

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

TRANSFERRED COMPANY SCHEME PETITION NO 28 OF 2017

CONNECTED WITH

HIGH COMPANY SCHEME PETITION NO 231 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 166 OF 2016

Bruker AXS Analytical Instruments Private Limited...Petitioner /Transferor Company

2

AND

TRANSFERRED COMPANY SCHEME PETITION NO 29 OF 2017

IN

HIGH COURT COMPANY SCHEME PETITION NO 232 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 167 OF 2016

Bruker (India) Suppliers Private Limited.....Petitioner /Transferor Company 3

AND

TRANSFERRED COMPANY SCHEME PETITION NO 30 OF 2017

IN

HIGH COURT COMPANY SCHEME PETITION NO 233 OF 2016

CONNECTED WITH

COMPANY SUMMONS FOR DIRECTION NO. 168 OF 2016

Bruker India Scientific Private Limited.....Petitioner/Transferee Company

In the matter of Companies Act, 1956, (1 of 1956);

AND

In the matter of Sections 391 to 394 of the Companies Act, 1956
(Corresponding Sections 230 to 232 of the Companies Act, 2013)

;

AND

In the matter of Scheme of Amalgamation of Bruker Daltonics India Private limited and Bruker Axs-Analytical Instruments Private Limited and Bruker (India) Suppliers Private Limited (collectively, the 'Transferor Companies') with Bruker India Scientific Private Limited (the 'Transferee Company')
Their respective Shareholders

Called for hearing

Mr. Hemant Sethi, i/b M/s Hemant Sethi & Co. Advocate for the Petitioner Company

Mr. A.R. Verma i/b Mr. Pankaj Kapoor for Regional Director
Mr. Vinod Sharma, Official Liquidator present in TCSP No. 28 & 29 of 2017.

Coram: B.S.V. Prakash Kumar, Member (Judicial)

V. Nallasenapathy, Member (Technical)

Date : 25th January 2017

PC:

1. Heard counsel for the parties. No objector has come before the court to oppose the Scheme of Amalgamation and nor any party has controverted any averments made in the Petition.
2. The sanction of the Court is sought under Sections 230 TO 232 of the Companies act, 2013 to the Amalgamation of Bruker Daltonics India Private limited and Bruker AXS Analytical Instruments Private Limited and Bruker (India) Suppliers Private Limited (collectively, the 'Transferor Companies') with Bruker India Scientific Private Limited (the 'Transferee Company') and their respective Shareholders.
3. The learned Counsel for Petitioners submit that Transferor Company 2 & 3 and the Transferee Company are presently engaged in the business of supplying, distributing laboratory, scientific and technical instruments.
4. The learned Counsel for the Petitioners submit that rational for Scheme is that Bruker group proposes to optimize its Indian operations and consolidate its India holdings by way of this amalgamation. Further, the Transferee Company already holds 100% stake in Transferor Company 3, and the business activities of the Transferor Companies and Transferee Company complement each other. Therefore, with a view to maintain a simple corporate structure and eliminate duplicate corporate procedures, it is desirable to merge and amalgamate all the Transferor Companies into the Transferee Company. The amalgamation of the Transferor Companies into the Transferee Company shall facilitate consolidation of all the Indian undertakings of the Bruker group and will enable effective management and unified control of operations. Further, the amalgamation would create economies of scale in administrative and managerial costs

by consolidating operations and would substantially reduce duplication of administrative responsibilities and multiplicity of records and legal and regulatory compliances. The Amalgamation of the Transferor Companies with the Transferee Company would inter alia have the benefits inter alia Simplified corporate structure and improved management, Greater integration and greater financial strength and flexibility for the Amalgamated entity, which would result in maximizing overall shareholder value, and will improve the competitive position of the combined entity, Rationalization of administrative, operating and marketing costs, Greater efficiency in cash management of the amalgamated entity, and access to cash flow generated by the combined business which can be deployed more efficiently to fund organic and inorganic growth opportunities, to maximize shareholder value, Greater access by the Transferee Company to different market segments in the conduct of its business, Cost savings are expected to flow from more focused operational efforts, rationalization, standardisation and simplification of business processes, greater synergy between the products and services of the four companies and the elimination of duplication, and rationalization of administrative expenses, Achieving economies of scale, Facilitating improvement in organizational capabilities arising from the pooling of human resources with diverse skills, talent and vast experiences, The combined operations are expected to give rise to capital efficiency and improved cash flows.

