

**SCHEME OF AMALGAMATION**

**UNDER SECTIONS 391 TO 394 OF THE COMPANIES ACT, 1956**

**BETWEEN**

**Tata Steel Limited ..... Transferee Company**

**AND**

**Tata Metaliks Limited ..... Transferor Company 1**

**AND**

**Tata Metaliks Kubota Pipes Limited ..... Transferor Company 2**

**AND**

**their respective shareholders and creditors**

**CERTIFIED TO BE TRUE COPY  
For TATA METALIKS LIMITED**

  
**Sankar Bhattacharya  
Chief of Corporate Governance  
& Company Secretary**

## SCHEME OF AMALGAMATION

### WHEREAS

- A. Tata Steel Limited is a public limited company under Act No. VI of 1882 of the Legislative Council of India, having its registered office at Bombay House, 24, Homi Mody Street, Fort., Mumbai 400 001 ("**Transferee Company**"). The Transferee Company was incorporated on August 26, 1907, as the Tata Iron and Steel Company Limited and the name of the Transferee Company was changed to Tata Steel Limited with effect from August 12, 2005. The Transferee Company's business is spread across the entire value chain of steel manufacturing from mining and processing iron ore and coal, to producing and distributing finished products, directly and through its subsidiaries. The equity shares of the Transferee Company are listed on the BSE Limited and on the National Stock Exchange of India Limited (the NSE together with the BSE Limited, the Stock Exchanges), and its global depository receipts are listed on the London Stock Exchange and the Luxembourg Stock Exchange. The foreign currency convertible bonds issued by the Transferee Company are listed on the Singapore Exchange Securities Trading Limited, its unsecured redeemable non-convertible debentures are listed on the NSE under the Wholesale Debt Market Segment, and its perpetual hybrid securities are listed on the Stock Exchanges under the Wholesale Debt Market Segment.
- B. The Transferee Company's business is spread across the entire value chain of steel manufacturing from mining and processing iron ore and coal to producing and distributing finished products, directly and through its subsidiaries. The Transferee Company also manufactures tubes, bearings, refractories and pigments.
- C. Tata Metaliks Limited is a public limited company incorporated under the Act (as defined hereinafter) having its registered office at Tata Centre, 10th Floor, 43 Jawaharlal Nehru Road, Kolkata 700071 ("**Transferor Company 1**"). The Transferor Company 1 was incorporated on October 10, 1990 as Tata Korf Metals West Bengal Limited and the name of the Transferor Company 1 was changed to "Tata Metaliks Limited" with effect from January 16, 1992. The Equity Shares of the Transferor Company 1 are listed on BSE Limited and the National Stock Exchange of India Limited. The Transferor Company 1 has issued 12.75% redeemable non-convertible debentures which are listed under the Wholesale Debt Market Segment on the National Stock Exchange of India Limited.
- D. The Transferor Company 1 is, *inter alia*, authorised to and is primarily engaged in the business of (i) manufacturing, producing, buying, selling, altering, improving, importing, exporting and otherwise dealing in pig iron and its products, steel and steel billets, metal and metallised products including steel, ferrous and non-ferrous alloys, rolled products, sheet metal, wire, wire mesh, wirecloth and (ii) rolling mill and foundries and other metallurgical products.
- E. Apart from holding 10,000,000 non-cumulative redeemable preference shares of the Transferor Company 1, the Transferee Company, along with its wholly owned subsidiary Kalimati Investment Company Limited ("**Kalimati**") currently holds 50.09% of the issued and paid-up equity share capital of the Transferor Company 1. The board of directors of the Transferee Company and Kalimati have approved a separate scheme of amalgamation ("**Kalimati Scheme**") pursuant to which Kalimati would merge into the Transferee Company upon the scheme being sanctioned by the High Court of Judicature at Bombay.





Upon the Kalimati Scheme becoming effective, the entire 50.09% of the issued and paid-up equity share capital of the Transferor Company 1 would be held by Transferee Company.

