company for the erstwhile fund(s) of the Transferor Company.

13. LEGAL PROCEEDINGS RELATING TO THE TRANSFEROR COMPANY

13.1 If any suit, cause of actions, appeal or other legal, quasi-judicial, arbitral or other administrative proceedings of whatever nature

(hereinafter called the "**Proceedings**") by or against the Transferor Company is pending on the Effective Date, the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the merger or of anything contained in this Scheme, but the Proceedings may be continued, prosecuted and enforced by or against the Transferee Company 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. On and from the Effective Date, the Transferee Company may initiate any legal proceeding for and on behalf of the Transferor Company.

14. TAXES/ DUTIES/ CESS ETC. RELATING TO THE TRANSFEROR COMPANY

14.1 Upon the Scheme becoming effective, by operation of law pursuant to the order of the Tribunal:

14.1.1 The unutilized credits relating to excise duties, sales tax, service tax, VAT, goods and services tax as applicable which remain unutilized in the electronic ledger of the Transferor Company shall be transferred to the Transferee Company upon filing of requisite forms. Thereafter the unutilized credit so specified shall be credited to the electronic credit ledger of the Transferor Company and the input and capital goods shall be duly adjusted by the Transferee Company in its books of account.

14.1.2 Taxes of whatsoever nature including advance tax, self-assessment tax, regular assessment taxes, tax deducted at source, dividend distribution tax, minimum alternative tax, wealth tax, if any, paid by the Transferor Company shall be treated as paid by the Transferee Company and it shall be entitled to claim the credit, refund, adjustment for the same as may be applicable. Minimum alternative tax credit available to the Transferor Company under the Income-tax Act, 1961, if any, shall be available to the Transferee Company.

14.1.3 If the Transferor Company is entitled to any benefits under incentive schemes and policies under Tax Laws, all such benefits under all such incentive schemes and policies shall be and stand vested in the Transferee Company.

14.1.4 The Transferee Company is expressly permitted to revise and file its income tax returns and other statutory returns, including tax deducted / collected at source returns, service tax returns, excise tax returns, sales tax / VAT / GST returns, as may be applicable and has expressly reserved the right to make such provision in its returns and to claim refunds, advance tax credits, credit of tax under Section 115JB of the Income-tax Act, 1961, credit of dividend distribution tax, credit of tax deducted at source, credit of foreign taxes paid/withheld, etc. if any, as may be required for the purposes of/consequent to implementation of the Scheme.

14.1.5 It is hereby clarified that in case of any refunds, benefits, incentives, grants, subsidies, etc., the Transferor Company, shall, if so required by the Transferee Company, issue notices in such form as the Transferee Company may deem fit and proper stating that pursuant to the Tribunal having sanctioned this Scheme under Sections 230 to 232 of the Act, the relevant refund, benefit, incentive, grant, subsidies, be paid or made good or held on account of the Transferee Company, as the person entitled thereto, to the end and intent that the right of the Transferor Company, to recover or realise the same, stands transferred to the Transferee Company and that appropriate entries should be passed in their respective books to record the aforesaid changes.

14.1.6 With effect from the date of first filing of this Scheme with the Tribunal and up to and including the Effective Date, neither the Transferor Company nor the Transferee Company shall be entitled to declare and pay dividends, whether interim or final, to their respective shareholders.

15. CONSIDERATION FOR MERGER OF TRANSFEROR COMPANY

15.1 In consideration of the amalgamation of the Transferor Company with the Transferee Company, including the transfer and vesting of the assets and liabilities of the Transferor Company in the Transferee Company pursuant to provisions of this Scheme, the Transferee Company shall, without any further act or deed, issue and allot to each member of the Transferor Company, whose name is recorded in the register of members of the Transferor Company, as under:

15.2 One fully paid-up Preference Share of INR 100 (Indian Rupees Hundred) of SPL, the Transferee Company, for every Ten equity shares of INR 10 (Indian Rupees Ten) each of VFPL, the Transferor Company, held by such shareholder whose name is recorded in the register of members of the Transferor Company, on the record date.

15.3 The ratio in which the Preference Shares of SPL, the Transferee Company are to be issued and allotted to the shareholders of the Transferor Company pursuant to Part II of this Scheme is referred to as the "Share Swap Ratio ".

15.4 The Preference Shares shall be subject to the provisions of the Memorandum of Association and Articles of Association of Transferee Company, as the case may be.