5. The Learned Counsel for the Petitioner further states that the Board of Directors of the Petitioner Company and Transferee Company have approved the said Scheme of Amalgamation by passing Board Resolutions which are annexed to the respective Company Scheme Petitions.
6. The Learned Counsel for the Petitioner further states that the Petitioner Company have complied with all the directions passed in the respective Company Summons for Direction and that the Company Scheme Petitions have been filed in consonance with the orders passed in respective Company Summons for Direction.
7. The Learned Counsel appearing on behalf of the Petitioner Company has stated that they have complied with all requirements as per directions of this Court and they have

filed necessary affidavits of compliance in the Court. Moreover, Petitioner Company undertakes to comply with all statutory requirements if any, as required under the Companies Act, 1956 / the Companies Act, 2013 and the Rules made there under. The said undertakings given by the Petitioner Company are accepted.

8. The Regional Director has filed an Affidavit on 23rd November 2016 stating therein, save and except as stated in paragraphs 6 (a), to 6 (g), it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraphs 6 (a), to 6 (g) of the said Affidavit, the Regional Director has stated that:-

“6. That the Deponent further submits that,

- (a) *Regarding Part-A definitions 1.2 of the Scheme , the appointed date for the purpose of this scheme and Income Tax Act, 1961 means 1st April 2016. In this regard the Appointed Date should be 1st April 2016 or such other date, as may be fixed or approved by the Hon'ble Court at Judicature of Bombay may direct.*
- (b) *The Chartered Accountant of M/s Bruker AXS –Analytical Instruments Private Limited in their audit report to the Balance Sheet as at 31.03.2015, reported that “dues in respect of Service Tax where there were slight delays in few cases and for provident fund which has not been regularly deposited with appropriate authorities” Directors report does not offer any explanation /clarification on it. There seems to be a violation of section 134 of the Companies Act, 2013. This needs to be compounded u/s 441 of the Companies Act, 2013. Accordingly, Company may please be directed to compound the offence for violation of section 134 of the Companies Act, 2013.*
- (c) *Regarding Clause 9 of the Scheme it is submitted that M/s Bruker India Scientific Private Limited the Transferee Company upon the Scheme becoming effective, shall account for the amalgamation in its books of accounts as per Accounting Standard -14 and desires to exercise “Pooling of Interest method or “Purchase Method” which is subject to exercise of option by the shareholder of Transferor Companies regarding accepting Equity Share/Redeemable Preference Shares . In this regard it is submitted that the Company has to decide the method and confirm the same to this Hon'ble Court. The method it chooses to adopt for accounting for*

amalgamation. In case the Company adopts "Purchase Method", as per AS-14, the Transferee Company to provide the details of consideration allocated to individual identifiable assets and the liabilities of the Transferor Companies on the basis of their fair values at the date of amalgamation.

- (d) Regarding clause 9 of the Scheme it is submitted that the surplus if any arising out of the scheme shall be credited to Capital Reserve and deficit if any arising out of the same shall be debited to Goodwill Account and will not be adjusted against any other reserve/accounts of the Transferee Company.*
- (e) The tax implication if any arising out of the Scheme is subject to final decision of Income Tax Authorities . the approval of the Scheme by this Hon'ble Court may not deter the Income Tax Authority to scrutinize the tax return filed by the Transferee Company after giving effect to the Scheme . The decision of the Income Tax Authority is binding on the petitioner company.*
- (f) The Registered office of M/s Bruker Daltonics India Private Limited , the First Transferor Company was incorporated in the State of Tamil Naidu and the registered office of Company is situated at 3, Shakthi Towers, Block No-1m, A-2, 7th floor, Anna Salai Chennai-600002 which is outside the jurisdiction of this Hon'ble High Court Judicature at Madras . Accordingly , similar approval be obtained by the Transferor Company -1 from Hon'ble High Court Judicature at Madras.*
- (g) Since the Transferor Companies has non resident shareholders, and the Company prefers to issue Redeemable Preference Shares to NRIs it is subject to the compliance of section 55 of the Companies Act, 2013 the FEMA Regulations /RBI Guidelines by the Transferee Company.*