- F. Tata Metaliks Kubota Pipes Limited is a company incorporated under the provisions of the Act (*as defined* hereinafter) having its registered office at Tata Centre, 10th Floor, 43 Jawaharlal Nehru Road, Kolkata 700071 ("**Transferor Company 2**"). The Transferor Company 2 was incorporated on October 16, 2007. The Transferor Company 2 is a wholly owned subsidiary of the Transferor Company 1.
- G. The Transferor Company 2 is, *inter alia*, authorised to and is primarily engaged in the business of manufacturing, producing, buying, selling, altering, improving, importing, exporting and otherwise dealing in ductile iron pipes, fittings and other accessories of any diametrical dimensions and its joint products and by-products.
- H. The Transferor Company 1 and Transferor Company 2 shall hereinafter be collectively referred to as the "**Transferor Companies**".
- I. This composite Scheme of Amalgamation (hereinafter referred to as the "**Scheme**") provides for the amalgamation of the Transferor Companies with the Transferee Company and the consequent issue of equity shares by the Transferee Company to the public shareholders of the Transferor Companies, the consequent cancellation of the equity shares held by the Transferee Company in the Transferor Company 1 and the consequent cancellation of the equity shares held by the Transferor Company 1 in the Transferor Company 2, pursuant to sections 391 to 394 and other relevant provisions of the Act (*as defined hereinafter*) in the manner provided for in the Scheme.
- J. The proposed amalgamation of the Transferor Companies with the Transferee Company in accordance with this Scheme would enable all companies to realise benefits of greater synergies between their businesses and avail of the financial resources as well as the managerial, technical, distribution and marketing resources of each other in the interest of maximising shareholder and stakeholder value. The proposed amalgamation will be beneficial to the companies in the following manner:
- (a) The amalgamation in accordance with this Scheme will result in forward and backward integration of the operations and complete the entire value chain from iron ore mining to downstream value added products. The amalgamation will provide opportunity for reduction of operational costs. The business of the Transferor Companies can be carried on more economically.
  - (b) The amalgamation would result in synergy benefits arising out of single value chain;
  - (c) Synergy of operations will be achieved resulting in benefits such as sustained availability of raw materials. Common facilities such as manpower, office space and other infrastructure could be better utilized and duplication of facilities could be avoided resulting in optimum use of facilities;
  - (d) Greater efficiency in cash management and unfettered access to cashflow generated by the combined business which can be deployed more efficiently, to maximize shareholder value; and



- (e) There will be better operational synergy in terms of procurement benefits, access to marketing networks/ customers, reduction of administrative work etc. and fund raising capabilities and opportunities will be comfortably enhanced, resulting into cost efficiency coupled with greater financial flexibility.
- K. The amalgamation of the Transferor Companies with the Transferee Company, pursuant to and in accordance with this Scheme, shall take place with effect from the Appointed Date.
- L. The Scheme is divided into the following parts:
  - (a) Introduction;
  - (b) Part I, which contains the definitions;
  - (b) Part II, which deals with the share capital of the Transferee Company and the Transferor Companies;
  - (c) Part III, which deals with the amalgamation of the Transferor Companies with the Transferee Company;
  - (d) Part IV, which deals with reorganisation of share capital; matters relating to accounts etc.
  - (e) Part V, which deals with the treatment of the Scheme for the purposes of the Income Tax Act, 1961,
  - (f) Part VI, which deals with the dissolution of the Transferor Companies; and
  - (g) Part VII, which deals with the general terms and conditions that would be applicable to the Scheme.

The Scheme also provides for various other matters consequential or otherwise integrally connected herewith.

- M. The amalgamation hereunder will be effected under the provisions of Sections 391 to 394 of the Act and in accordance with section 2(1B) of the Income Tax Act, 1961.

## **PART I: DEFINITIONS**

### **1. Definitions**

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

- (a) **“Act”** means the Companies Act, 1956, the rules and regulations made thereunder and will include any statutory modifications, re-enactments and/or amendments thereof.
- (b) **“Appointed Date”** means April 1, 2013.
- (c) **“Board of Directors”** in relation to the Transferor Companies and/or the Transferee Company, as the case may be, shall, unless it is repugnant to the context or otherwise, include a Committee of Directors or any person authorized by the Board of Directors or such Committee of Directors.
- (d) **“Clause”** means a clause in this Scheme.





