

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,  
BENCH, AT MUMBAI

COMPANY SCHEME APPLICATION NO. 768 OF 2017

In the matter of the Companies Act, 2013 (18 of 2013);

AND

In the matter of Sections 230 to 232 and other applicable provisions of the Companies Act, 2013 and Rules framed thereunder as in force from time to time;

AND

In the matter of Scheme of Arrangement and Amalgamation of MARS CATERING SERVICES PRIVATE LIMITED, the Demerged Company and TAJ-BIRDYS FOOD SERVICES PRIVATE LIMITED, the Transferor Company with MARS ENTERPRISES AND HOSPITALITY PRIVATE LIMITED, the Transferee or Resulting Company.

MARS CATERING SERVICES PRIVATE )  
LIMITED, a company incorporated under )  
the Companies Act, 1956 having its )  
registered office at Off International Airport )  
Approach Road, Marol, Andheri East, )  
Mumbai – 400059 ) ...Applicant Company /  
Demerged Company

**Called for Notice of Admission:**

Hiten Sarvaiya, Chartered Accountant with Raveena Jain, Chartered Accountant; i/b A.T.Jain & Co., Practising Chartered Accountants for the Applicant.

Coram: Shri. M. K. Shrawat, Hon'ble Member (J)

Shri. Bhaskara Pantula Mohan, Hon'ble Member (J)

*Per: Shri. Bhaskara Pantula Mohan, Member (J)*

Date: 7<sup>th</sup> August, 2017

### MINUTES OF THE ORDER

**UPON** the application of the Applicant Company above named by a Company Notice of Admission **AND UPON HEARING** Mr. Hiten Sarvaiya instructed by A.T.Jain & Co., Practising Chartered Accountants for the Applicant Company, **AND UPON READING** the Application along with the Notice of Admission dated 6<sup>th</sup> July, 2017 of Mr. Patrick Rodrigues, Authorised Representative of the Applicant Company, in support of Notice of Admission along with Application and the Exhibits therein referred to, **IT IS ORDERED THAT:**

1. A meeting of the Equity Shareholders of the Applicant Company be convened and held at Off International Airport Approach Road, Besides Waterstones Hotel, Marol, Andheri East, Mumbai – 400059, on Friday, 15<sup>th</sup> September, 2017 at 10.00 A.M, for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Arrangement and Amalgamation of MARS CATERING SERVICES PRIVATE LIMITED, the Demerged Company and TAJ-BIRDYS FOOD SERVICES PRIVATE LIMITED, the Transferor Company with MARS ENTERPRISES AND HOSPITALITY PRIVATE LIMITED, the Transferee or Resulting Company.
2. At least 30 clear days before the said meeting of the Equity Shareholders of the Applicant Company to be held as aforesaid, a notice convening the said Meeting at the place, day, date and time aforesaid, together with a copy of the Scheme, a copy of the Explanatory Statement required to be sent under Section 230 of the Companies Act, 2013 and the prescribed Form of Proxy, shall be sent by Registered Post or by Air Mail or by courier or by speed post or by hand delivery to each of the Equity Shareholders of the Applicant Company at their respective registered or last known addresses or by e-mail to the registered e-mail address of the Equity Shareholders as per the records of the Applicant Company.
3. At least 30 clear days before the Meeting of the Equity Shareholders of the Applicant Company to be held as aforesaid, a notice convening the said meeting, at the place, date and time aforesaid and stating that copies of the Scheme of Arrangement and Amalgamation and the statement

required to be furnished pursuant to Section 230 of the Companies Act, 2013 and that the form of Proxy can be obtained free of charge at the Registered Office of the Applicant Company as aforesaid and shall also be published once each in 'Financial Express' in English and 'Navshakti' in Marathi.

4. The Applicant Company undertakes to:
  - i. issue Notice convening meeting of the equity shareholders as per Form No. CAA.2 (Rule 6) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016;
  - ii. issue Statement containing all the particulars as per Section 230 of the Companies Act, 2013;
  - iii. issue Form of Proxy as per Form No. MGT-11 (Rule 19) of the Companies (Management and Administration) Rules, 2014; and
  - iv. advertise the Notice convening meeting as per Form No. CAA.2 (Rule 7) the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

The undertaking is accepted.

5. Mr. Kamal Lahoty, Practising Company Secretary is appointed as the Chairperson for the meeting of Equity Shareholders. The Scrutinizer for the meeting shall be Ashish O. Lalpuria, Practicing Company Secretary, failing whom Jayshree A. Lalpuria, Practicing Company Secretary.
6. The Chairperson appointed for the aforesaid Meeting to issue the notices of the Meeting referred to above. The said Chairperson shall have all powers under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the conduct of the meeting(s), including for deciding procedural questions that may arise or at any adjournment thereof or any other matter including an amendment to the Scheme or resolution, if any, proposed at the meeting by any person(s).
7. The quorum for the aforesaid meeting of the Equity Shareholders shall be as prescribed under Section 103 of the Companies Act, 2013.