9. In so far as observations made in paragraph 6(a) of the Affidavit of Regional Director is concerned, the Counsel for the Petitioner submits that as per clause 1.2 of the Scheme the Appointed Date is 1st April 2016.
10. As far as observations made in paragraph 6(b) of the Affidavit of Regional Director is concerned , the Counsel for the Petitioners submit that at Page 6, Para vii(a) and (b) of the Independent Auditors Report, the auditors have provided that they are satisfied with the details and explanations provided by the Company in respect of the minor delays in payment of service tax. The Independent Auditor

further notes that there are no undisputed amounts that were in arrears as of March 31, 2015 for a period of more than 6 months from the date they became payable, in respect of the provident fund, income tax, sales tax or service tax, customs duty or any other statutory dues. In light of the above, it is clear that the auditor's report has not made any qualification, reservation or adverse remark in the report, and considering that the matter is relatively insignificant, no comments are required to be made in the director's report. Therefore there are no violations by the Company under s. 134 of the Companies Act, 2013 which require compounding under s. 144 of the Companies Act, 2013.

11. As far as observations made in paragraph 6(c) of the Affidavit of Regional Director is concerned, the Counsel for Petitioners submit that as stated in clause 13 of the Scheme option has been given to the shareholders to opt for either Equity or Preference Shares. Further in clause 14.2 of the Scheme it is clarified that notwithstanding anything set out in Clause 14.1, in light of the provisions of the Foreign Exchange Management Act, 1999 and the rules and regulations made thereunder ("FEMA"), issuance of Redeemable Preference Shares to non-residents shall be subject to obtaining an approval from the Reserve Bank of India (RBI) and such other approvals as may be required and subject to such other declarations and undertakings as may be required by other governmental authorities under applicable laws for such issuance. In case RBI does not accord its approval for issuance of Redeemable Preference Shares to non-resident shareholders electing to receive such shares, then such non-resident shareholders shall receive Equity Shares in such ratio as is specified in Clause 14.1 of the Scheme and if the shareholders who do not make any election or do not convey their preference to either receive Equity Shares or Redeemable Preference Shares, then such shareholder shall by default be issued Equity Shares in such ratio as is specified in Clause 14.1. The Counsel for the Petitioners therefore submit that to the extent the shareholders opt for Preference shares, the Transferee Company will comply with AS -14 'Purchase Method' as applicable in the facts of the present case, instead of

Pooling of Interest Method and if the Equity shares are allotted in that event the Transferee Company will adopt Pooling of Interest Method.

12. As far as observations made by the Regional Director that in case if the Company adopts "Purchase Method", as per AS-14, the Transferee Company to provide the details of consideration allocated to individual identifiable assets and the liabilities of the Transferor Companies on the basis of their fair values at the date of amalgamation, the Petitioner Company through its Counsel submits that as per Clause 14 of the Scheme each shareholder is entitled to make an election of the kind of securities which they wish to receive as consideration i.e. either Equity Shares or Redeemable Preference Shares. This election will be made by the shareholder upon sanction of the Scheme by the Tribunal and in accordance with the approval granted by RBI under FEMA. The Transferee Company undertakes to comply with the requirements of AS-14, which are statutory requirements under section 211(3C) of the Companies Act, 1956 (corresponding to Section 133 of the Companies Act, 2013), and accordingly further undertakes that: (i) if any shareholder elects to receive Redeemable Preference Shares then the Transferee Company will adopt Purchase Method; and (ii) if no shareholder elects to receive Redeemable Preference Shares then the Transferee Company will adopt 'Pooling of Interest' Method. The undertakings given by the Transferee Company are accepted.
13. In so far as observations made in paragraph 6(d) of the Affidavit of Regional Director is concerned, the Transferee Company through their Counsel undertakes to follow AS-14, as applicable, based on Para 12 above.
14. In so far as observations made in paragraph 6(e) of the Affidavit of Regional Director is concerned, the Petitioners clarifies that the approval of the Scheme by this court will not deter the Income Tax Authority to scrutinize the tax return filed by the Petitioner Companies after giving effect to the Scheme and all issues arising out of the Scheme will be met and answered in accordance with the applicable law.