15.5 Upon Scheme being effective, Transferee Company shall, if necessary and to the extent required, increase/alter its Authorized Share Capital to facilitate issue of Preference Shares under this Scheme, by following the requisite procedure under applicable provisions of law and the resolution approving the Scheme shall be deemed to be the approval of increase/alter in the authorized share capital of the Transferee Company.

15.6 The issue and allotment of the Preference Shares is an integral part hereof and shall be deemed to have been carried out under the orders passed by the Tribunal without requiring any further act on the part of the Transferee Company or the Transferor Company or their shareholders and as if the procedure laid down under the Act and such other Applicable Laws as may be applicable were duly complied with. It is clarified that the approval of the members and creditors of the Transferee Company and/ or the Transferor Company to this Scheme, shall be deemed to be their consent/ approval for the issue and allotment of the Preference Shares.

15.7 If any Shareholder of the Transferor Company is holding the shares subject to any Encumbrance, then the said Encumbrance shall continue *mutatis mutandis* in respect of the Preference Shares issued in accordance with the Share Swap Ratio.

15.8 Inter-company balances and holdings, if any, will stand cancelled.

15.9 The Transferee Company shall issue the Preference Shares in dematerialized form to each shareholder of the Transferor Company.

16. ACCOUNTING TREATMENT BY THE TRANSFEREE COMPANY IN RESPECT OF ASSETS AND LIABILITIES

16.1 Upon the scheme becoming effective, Transferee Company shall consider the merger of Transferor Company and shall account for the merger of the Transferor Company pursuant to the Scheme in accordance with Appendix C of Indian Accounting Standard - 103 as notified under Section 133 of the Companies Act, 2013, under the Companies (Indian Accounting Standards) Rules, 2015, as amended from time to time, under "Pooling of Interest method of Accounting" and it would inter alia include the following:

16.1.1 The Transferee Company shall record the assets and liabilities of the Transferor Company vested to it pursuant to the Scheme, at the carrying values as appearing in the financial statements of Transferor Company.

16.1.2 The reserves and surplus of Transferor Company shall be recorded at the carrying amount and the identity of reserves of Transferor Company shall be preserved in books of Transferee Company.

16.1.3 The Transferee Company shall credit its share capital account with the face value of Preference Shares issued pursuant to Clause 15.1 and 15.2 of this Scheme to the shareholders of the Transferor Company.

16.1.4 The inter-company balances, loans, advances and any other dues between Transferor Company and Transferee Company, if any, shall stand cancelled in their respective books of accounts and there shall be no further obligation in that behalf.

16.1.5 In case of any difference in accounting policy between the Transferor Company and Transferee Company, the impact of the same will be quantified and adjusted in the capital reserve of the Transferee Company to ensure that financial statements of the Transferee Company reflect the financial position on the basis of consistent accounting policy.

16.1.6 The difference, if any, between the amounts of assets, liabilities and reserves transferred and the value of the Preference Shares issued by the Transferee Company shall be adjusted in capital reserves in the books of Transferee Company and shall be presented separately from other capital reserves with disclosure in nature and purpose in the notes.

16.1.7 The call option held by the Transferee Company to acquire the Call Shares shall be considered as the call option for acquiring Preference Shares issued to relevant shareholders against the Call Shares. Call option may be exercised to acquire the shares in any manner whatsoever, including buyback, capital reduction, etc.

16.1.8 Comparative financial information in the financial statement of the Transferee Company shall be restated for the accounting impact of merger as if the merger had occurred from beginning of the comparative period.

16.2 Any negative capital reserve pursuant to the accounting as per Clause 16.1 shall be adjusted against the retained earnings in the books of Transferee Company.

17. CONSOLIDATION OF AUTHORISED CAPITAL

17.1 Upon the Scheme becoming effective, the authorised share capital of the Transferor Company amounting to INR 5,50,00,000 comprising of 55,00,000 equity shares of INR 10 each will get consolidated with that of the Transferee Company without payment of any additional fees, duties and Taxes as though the same have already been paid. The authorized share capital of the Transferee Company will automatically stand increased to that effect by simply filing the requisite forms with the RoC and no separate procedure or instrument or deed shall be required to be followed under the Act. The stamp duty and fees paid on the authorized capital of the Transferor Company shall be set off and applied to the increased authorized share capital of the Transferee Company and there would be no requirement for any further payment of stamp duty and/or fee and/or Taxes by the Transferee Company for increase in the authorised share capital to that extent.