- (e) **“Effective Date”** shall mean the later of the dates on which the certified copies of the Orders of the High Court of Judicature at Calcutta and the High Court of Judicature at Bombay sanctioning the Scheme are filed with the Registrar of Companies, Kolkata and the Registrar of Companies, Mumbai , respectively.
- (f) **“Equity Shares”** means the ordinary shares of the Transferee Company.
- (g) **“High Court(s)”** means the High Court of Judicature at Calcutta and the High Court of Judicature at Bombay.
- (h) **NCDs”** means the 12.75% redeemable non-convertible debentures aggregating Rs 18 crore issued by the Transferor Company 1, each of which are listed under the Wholesale Debt Market Segment on the National Stock Exchange of India Limited;
- (i) **“Part”** means a part of this Scheme.
- (j) **“Party”** means a party to this Scheme and **“Parties”** shall be construed accordingly.
- (k) **“Record Date”** shall have the meaning as ascribed to it in Clause 17.
- (l) **“Registrar of Companies”** means the Registrar of Companies, Kolkata and the Registrar of Companies, Mumbai.
- (m) **“Scheme”** shall mean this scheme of amalgamation, in its present form or with any modification(s) approved by the High Courts and accepted by the Parties.
- (n) **“Share Exchange Ratio”** means the proportion in which the shares of the Transferee Company shall be allotted to the members of the Transferor Company 1 whose name appears in the register of members of the Transferor Company 1 on the Record Date, in exchange for the shares held by them in the Transferor Company 1 in the manner as detailed in Clause 17.
- (o) **“Transferor Company 1”** means Tata Metaliks Limited having its registered office at Tata Centre, 10th Floor, 43 Jawaharlal Nehru Road, Kolkata 700071 and shall include (without limitation) its entire business and:
- (i) any and all its assets, properties, whether movable or immovable, whether present, future or contingent , whether tangible or intangible, all rights, title, interests, covenants, undertakings, including continuing rights, title and interests in connection with the land and the buildings thereon, whether leasehold or otherwise, plant and machinery, whether leased or otherwise, together with all present and future liabilities including contingent liabilities and debts appertaining thereto;
- (ii) any and all investments (including shares and other securities), cash and bank balances, income by whatever name called, loans and advances by whatever name called and of whatever nature, including accrued interest thereon;

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- (iii) any and all approvals, allotments, consents, exemptions, registrations, no-objection certificates, permits, quotas, rights, entitlements, licenses, prospective licences, authorizations, linkages, applications made for obtaining all or any of the aforesaid, including applications for grant of mining lease, certificates, tenancies, trade names, trademarks, service marks, copyrights, domain names, applications for trade names, trademarks, service marks, copyrights, privileges and benefits of/arising out of all contracts, agreements, applications, arrangements and all other rights including lease rights, licenses and registrations, powers, powers of attorney and facilities of every kind and description whatsoever, equipment and installations and utilities, electricity, water and other service connections, all benefits including subsidies, grants, incentives, tax credits (including but not limited to credits in respect of CENVAT, income tax, minimum alternate tax, value added tax, sales tax, entry tax, service tax, etc.), tax refunds and all other rights, claims and powers, of whatsoever nature, pertaining to the Transferor Company 1;
  - (iv) any and all debts, borrowings and liabilities, present or future (including deferred tax liabilities and contingent liabilities), whether secured or unsecured, of the Transferor Company 1;
  - (v) any and all permanent employees, who are on the pay roll of the Transferor Company 1, including those engaged at their respective factories, offices and branches, at their current terms and conditions, employee benefits and balances with all regulatory authorities;
  - (vi) all insurance policies;
  - (vii) all necessary records, files, papers, computer programmes, websites, domain names, manuals, data, catalogues, quotations, sales and advertising materials, lists of present and former customers, customer credit information, customer pricing information, and other records, whether in physical form or electronic form in connection with or relating to the Transferor Company 1; and
  - (viii) any and all advance monies, earnest monies, margin money and/or security deposits, payment against warrants or other entitlements, in connection with or relating to the Transferor Company 1.
- (p) **“Transferor Company 2”** means Tata Metaliks Kubota Pipes Limited having its registered office at Tata Centre, 10th Floor, 43 Jawaharlal Nehru Road, Kolkata 700071 and shall include (without limitation) its entire business and:
- (i) any and all its assets, properties, whether movable or immovable, whether present future or contingent, whether tangible or intangible, all rights, title, interests, covenants, undertakings, including continuing rights, title and interests in connection with the land and the buildings thereon, whether leasehold or otherwise, plant and machinery, whether leased or otherwise, together with all present and future liabilities including contingent liabilities and debts appertaining thereto;