15. In so far as observations made in paragraph 6(f) of the Affidavit of Regional Director is concerned, the Counsel for the Petitioners submit that Petition filed by the Transferor Company 1 is pending before the Madras High Court.
16. In so far as observations made in paragraph 6(g) of the Affidavit of Regional Director is concerned, the Transferee Company through their Counsel undertakes to compliance of section 55 of the Companies Act, 2013 the FEMA Regulations /RBI Guidelines to the extent applicable.
17. The Counsel for the Regional Director on instructions of Mr. S Ramakantha, Joint Director in the office of Regional Director, Ministry of Corporate Affairs, Western Region, Mumbai, states that they are satisfied with the explanations and undertakings given by the Petitioner Companies.
18. The Official Liquidator has filed his report on 21st September 2016 in the Transferred Company Scheme Petition Nos 28 of 2017 and 29 of 2017 stating therein that the affairs of the Transferor Companies have been conducted in a proper manner and that the Transferor Company may be ordered to be dissolved by this Court.
19. From the material on record, the Scheme appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy. None of the parties concerned have come forward to oppose the Scheme.
20. Since all the requisite statutory compliances have been fulfilled, Transferred Company Scheme Petition No. 28 of 2017, Transferred Company Scheme Petition No. 29 of 2017, Transferred Company Scheme Petition No. 30 of 2017 are made absolute in terms of prayer clause (a) of the respective Petitions.
21. The Petitioner Companies to lodge a copy of this order and the Scheme duly authenticated by the Deputy Director, National company Law Tribunal , Mumbai Bench, Bombay, with the concerned Superintendent of Stamps for the purpose of adjudication of stamp duty payable, if any, on the same within 60 days from the date of receipt of the order.

22. Petitioner Companies are directed to file a copy of this order along with a copy of the Scheme with the concerned Registrar of companies, electronically, along with form INC-28 in addition to the physical copy.
23. The Petitioner Companies in all Petitions to pay costs of Rs.10,000/- each to the Regional Director. The Petitioner Company in Company Transferred Scheme Petition No. 28 of 2017 and Transferred Company Scheme Petition No.29 of 2017 to pay sum of Rs.10,000/- each to the Official Liquidator. . The Costs to be paid within four weeks, from date of this Order.
24. Filing and issuance of the drawn up order is dispensed with.
25. All authorities concerned to act on a copy of this order along with Scheme duly authenticated by the Deputy Director, National Company Law Tribunal , Mumbai Bench. .
26. Any person interested shall be at liberty to apply to the Tribunal in the above matter for any direction that may be necessary.

Sd/-

B.S.V. Prakash Kumar, Member (Judicial)

Sd/-

V. Nallasenapathy, Member (Technical)

SCHEME OF AMALGAMATION

**UNDER SECTIONS 391 TO 394 OF THE COMPANIES ACT, 1956 AND OTHER
RELEVANT PROVISIONS OF THE COMPANIES ACT, 2013 AND THE COMPANIES
ACT, 1956**

OF

BRUKER DALTONICS INDIA PRIVATE LIMITED

AND

BRUKER AXS-ANALYTICAL PRIVATE LIMITED

AND

BRUKER INDIA SUPPLIERS PRIVATE LIMITED

(collectively, the 'Transferor Companies')

WITH

BRUKER INDIA SCIENTIFIC PRIVATE LIMITED

(the 'Transferee Company')