17.2 The existing capital clause contained in the Memorandum of Association of the Transferee Company shall without any act, instrument or deed be and stand altered, modified and amended pursuant to Sections 13, 61 and 64 of the Act and Section 232 and other applicable provisions of the Act, as may be applicable.

17.3 It is clarified that the approval of the members of the Transferee Company to the Scheme shall be deemed to be their consent / approval also to the alteration of the Memorandum of Association of the Transferee Company and the Transferee Company shall not be required to seek separate consent / approval of its shareholders for the alteration of the Memorandum of Association of the Transferee Company as required under Sections 13, 61 and 64 of the Act and other applicable provisions of the Act.

18. DISSOLUTION OF THE TRANSFEROR COMPANY AND VALIDITY OF RESOLUTIONS

18.1 Upon the effectiveness of this Scheme, the Transferor Company shall be dissolved without winding up, and the Board and any committees thereof of the Transferor Company shall without any further act, instrument or deed be and stand discharged. The name of the Transferor Company shall be struck off from the records of the RoC and the Transferee Company shall make necessary filings in this regard.

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

19. SAVING OF CONCLUDED TRANSACTIONS

The transfer of properties and liabilities under Clause 9 above and the continuance of the proceedings by or against the Transferee Company under Clause 13 above shall not affect any transaction or proceedings already concluded by the Transferor Company to the end and intent that the Transferee Company accepts and adopts all acts, deeds and things done and executed by the Transferor Company in respect thereto as done and executed on behalf of the Transferee Company.

PART III - GENERAL TERMS & CONDITIONS

20. BUSINESS UNTIL EFFECTIVE DATE

With effect from date when the Board of Transferor Company and Transferee Company approves this Scheme and up to and including the Effective Date, the Transferor Company shall carry on its business in ordinary course consistent with past practice.

21. PROPERTY IN TRUST

Notwithstanding anything contained in this Scheme, until any property, asset, license, approval, permission, contract, agreement and rights and

benefits arising therefrom pertaining to Transferor Company by virtue of Merger, are transferred, vested, recorded, effected and/ or perfected, in the records of the Appropriate Authority(ies), regulatory bodies or otherwise, in favour of the Transferee Company are deemed to be authorized to enjoy the property, asset or the rights and benefits arising from the license, approval, permission, contract or agreement as if it were the owner of the property or asset or as if it were the original party to the license, approval, permission, contract or agreement. It is clarified that till entry is made in the records of the Appropriate Authority(ies) and till such time as may be mutually agreed by the Transferor Company and Transferee Company, the Transferor Company will continue to hold the property and / or the asset, license, permission, approval, contract or agreement and rights and benefits arising therefrom, as the case may be, in trust for and on behalf of the Transferee Company. It is further clarified that on the Effective Date, notwithstanding the Scheme being made effective, any asset/ liability identified as part of Transferor Company and pending transfer due to the pendency of any approval/ consent and/ or sanction shall be held in trust by the Transferor Company for the Transferee Company. Immediately upon receipt of such approval/ consent and/ or sanction, such asset and/ or liability shall without any further act/ deed or consideration be transferred/ vested in the Transferee Company, with all such benefits, obligations and rights with effect from the Effective Date. All costs, payments and other liabilities that the Transferor Company shall be required to bear to give effect to this clause shall be borne solely by the Transferee Company and Transferee Company shall reimburse and indemnify the Transferor Company, against all liabilities and obligations incurred by the Transferor Company in respect thereof.

22. APPLICATIONS/ PETITIONS TO THE TRIBUNAL

22.1 The Transferor Company and Transferee Company shall, with all reasonable dispatch, make necessary applications under sections 230 to 232 and other applicable provisions of the Act to the NCLT or such other appropriate authority, where the registered offices of both the companies are situated for seeking order for dispensing with or convening, holding and conducting of meeting of the members and/or creditors of these companies, as may be directed by the NCLT or such other appropriate authority for sanction of this Scheme and all matters ancillary or incidental thereto.

22.2 On the Scheme being approved by the requisite majorities of the members and/or creditors of these companies whether at a meeting or by consents, as prescribed under the law and/or as directed by the NCLT or such other appropriate authority, the companies shall, with all reasonable dispatch, apply to the NCLT or such other appropriate authority for sanctioning of the Scheme under sections 230 to 232 of the Act, and for such other order or orders, as the NCLT or such other authority may deem fit for carrying this Scheme into effect.