- (ii) any and all investments (including shares and other securities), cash and bank balances, income by whatever name called, loans and advances by whatever name called and of whatever nature, including accrued interest thereon;
  - (iii) any and all approvals, allotments, consents, exemptions, registrations, no-objection certificates, permits, quotas, rights, entitlements, licenses, authorizations, linkages, applications made for obtaining all or any of the aforesaid, certificates, tenancies, trade names, trademarks, service marks, copyrights, domain names, applications for trade names, trademarks, service marks, copyrights, privileges and benefits of/arising out of all contracts, agreements, applications, arrangements and all other rights including lease rights, licenses and registrations, powers, powers of attorney and facilities of every kind and description whatsoever, equipment and installations and utilities, electricity, water and other service connections, all benefits including subsidies, grants, incentives, tax credits (including but not limited to credits in respect of CENVAT, income tax, minimum alternate tax, value added tax, sales tax, entry tax, service tax, etc.), tax refunds and all other rights, claims and powers, of whatsoever nature, pertaining to the Transferor Company 2;
  - (iv) any and all debts, borrowings and liabilities, present or future, whether secured or unsecured, of the Transferor Company 2;
  - (v) any and all permanent employees, who are on the pay roll of the Transferor Company 2, including those engaged at their respective factories, offices and branches, at their current terms and conditions employee benefits and balances with all regulatory authorities;
  - (vi) all insurance policies;
  - (vii) all necessary records, files, papers, computer programmes, websites, domain names, manuals, data, catalogues, quotations, sales and advertising materials, lists of present and former customers, customer credit information, customer pricing information, and other records, whether in physical form or electronic form in connection with or relating to the Transferor Company 2; and
  - (viii) any and all advance monies, earnest monies, margin money and/or security deposits, payment against warrants or other entitlements, in connection with or relating to the Transferor Company 2.
- (q) **“Transferee Company”** means Tata Steel Limited, having its registered office at Bombay House, 24, Homi Mody Street, Fort, Mumbai 400 001.

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

The expressions, which are used in this Scheme and not defined in this Scheme shall, unless repugnant or contrary to the context or meaning hereof, have the same meaning ascribed to them under the Act, the Securities Contracts (Regulation) Act, 1956, the Securities and Exchange Board of India Act, 1992 (including the regulations made thereunder), the Depositories Act, 1996 and other applicable laws, rules, regulations, by-laws, as the case may be, including any statutory modification or re-enactment thereof, from time to time.

## PART II: SHARE CAPITAL

### 2. Share Capital of the Parties

#### 2.1. Transferee Company

The share capital of the Transferee Company, as on December 31, 2012, is as under:

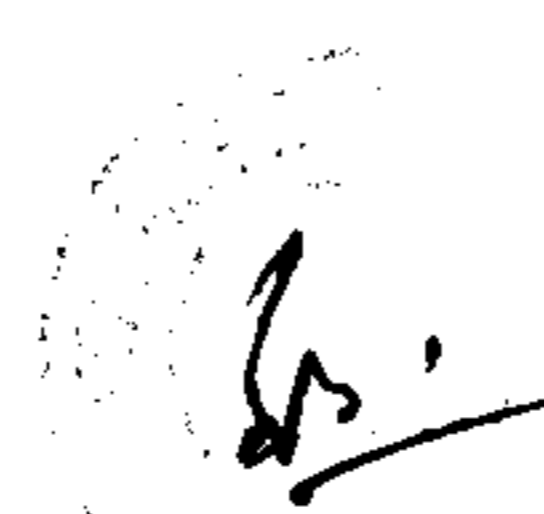
	<b>In Rs.</b>
<b>Authorized Share Capital</b>	
1,75,00,00,000 ordinary Equity Shares of Rs. 10 each	17,50,00,00,000
35,00,00,000 "A" ordinary shares of Rs. 10 each	3,50,00,00,000
2,50,00,000 cumulative redeemable preference shares of Rs. 100 each	2,50,00,00,000
60,00,00,000 cumulative convertible preference shares of Rs. 100 each	60,00,00,00,000
<b>Issued Share Capital</b>	
97,21,26,020 ordinary Equity Shares of Rs.10 each	9,72,12,60,200
<b>Paid-up Share Capital</b>	
97,12,14,545 ordinary Equity Shares of Rs.10 each	9,71,21,45,450

#### 2.2. Transferor Companies

##### 2.2.1. The share capital of the Transferor Company 1, as on December 31, 2012, is as under:

	<b>In Rs.</b>
<b>Authorized Share Capital</b>	
<b>150,00,00,000</b>	
5,00,00,000 Equity Shares of Rs. 10 each	50,00,00,000
100,00,000 preference shares of Rs. 100 each	100,00,00,000
<b>Issued, Subscribed and Paid-up Share Capital</b>	
<b>125,28,80,000</b>	
2,52,88,000 Equity Shares of Rs. 10 each	25,28,80,000
100,00,000 preference shares of Rs. 100 each	1,00,00,00,000

##### 2.2.2. The share capital of the Transferor Company 2, as on December 31, 2012, is as under:





	<b>In Rs.</b>
<b>Authorized Share Capital</b>	
20,00,00,000 equity shares of Rs. 10 each	2,00,00,00,000
<b>Issued, Subscribed and Paid-up Share Capital</b>	
17,94,00,007 equity shares of Rs. 10 each	1,79,40,00,070