8. The voting by proxy or authorised representative in case of body corporate be permitted, provided that a proxy in the prescribed form / authorisation duly signed by the person entitled to attend and vote at the meeting, is filed with the Applicant Company at its Registered Office at 'Off International Airport Approach Road, Marol, Andheri East, Mumbai – 400059', not later than, 48 hours before the aforesaid meeting as required under Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
9. The value and number of the shares of each member shall be in accordance with the books / register of the Applicant Company or depository records and where the entries in the books / register / depository records are disputed, the Chairperson of the Meeting shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.
10. The Chairperson to file an affidavit not less than seven days before the date fixed for the holding of the meeting and do report this Tribunal that the direction regarding the issue of notices and advertisement have been duly complied with as per Rule 12 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
11. The Chairperson to report to this Tribunal, the result of the aforesaid meeting within seven working days of the conclusion of the meeting, and the said report shall be verified by his Affidavit as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
12. A Meeting of Cumulative Redeemable Preference Shareholders of the Applicant Company be convened and held at 'Off International Airport Approach Road, Besides Waterstones Hotel, Marol, Andheri East, Mumbai – 400059', on Friday, 15<sup>th</sup> September, 2017 at 10.30 a.m. for the purpose of considering and, if thought fit, for approving, with or without modification(s), the proposed Scheme of Arrangement and Amalgamation of MARS CATERING SERVICES PRIVATE LIMITED, the Demerged Company and TAJ-BIRDYS FOOD SERVICES

PRIVATE LIMITED, the Transferor Company with MARS ENTERPRISES AND HOSPITALITY PRIVATE LIMITED, the Transferee or Resulting Company.

13. At least 30 clear days before the said Meeting of the Cumulative Redeemable Preference Shareholders of the Applicant Company to be held as aforesaid, a notice convening the said Meeting at the place, day, date and time aforesaid, together with a copy of the Scheme, a copy of the Explanatory Statement required to be sent under Section 230 of the Companies Act, 2013 and the prescribed Form of Proxy, shall be sent by Registered Post or by Air Mail or by courier or by speed post or by hand delivery to the Cumulative Redeemable Preference Shareholders of the Applicant Company at their registered or last known addresses or by e-mail to the registered e-mail address of the Cumulative Redeemable Preference Shareholders as per the records of the Applicant Company.
14. At least 30 clear days before the Meeting of Cumulative Redeemable Preference Shareholders of the Applicant Company to be held as aforesaid, a notice convening the said Meeting, at the place, date and time aforesaid and stating that copies of the Scheme of Arrangement and Amalgamation and the Statement required to be furnished pursuant to Section 230 of the Companies Act, 2013 and that the form of Proxy can be obtained free of charge at the Registered Office of the Applicant Company as aforesaid and shall also be published once each in 'Financial Express' in English and 'Navshakti' in Marathi.
15. The Applicant Company undertakes to:
  - i. issue Notices convening the Meetings of Cumulative Redeemable Preference Shareholders as per Form No. CAA.2 (Rule 6) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016
  - ii. issue Statement containing all the particulars as per Section 230 of the Companies Act, 2013;
  - iii. issue Form of Proxy as per Form No. MGT-11 (Rule 19) of the Companies (Management and Administration) Rules, 2014; and

- iv. advertise the Notice convening meeting as per Form No. CAA.2 (Rule 7) the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

The undertaking is accepted.

16. Mr. Kamal Lahoty, Practising Company Secretary is appointed as the Chairperson for the meeting of Cumulative Redeemable Preference Shareholders. The Scrutinizer for the meeting shall be Ashish O. Lalpuria, Practising Company Secretary, failing whom Jayshree A. Lalpuria, Practising Company Secretary.
17. The Chairperson appointed for the aforesaid Meeting to issue the notices of the Meeting referred to above. The said Chairperson shall have all powers under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the conduct of the meeting(s), including for deciding procedural questions that may arise or at any adjournment thereof or any other matter including an amendment to the Scheme or resolution, if any, proposed at the meeting by any person(s).
18. The quorum for the aforesaid Meeting of Cumulative Redeemable Preference Shareholders shall be 1.
19. The voting by proxy or authorised representative in case of body corporate be permitted, provided that a proxy in the prescribed form / authorisation duly signed by the person entitled to attend and vote at the meeting, is filed with the Applicant Company at its Registered Office at 'Off International Airport Approach Road, Marol, Andheri East, Mumbai – 400059', not later than, 48 hours before the aforesaid meeting as required under Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
20. The value and number of the shares of Cumulative Redeemable Preference Shareholders shall be in accordance with the books / register of the Applicant Company or depository records and where the entries in the books / register / depository records are disputed, the Chairperson of

the Meeting shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.