I. PRELIMINARY

This Scheme of Amalgamation is presented for the amalgamation of (i) **BRUKER DALTONICS INDIA PRIVATE LIMITED** (hereinafter referred to as "the Transferor Company 1"), incorporated under the Companies Act, 1956, and having its registered office at Shakthi Towers, Block-1, A2, 7th Floor, Anna Salai, Chennai 600002, in the State of Tamil Nadu, India; (ii) **BRUKER AXS-ANALYTICAL PRIVATE LIMITED** (hereinafter referred to as "the Transferor Company 2"), incorporated under the Companies Act, 1956, and having its registered office at 3, Daya Sagar, Gokuldhham, Goregaon (E), Mumbai – 400063, in the State of Maharashtra, India; and (iii) **BRUKER (INDIA) SUPPLIERS PRIVATE LIMITED** (hereinafter referred to as "the Transferor Company 3"), incorporated under the Companies Act, 1956, and having its registered office at 3, Daya Sagar, Gokuldhham, Goregaon (E), Mumbai – 400063, in the State of Maharashtra, India, with **BRUKER INDIA SCIENTIFIC PRIVATE**

LIMITED, (hereinafter referred to as "the Transferee Company") incorporated under the Companies Act, 1956 and having its registered office at 3, Daya Sagar, Gokuldham, Goregaon (E), Mumbai - 400063, in the State of Maharashtra, India . Transferor Company 1, Transferor Company 2 and Transferor Company 3 are collectively referred to as "Transferor Companies".

II. PURPOSES OF AMALGAMATION

The Bruker group proposes to optimize its Indian operations and consolidate its India holdings by way of this amalgamation. Further, the Transferee Company already holds 100% stake in Transferor Company 3, and the business activities of the Transferor Companies and Transferee Company complement each other. Therefore, with a view to maintain a simple corporate structure and eliminate duplicate corporate procedures, it is desirable to merge and amalgamate all the Transferor Companies into the Transferee Company. The amalgamation of the Transferor Companies into the Transferee Company shall facilitate consolidation of all the Indian undertakings of the Bruker group and will enable effective management and unified control of operations. Further, the amalgamation would create economics of scale in administrative and managerial costs by consolidating operations and would substantially reduce duplication of administrative responsibilities and multiplicity of records and legal and regulatory compliances.

The Amalgamation of the Transferor Companies with the Transferee Company would *inter alia* have the following benefits:

- a) Simplified corporate structure and improved management.
- b) Greater integration and greater financial strength and flexibility for the Amalgamated entity, which would result in maximizing overall shareholder value, and will improve the competitive position of the combined entity.
- c) Rationalization of administrative, operating and marketing costs.
- d) Greater efficiency in cash management of the amalgamated entity, and access to cash flow generated by the combined business which can be deployed more efficiently to fund organic and inorganic growth opportunities, to maximize shareholder value.
- e) Greater access by the Transferee Company to different market segments in the conduct of its business.

- f) Cost savings are expected to flow from more focused operational efforts, rationalization, standardisation and simplification of business processes, greater synergy between the products and services of the four companies and the elimination of duplication, and rationalization of administrative expenses.
- g) Achieving economies of scale.
- h) Facilitating improvement in organizational capabilities arising from the pooling of human resources with diverse skills, talent and vast experiences.
- i) The combined operations are expected to give rise to capital efficiency and improved cash flows.

III. PARTS OF THE SCHEME

This Scheme of Amalgamation is divided into the following parts:

- PART A deals with definitions and share capital;
- PART B deals with Amalgamation of Transferor Company 1, Transferor Company 2 and Transferor Company 3 with Transferee Company;
- PART C deals with the general terms and conditions applicable to this Scheme.

PART A

DEFINITIONS AND SHARE CAPITAL

DEFINITIONS

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

- 1.1 "Act" means the Companies Act, 1956, or the Companies Act, 2013 as in force from time to time. As on the date of approval of this Scheme by the respective Board of Directors of the Transferor Companies and the Transferee Company, Sections 391 and 394 of the Companies Act, 1956 continue to be in force with the corresponding provisions of the Companies Act, 2013 not having been notified. References in this Scheme to particular provisions of the Act are references to particular provisions of the Companies Act, 1956 unless stated otherwise. Upon such provisions standing re-enacted by enforcement of provisions of the Companies Act, 2013, such references shall unless a different intention appears, be construed as reference to the provisions so re-enacted.
- 1.2 "Appointed Date": For the purpose of this Scheme and the Income Tax Act, 1961, the "Appointed Date" means 1st April, 2016.