### **PART III: AMALGAMATION**

3. With effect from the Appointed Date and upon this Scheme becoming effective, and subject to the provisions of this Scheme, the Transferor Company 1 shall, pursuant to Section 394(2) of the Act, without any further act, instrument or deed, be and stand transferred to and vested in and/or be deemed to have been and stand transferred to and vested in the Transferee Company as a going concern.
4. With effect from the Appointed Date and upon this Scheme becoming effective, and subject to the provisions of this Scheme, the Transferor Company 2 shall, pursuant to Section 394(2) of the Act, without any further act, instrument or deed, be and stand transferred to and vested in and/or be deemed to have been and stand transferred to and vested in the Transferee Company as a going concern.
5. Without prejudice to the generality of the above, with effect from the Appointed Date and upon this Scheme becoming effective:
  - (i) all assets of the Transferor Companies, as are movable in nature or incorporeal property or are otherwise capable of transfer by manual delivery or by endorsement and delivery or by vesting and recordal pursuant to this Scheme, shall stand vested in the Transferee Company and shall become the property and an integral part of the Transferee Company. The vesting pursuant to this sub-clause shall be deemed to have occurred by manual delivery or endorsement, as appropriate to the property being vested and title to the property shall be deemed to have been transferred accordingly;
  - (ii) all movable properties of the Transferor Companies, other than those specified in sub-clause (i) above, including investments in shares 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, shall without any further act, instrument or deed, become the property of the Transferee Company.
  - (iii) all immovable properties (including land together with the buildings and structures standing thereon) and rights and interests in immovable properties of the Transferor Companies, whether freehold or leasehold or otherwise, all tenancies, and all documents of title, rights and easements in relation thereto shall stand transferred to and be vested in and transferred to and/or be deemed to have been and stand transferred to and vested in the Transferee Company, without any further act or deed done by the Transferor Companies and/or the Transferee Company. The





Transferee Company shall be entitled to and exercise all rights and privileges attached thereto and shall be liable to pay the ground rent, taxes and to fulfill all obligations in relation to or applicable to such immovable properties. The relevant authorities shall grant all clearances/permissions, if any, required for enabling the Transferee Company to absolutely own and enjoy the immovable properties in accordance with law. The mutation or substitution of the title to the immovable properties shall, upon this Scheme becoming effective, be made and duly recorded in the name of the Transferee Company by the appropriate authorities pursuant to the sanction of this Scheme by the High Courts in accordance with the terms hereof;

- (iv) all debts, liabilities, contingent liabilities (including pending export obligation, if any, against import of capital goods under Export Promotion Capital Goods Scheme), duties and obligations, secured or unsecured, whether provided for or not in the books of account or disclosed in the balance sheet of the Transferor Companies, shall, be deemed to be the debts, liabilities, contingent liabilities, duties and obligations of the Transferee Company and the Transferee Company undertakes to meet, discharge and satisfy the same. It is hereby clarified that 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 debts, liabilities, duties and obligations have arisen in order to give effect to the provisions of this Clause;
- (v) the NCDs issued by the Transferor Company 1, shall, pursuant to the provisions of Sections 391 to 394 and other relevant provisions of the Act, without any further act, instrument or deed, become the debt securities of the Transferee Company on the same terms and conditions except to the extent modified under the provisions of this Scheme and all rights, powers, duties and obligations in relation thereto shall be and stand transferred to and vested in or be deemed to have been transferred to and vested in and shall be exercised by or against the Transferee Company as if it was the issuer of the NCDs so transferred. Subject to the requirements of the stock exchanges, and other terms and conditions agreed with the stock exchanges, the NCDs transferred to the Transferee Company shall be listed and/or admitted to trading on the Wholesale Debt Market segment of National Stock Exchange of India Limited, where the NCDs are currently listed and/or admitted to trading;
- (vi) all contracts, business/asset purchase agreements, memoranda of undertakings, memoranda of agreement, memoranda of agreed points, letters of agreed points, arrangements, undertakings whether written or otherwise, lease rights, deeds, bonds, other agreements, insurance policies, applications and instruments of whatsoever nature to which any of the Transferor Companies is/are a party/parties and having effect immediately before the Effective Date, shall remain in full force and effect in favour of and/ or against the Transferee Company and may be enforced fully and effectually as if, instead of the respective Transferor Companies, the Transferee Company had been a party thereto;
- (vii) all permits, quotas, rights, entitlements, prospective licences, licenses including those relating to trademarks, patents, copyrights, privileges, powers, facilities letter of allotments, linkages, including applications for permits, quotas, rights, entitlements, allotments, linkages, licenses and applications for mining lease including those relating to trademarks, tenancies, patents, copy rights, privileges,



powers, facilities of every kind and description of whatsoever nature in relation to the Transferor Companies to which any of the Transferor Companies, is/ are a party or to the benefit of which any of the Transferor Companies may be eligible and which are subsisting or having effect immediately before the Effective Date, shall be and remain in full force and effect in favour of or against the Transferee Company and may be enforced as fully and effectually as if, instead of the respective Transferor Companies, the Transferee Company had been a party or beneficiary or obligee thereto and the same shall be appropriately granted/mutated/recorded by the statutory authorities concerned therewith in favour of the Transferee Company upon the vesting and transfer of the assets and liabilities of the Transferor Companies as the case may be, pursuant to this Scheme;