21. The Chairperson to file an affidavit not less than seven days before the date fixed for the holding of the meeting and do report to this Tribunal that the direction regarding the issue of notices and advertisement have been duly complied with as per Rule 12 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
22. The Chairperson to report to this Tribunal, the result of the aforesaid meeting within seven working days of the conclusion of the meeting, and the said report shall be verified by his Affidavit as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016
23. A meeting of the Secured Creditors of the Applicant Company be convened and held at 'Off International Airport Approach Road, Besides Waterstones Hotel, Marol, Andheri East, Mumbai – 400059', on Friday, 15<sup>th</sup> September, 2017 at 11.00 a.m., for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Arrangement and Amalgamation of MARS CATERING SERVICES PRIVATE LIMITED, the Demerged Company and TAJ-BIRDYS FOOD SERVICES PRIVATE LIMITED, the Transferor Company with MARS ENTERPRISES AND HOSPITALITY PRIVATE LIMITED, the Transferee or Resulting Company.
24. At least 30 clear days before the said meeting of the Secured Creditors of the Applicant Company to be held as aforesaid, a notice convening the said Meeting at the place, day, date and time aforesaid, together with a copy of the Scheme, a copy of the Explanatory Statement required to be sent under Section 230 of the Companies Act, 2013 and the prescribed Form of Proxy, shall be sent by Registered Post or by Air Mail or by courier or by speed post or by hand delivery to each of the Secured Creditors of the Applicant Company at their respective registered or last known addresses or by e-mail to the registered e-mail address of the Secured Creditors as per the records of the Applicant Company.

25. At least 30 clear days before the Meeting of the Secured Creditors of the Applicant Company to be held as aforesaid, a notice convening the said meeting, at the place, date and time aforesaid and stating that copies of the Scheme of Arrangement and Amalgamation and the statement required to be furnished pursuant to Section 230 of the Companies Act, 2013 and that the form of Proxy can be obtained free of charge at the Registered Office of the Applicant Company as aforesaid and shall also be published once each in 'Financial Express' in English and 'Navshakti' in Marathi.

26. The Applicant Company undertakes to:

- i. issue Notice convening meeting of the Secured Creditors as per Form No. CAA.2 (Rule 6) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016
- ii. issue Statement containing all the particulars as per Section 230 of the Companies Act, 2013;
- iii. issue Form of Proxy as per Form No. MGT-11 (Rule 19) of the Companies (Management and Administration) Rules, 2014; and
- iv. advertise the Notice convening meeting as per Form No. CAA.2 (Rule 7) the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

The undertaking is accepted.

27. Mr. Kamal Lahoty, Practising Company Secretary is appointed as the Chairperson for the meeting of Secured Creditors. The Scrutinizer for the meeting shall be Ashish O. Lalpuria, Practising Company Secretary, failing whom Jayshree A. Lalpuria, Practising Company Secretary.

28. The Chairperson appointed for the aforesaid Meeting to issue the notices of the Meeting referred to above. The said Chairperson shall have all powers under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the conduct of the meeting(s).



including for deciding procedural questions that may arise or at any adjournment thereof or any other matter including an amendment to the Scheme or resolution, if any, proposed at the meeting by any person(s).

29. The quorum for the aforesaid meeting of the Secured Creditors shall be 2 (Two).
30. The voting by proxy or authorised representative in case of body corporate be permitted, provided that a proxy in the prescribed form/ authorisation duly signed by the person entitled to attend and vote at the meeting, is filed with the Applicant Company at its Registered Office at 'Off International Airport Approach Road, Marol, Andheri East, Mumbai – 400059', not later than, 48 hours before the aforesaid meeting as required under Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
31. The value of secured creditors shall be in accordance with the books of the Applicant Company as filed with NCLT and where the entries in the books are disputed, the Chairperson of the Meeting shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.
32. The Chairperson to file an affidavit not less than seven days before the date fixed for the holding of the meeting and do report this Tribunal that the direction regarding the issue of notices and advertisement have been duly complied with as per Rule 12 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
33. The Chairperson to report to this Tribunal, the result of the aforesaid meeting within seven working days of the conclusion of the meeting, and the said report shall be verified by his Affidavit as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
34. A meeting of the Unsecured Creditors of the Applicant Company be convened and held at 'Off International Airport Approach Road, Besides

Waterstones Hotel, Marol, Andheri East, Mumbai – 400059', on Friday, 15<sup>th</sup> September, 2017 at 11.30 a.m., for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Arrangement and Amalgamation of MARS CATERING SERVICES PRIVATE LIMITED, the Demerged Company and TAJ-BIRDYS FOOD SERVICES PRIVATE LIMITED, the Transferor Company with MARS ENTERPRISES AND HOSPITALITY PRIVATE LIMITED, the Transferee or Resulting Company.