23. MODIFICATION OR AMENDMENTS TO THIS SCHEME

23.1 On behalf of the Transferor Company and the Transferee Company, the Board of the respective companies acting themselves or through

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

23.2 For the purpose of giving effect to this Scheme or to any modification thereof the Boards of the Transferor Company and Transferee Company acting themselves or through authorized persons may jointly but not individually, give and are jointly authorised to give such directions including directions for settling any question of doubt or difficulty that may arise and such determination or directions, as the case may be, shall be binding on all parties, in the same manner as if the same were specifically incorporated in this Scheme.

23.3 In the event that any conditions may be imposed by the Tribunal or any Governmental Authorities, which the Transferor Company or Transferee Company find unacceptable for any reason, then Transferor Company or Transferee Company shall be at liberty to withdraw the Scheme.

24. CONDITIONS PRECEDENT

24.1 Unless otherwise decided (or waived) by the relevant Parties, the Scheme is conditional upon and subject to the following conditions precedent:

24.1.1 approval of the Scheme by the requisite majority of each class of shareholders of the Transferor Company and Transferee Company and such other classes of persons of the said Companies, if any, as applicable or as may be required under the Act and as may be directed by the Tribunal;

24.1.2 the order of the Tribunal, under Sections 230 to 232 of the Act for sanctioning the Scheme, being obtained by the Transferor Company and Transferee Company;

24.1.3 certified/ authenticated copies of the orders of the Tribunal, sanctioning the Scheme, being filed with the concerned RoC having jurisdiction over the Parties by all the Parties; and

24.1.4 any other matters expressly agreed as conditions precedent to the effectiveness of the Scheme as amongst the Parties in writing.

24.2 It is hereby clarified that submission of this Scheme to the Tribunals and to the Appropriate Authorities for their respective approvals is without prejudice to all rights, interests, titles or defenses that the

Transferor Company and Transferee Company may have under or pursuant to all Applicable Laws.

24.3 In the event any of the sanctions/ approvals for giving effect to this Scheme are not obtained, this Scheme shall stand revoked, cancelled and be of no effect and become null and void and in that event no rights and liabilities whatsoever shall accrue to or be incurred *inter se* by the parties or their shareholders or creditors or employees or any other Person. In such case, the Transferee Company shall bear entire costs, charges and expenses in respect of the Scheme incurred either by Transferor Company or Transferee Company, as the case may be.

25. COSTS AND TAXES

Parties have agreed to bear the costs, charges and expenses (including, but not limited to, any taxes and duties, registration charges, etc.) in relation to carrying out, implementing and completing the terms and provisions of this Scheme and/ or incidental to the completion of this Scheme in the following manner:

25.1 the Transferee Company shall bear the stamp duty costs in connection with Part II of the Scheme;

25.2 all other costs, charges and expenses (including, but not limited to, any taxes and duties, registration charges, etc.) in relation to carrying out, implementing and completing the terms and provisions of this Scheme and/ or incidental to the completion of this Scheme shall be borne by the Transferee Company, as the case may be.

26. BINDING EFFECT

Upon the Scheme becoming effective, the same shall be binding on the Transferor Company and the Transferee Company and all concerned parties without any further act, deed, matter or thing.

27. MISCELLANEOUS

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

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Annexure-A: Terms of issue of Preference Shares

1. "Preference Shares" means 8.5% compulsory convertible, non-cumulative Preference Shares of INR 100 each, be compulsorily converted into such number of equity shares of Rs. 10/- each at the Fair Market Value determined as on the date of the conversion, at any time after the date of allotment of Preference Shares but not later than hundred and twenty months (10 years) from the date of allotment, at the discretion of the board of directors of the Transferee Company.

2. Each Preference Share shall:

   a. carry a preferential right vis-à-vis Equity Shares of the Company with respect to payment of dividend and repayment in case of a winding up or repayment of capital;

   b. be non-participating in the surplus funds;

   c. be non-participating in the surplus assets and profits, on winding up which may remain after the entire capital has been repaid;

   d. carry the dividend on a non-cumulative basis;

   e. have voting rights only in respect of certain matters as per the provisions of Section 47(2) of the Act; and

   f. not be redeemed but shall be compulsorily convertible.

3. Dividend on the Preference Shares shall accrue and be payable at the end of each year of allotment.

4. The Transferee Company shall reserve the right to buy-back the Preference Shares at any time, at its sole discretion, as per the requirements of the Companies Act, 2013.

5. The shareholders holding the Preference Shares shall be obligated to tender the shares on receipt of a buy-back offer from the Transferee Company.

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