- (viii) any statutory licenses, including certification marks license issued by Bureau of Indian Standards in terms of the Ductile Iron Pressure Pipes and Fittings (Quality Control) Order, 2009, no objection certificates, permissions, or consents or approvals, allotment or linkages required to be obtained or obtained or any applications made for the same by any of the Transferor Companies, as the case may be, to carry on their respective operations shall stand vested in or be transferred to the Transferee Company without any further act or deed, and shall be appropriately granted/mutated/recorded by the statutory authorities concerned therewith in favour of the Transferee Company upon the vesting and transfer of the assets and liabilities of the Transferor Companies as the case may be, pursuant to this Scheme. The benefit of all statutory and regulatory permissions, licenses, approvals and consents shall vest in and become available to the Transferee Company pursuant to the Scheme. All applications made by the Transferor Companies for obtaining any consent, permission, licence or approval, allotment or linkages including applications for grant of mining lease shall stand transferred to and vest in the Transferee Company as if the Transferee Company was the applicant and the Transferee Company shall be entitled to all the rights, benefits and obligations arising therefrom.
- (ix) the Transferee Company, 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, will execute deeds of confirmation or other writings or arrangements with any party to any contract or arrangement to which any of the Transferor Companies is/are a party in order to give formal effect to the above provisions. The Transferee Company shall, under the provisions of this Scheme, be deemed to be authorized to execute any such writings on behalf of the Transferor Companies to carry out or perform all such formalities or compliances referred to above on the part of the respective Transferor Companies;
- (x) any pending suit/appeal or other proceedings of whatsoever nature relating to any of the Transferor Companies, whether by or against any of the Transferor Companies, shall not abate, be discontinued or in any way prejudicially affected by reason of the amalgamation of the Transferor Companies or because of the provisions contained in this Scheme, but the proceedings shall continue and any prosecution shall be enforced by or against the Transferee Company in the same manner and to the same extent as they would or might have been continued, prosecuted and/or enforced by or against the respective Transferor Companies, if this Scheme had not been made;



- (xi) all permanent employees of the Transferor Companies, as on the Effective Date, shall become employees of the Transferee Company with the benefit of continuity of service on such terms and conditions as are no less favourable than those on which they are currently engaged by the respective Transferor Companies, without any interruption of service as a result of this amalgamation and transfer.
- (xii) It is expressly provided that, on the Scheme becoming effective, the provident fund, gratuity fund or any other special fund or trusts created or existing for the benefit of the staff, workmen and employees of the Transferor Companies shall be transferred to and shall get consolidated with the corresponding funds of the Transferee Company subject to complying with all regulatory/legal requirements/approvals under any law. The Transferee Company shall have the obligation to make contributions to the said fund or funds in accordance with the provisions thereof as per the terms provided in the respective trust deeds, if any, to the end and intent that all rights, duties, powers and obligations of the Transferor Companies in relation to such fund or funds shall become those of the Transferee Company. It is clarified that the services of the staff, workmen and employees of the Transferor Companies will be treated as having been continuous for the purpose of the said fund or funds. From the date of acceptance of the Scheme by the respective Board of the Transferor Companies and the Transferee Company, the respective Transferor Companies shall not vary the terms and conditions of the employment of its employees except in the ordinary course of business;

Notwithstanding the above the Board of Directors of the Transferee Company if it deems fit and subject to applicable laws shall be entitled to retain separate trusts within the Transferee Company for the erstwhile fund(s) of the Transferor Companies;