35. At least 30 clear days before the said meeting of the Unsecured Creditors of the Applicant Company to be held as aforesaid, a notice convening the said Meeting at the place, day, date and time aforesaid, together with a copy of the Scheme, a copy of the Explanatory Statement required to be sent under Section 230 of the Companies Act, 2013 and the prescribed Form of Proxy, shall be sent by Registered Post or by Air Mail or by courier or by speed post or by hand delivery to each of the Unsecured Creditors of the Applicant Company at their respective registered or last known addresses or by e-mail to the registered e-mail address of the Unsecured Creditors as per the records of the Applicant Company.
36. At least 30 clear days before the Meeting of the Unsecured Creditors of the Applicant Company to be held as aforesaid, a notice convening the said meeting, at the place, date and time aforesaid and stating that copies of the Scheme of Arrangement and Amalgamation and the statement required to be furnished pursuant to Section 230 of the Companies Act, 2013 and that the form of Proxy can be obtained free of charge at the Registered Office of the Applicant Company as aforesaid and shall also be published once each in 'Financial Express' in English and 'Navshakti' in Marathi.
37. The Applicant Company undertakes to:
  - i. issue Notice convening meeting of the Unsecured Creditors as per Form No. CAA.2 (Rule 6) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016

- ii. issue Statement containing all the particulars as per Section 230 of the Companies Act, 2013;
- iii. issue Form of Proxy as per Form No. MGT-11 (Rule 19) of the Companies (Management and Administration) Rules, 2014; and
- iv. advertise the Notice convening meeting as per Form No. CAA.2 (Rule 7) the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

The undertaking is accepted.

38. Mr. Kamal Lahoty, Practising Company Secretary is appointed as the Chairperson for the meeting of Unsecured Creditors. The Scrutinizer for the meeting shall be Ashish O. Lalpuria, Practicing Company Secretary, failing whom Jayshree A. Lalpuria, Practicing Company Secretary.
39. The Chairperson appointed for the aforesaid Meeting to issue the notices of the Meeting referred to above. The said Chairperson shall have all powers under the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 in relation to the conduct of the meeting(s), including for deciding procedural questions that may arise or at any adjournment thereof or any other matter including an amendment to the Scheme or resolution, if any, proposed at the meeting by any person(s).
40. The quorum for the aforesaid meeting of the Unsecured Creditors shall be 40 (Forty).
41. The voting by proxy or authorised representative in case of body corporate be permitted, provided that a proxy in the prescribed form/ authorisation duly signed by the person entitled to attend and vote at the meeting, is filed with the Applicant Company at its Registered Office at 'Off International Airport Approach Road, Marol, Andheri East, Mumbai – 400059', not later than, 48 hours before the aforesaid meeting as required under Rule 6 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

42. The value of unsecured creditors shall be in accordance with the books of the Applicant Company as filed with NCLT and where the entries in the books are disputed, the Chairperson of the Meeting shall determine the value for the purpose of the aforesaid meeting and his decision in that behalf would be final.
43. The Chairperson to file an affidavit not less than seven days before the date fixed for the holding of the meeting and do report this Tribunal that the direction regarding the issue of notices and advertisement have been duly complied with as per Rule 12 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
44. The Chairperson to report to this Tribunal, the result of the aforesaid meeting within seven working days of the conclusion of the meeting, and the said report shall be verified by his Affidavit as per Rule 14 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
45. The Applicant to serve the notice upon the Regional Director, Western Region, Ministry of Corporate Affairs, Mumbai Maharashtra, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from Regional Director within 30 days of the date of receipt of the notice it will be presumed that Regional Director and / or Central Government has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
46. The Applicant to serve the notice upon the concerned Registrar of Companies, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from the Registrar of Companies within 30 days of the date of receipt of the notice it will be presumed that Registrar of Companies has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

47. The Applicant to serve the notice on the concerned Income Tax Authority within whose jurisdiction the Applicant Company's assessment are made, pursuant to Section 230(5) of the Companies Act, 2013 as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. If no response is received by the Tribunal from the Income Tax Authority within 30 days of the date of receipt of the notice it will be presumed that Income Tax Authority has no objection to the proposed Scheme as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

48. The Applicant to file an affidavit of service of the directions given by the Tribunal not less than seven days before the date fixed for the holding of the meetings and do report to this Tribunal that the direction regarding the issue of notices have been duly complied with.

Sd/-  
Bhaskara Pantula Mohan,  
Hon'ble Member (J)

Sd/-  
M. K. Shrawat,  
Hon'ble Member (J)

Date: 7<sup>th</sup> Aug. 2017