- (xiii) all the tax liabilities under the Income Tax Act, 1961, service tax laws and other applicable laws/ regulations dealing with taxes / duties / levies ("Tax Laws" ) allocable or related to the business of the Transferor Companies shall be transferred to the Transferee Company;
- (xiv) any refunds/ credits/ claims / benefits / incentives under the Tax Laws due to any of the Transferor Companies (including but not limited to advance tax, self assessment tax, regular assessment tax service tax, CENVAT, minimum alternate tax, value added tax, central sales tax etc.) shall also belong to and be availed of or received by the Transferee Company;
- (xv) all the benefits under the various incentive schemes and policies that the Transferor Companies are entitled to, in relation to their operations, (specifically but not limited to the value added tax and central sales tax incentives granted to the Transferor Company 1 in Maharashtra and West Bengal States and value added tax and central sales tax benefits granted to the Transferor Company 2 in West Bengal State) shall upon the Scheme becoming effective and with effect from the Appointed Date be transferred to and vest in the Transferee Company and all benefits, entitlements and incentives of any nature whatsoever, including minimum alternate tax credit entitlement, shall be claimed by the Transferee Company and these shall

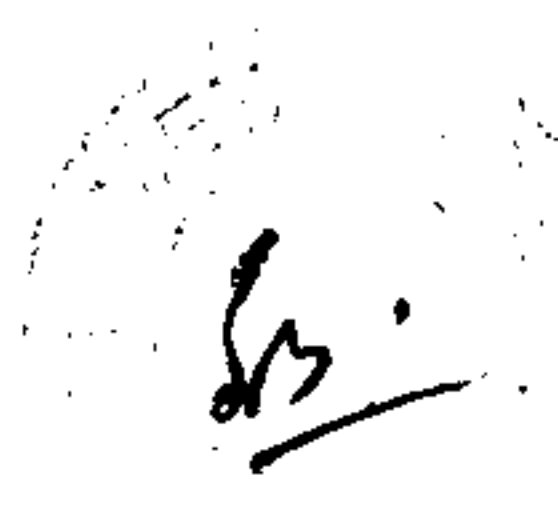


relate back to the Appointed Date as if the Transferee Company was originally entitled to all benefits under such incentive scheme and/or policies; and

- (xvi) Since each of the permissions, approvals, consents, sanctions, remissions, special reservations, holidays, incentives, concessions and other authorizations, shall stand vested by the order of sanction of the High Courts in 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 sanctioning courts.
6. Upon this Scheme becoming effective, the secured creditors of the respective Transferor Companies shall be entitled to security only in respect of the properties, assets, rights, benefits and interest of the respective Transferor Companies, as existing immediately prior to the amalgamation of such Transferor Company with the Transferee Company. It is hereby clarified that pursuant to the amalgamation of the Transferor Companies with the Transferee Company, the secured creditors of the respective Transferor Companies shall not be entitled to any security over the other properties, assets, rights, benefits and interest of the Transferee Company.
7. Upon the Scheme becoming effective and with effect from the Appointed Date, the Transferee Company undertakes to continue to abide by any agreement(s) / settlement(s) entered into with any labour unions/employees by the Transferor Companies. The Transferee Company agrees that for the purpose of payment of any retrenchment compensation, gratuity and other terminal benefits, the past services of such employees with the Transferor Companies shall also be taken into account, and agrees and undertakes to pay the same as and when payable.
8. The Transferor Companies shall, at any time before the coming into effect of this Scheme in accordance with the provisions hereof, if so required under any law or otherwise, execute deeds of confirmation or other writings or arrangements with any party to any contract or arrangement in relation to which the respective Transferor Companies have been a party, in order to give formal effect to the above provisions.
9. With effect from the Appointed Date and until occurrence of the Effective Date:
- (i) the Transferor Companies undertake to carry on and shall be deemed to have carried on their respective business activities and stand possessed of their respective properties and assets, for and on account of and in trust for the Transferee Company;
  - (ii) all profits accruing to the Transferor Companies and all taxes thereon or losses arising or incurred by it shall, for all purposes, be treated as and be deemed to be the profits, taxes or losses, as the case may be, of the Transferee Company;
  - (iii) subject to provisions of the applicable law, all the transactions of purchase or sale of goods and procurement or rendition of services between the Transferee Company, the Transferor Company 1 and the Transferor Company 2 shall not be treated as transactions between two separate entities and consequently, the Transferee

Company shall be entitled to claim refund of the taxes so paid on such transactions as it may deem fit;

- (iv) the Transferor Companies shall carry on their respective business, with reasonable diligence and business prudence and in the same manner as they had been doing hitherto and shall not, undertake any additional financial commitments of any nature whatsoever, borrow any amounts or incur any other liabilities or expenditure, issue any additional guarantees, indemnities, letters of comfort or commitment either for itself or on behalf of their respective affiliates or associates or any third party, or sell, transfer, alienate, charge, mortgage or encumber or deal, in any of their respective properties/assets, except: (a) when the same is expressly provided in this Scheme; or (b) when the same is in the ordinary course of business as carried on by it as on the date of filing of this Scheme in the High Courts; or (c) when a prior written consent of the Transferee Company has been obtained in this regard.
  - (v) except by mutual consent of the Board of Directors and subject to changes pursuant to commitments, obligations or arrangements prior to the Appointed Date or as part of this Scheme, pending sanction of this Scheme, the Transferor Companies shall not make any change in their respective capital structure either by any increase (by issue of equity shares, bonus shares, convertible debentures or otherwise), decrease, reduction, reclassification, sub-division, consolidation, re-organisation or in any other manner which may in any way affect the Share Exchange Ratio;
  - (vi) the Transferor Companies shall not alter or substantially expand their respective business except with the prior written consent of the Transferee Company; and
  - (vii) the Transferor Companies shall not amend their respective memorandum of association or articles of association, except with the prior written consent of the Transferee Company.
10. With effect from the Effective Date, the Transferee Company shall commence and carry on and shall be authorized to carry on the business of the Transferor Companies.
11. For the purpose of giving effect to the amalgamation order passed under sections 391 to 394 of the Act (and other applicable provisions) in respect of this Scheme by the High Courts, the Transferee Company shall, at any time pursuant to the orders on this Scheme, be entitled to get the recordal of change in the legal right(s) upon the amalgamation of the Transferor Companies, in accordance with the provisions of Sections 391 to 394 of the Act. The Transferee Company shall be authorized to execute any pleadings, applications, forms, etc., as are required to remove any difficulties and carry out any formalities or compliance as are necessary for the implementation of this Scheme.
12. Upon this Scheme becoming effective, the Transferee Company unconditionally and irrevocably agrees and undertakes to pay, discharge and satisfy all liabilities and obligations of the Transferor Companies, pertaining to the period commencing from the Appointed Date, in order to give effect to the foregoing provisions.
13. The Transferor Companies are commercially solvent and their respective undertaking(s) can fully take care and honor their respective creditors, if any, and all liabilities, therefore





by virtue of amalgamation of the Transferor Companies with the Transferee Company, the creditors, if any, of the Transferee Company shall not be affected in any manner whatsoever.

14. Further, the Transferee Company has a substantial capital and operation base and therefore upon the amalgamation of the Transferor Companies with the Transferee Company, the creditors, if any, of the respective Transferor Companies also shall not be affected in any manner whatsoever.

#### **PART IV: REORGANISATION OF SHARE CAPITAL; MATTERS RELATING TO ACCOUNTS ETC.**

15. The provisions of this Part IV shall operate notwithstanding anything to the contrary in any other instrument, deed or writing.
16. In consideration of the provisions of this Part IV of the Scheme and as an integral part of this Scheme, the issued, subscribed and paid up share capital of the Transferee Company shall be increased in the manner set out below.
17. Upon coming into effect of the Scheme and in consideration of the transfer and vesting of the Transferor Company 1 and Transferor Company 2 in the Transferee Company in terms of Part III of this Scheme, the Transferee Company shall, without any further act or deed, issue and allot Equity Shares to the members of the Transferor Company 1 whose names appear in the register of members of the Transferor Company 1 on the record date determined by the Board of Directors of the Transferor Company 1 ("**Record Date**"), being a date post filing of the sanction order of this Scheme with the Registrar of Companies in the following manner:
  - (i) for every 29 (twenty nine) fully paid up equity shares of the face value of Rs. 10 each held by the members of the Transferor Company 1 in the Transferor Company 1 as on the Record Date, 4 (four) Equity Shares of the Transferee Company having a face value of Rs.10 each, credited as fully paid up to the members of Transferor Company 1 shall be issued. Notwithstanding the above, such portion of the Equity Share capital and preference share capital of the Transferor Company 1 as is held by the Transferee Company on the Record Date shall stand cancelled, with effect from Appointed Date, without any further application, act or deed and no consideration shall be issued or paid against the same.
  - (ii) No consideration or share shall be separately paid/issued to the shareholder of the Transferor Company 2, as at the time of merger of the Transferor Company 2 with the Transferee Company, the Transferor Company 1, being the sole shareholder of the Transferor Company 2, would have already merged with the Transferee Company and the entire shareholding of the Transferor Company 1 in the Transferor Company 2 would have been vested in the Transferee Company alone. Notwithstanding the above, such portion of the preference share capital of the Transferor Company 2 as is held by the Transferor Company 1 on the Record Date shall stand cancelled, with effect from Appointed Date, without any further application, act or deed and no consideration shall be issued or paid against the same.
18. All Equity Shares to be issued and allotted by the Transferee Company in terms hereof shall rank *pari passu* in all respects including dividend from the date of their allotment in terms

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