- 1.3 **"Board of Directors" or "Board"** in relation to each of the Transferor Companies and the Transferee Company, as the case may be, means the board of directors of such company.
- 1.4 **"Redeemable Preference Shares" or "RPS"** means redeemable preference shares to be issued by the Transferee Company in consideration of the Amalgamation to the shareholders of Transferor Company 1 and Transferor Company, at the shareholders' election, pursuant to Part B of this Scheme and on such terms as are specified in Clause 14, each bearing a face value of Rs. 100 (One Hundred Only).
- 1.5 **"Effective Date"** means the later of the date on which authenticated / certified copies of the Order of the Hon'ble High Court sanctioning the Scheme has been filed with the concerned Registrar of Companies, Mumbai, Maharashtra and with Registrar of Companies, at Chennai, Tamil Nadu, as applicable.
- 1.6 **"Election Securities"** shall mean either the Equity Shares or Redeemable Preference Shares, elected by a shareholder of Transferor Company 1 or Transferor Company 2 as a consideration for Amalgamation in the manner specified in Clause 14.1.
- 1.7 **"Equity Shares"** shall mean the equity share in the share capital of the Transferee Company, each bearing a face value of Rs. 100 (One Hundred Only).
- 1.8 **"High Court"** shall mean the High Court of Judicature at Bombay and High Court of Judicature at Madras. In the event of the National Company Law Tribunal (hereinafter referred to as **"the Tribunal"**) being constituted by the Central Government by a Notification in the Official Gazette and the proceedings initiated under Sections 391 to 394 of the Companies Act, 1956 relating to these scheme being transferred to the Tribunal, the words "High Court" shall deem to mean and include the Tribunal, as the context may require.
- 1.9 **"Merger Record Date"** means the date to be fixed by the Board of Directors of the Transferee Company for the purpose of determining the names of the equity shareholders of the Transferor Companies, as applicable, who shall be entitled to receive Election Securities of the Transferee Company under Clause 14 hereto, upon coming into effect of this Scheme.

- 1.10 "Scheme of Amalgamation" or "this Scheme" or "the Scheme" means this Scheme of Amalgamation amongst the Transferor Companies with Transferee Company in its present form or as may be modified from time to time or as may be approved or directed by the Hon'ble High Court of Judicature at Bombay.
- 1.11 "Transferee Company" means Bruker India Scientific Private Limited, a company incorporated under the Companies Act, 1956, having company identification number (CIN) U33100MH1985PTC035138, and having its registered office at 3, Daya Sagar, Gokuldham, Goregaon (E), Mumbai – 400063, in the State of Maharashtra, India.
- 1.12 "Transferor Companies" means Transferor Company 1, Transferor Company 2 and Transferor Company 3 and shall mean any one of the Transferor Companies as the context may require.
- 1.13 "Transferor Company 1" means Bruker Daltonics India Private Limited, a company incorporated under the Companies Act, 1956, having company identification number (CIN) U33300TN2009PTC071593, and having its registered office at Shakthi Towers, Block-1, A2, 7th Floor, Anna Salai, Chennai 600002, in the State of Tamil Nadu, India.
- 1.14 "Transferor Company 2" means Bruker AXS-Analytical Private Limited, a company incorporated under the Companies Act, 1956, having company identification number (CIN) U33125MH2006FTC165541, and having its registered office at 3, Daya Sagar, Gokuldham, Goregaon (E), Mumbai – 400063, in the State of Maharashtra, India.
- 1.15 "Transferor Company 3" means Bruker (India) Suppliers Private Limited, a company incorporated under the Companies Act, 1956, having company identification number (CIN) U73100MH1998PTC114077, and having its registered office at 3, Daya Sagar, Gokuldham, Goregaon (E), Mumbai – 400063, in the State of Maharashtra, India.
- 1.16 "Undertaking" shall mean and include all the undertaking and businesses of Transferor Companies as a going concern, including (without limitations):
- (i) All the assets, undertakings and the entire businesses and all the properties, whether movable or immovable, profits including but not limited to the insurance commission, tangible and intangible, corporeal or incorporeal, intellectual property, whether in possession or reversion, present or contingent, fixed assets, capital work-in-progress including expenses incurred to be capitalized and earnest monies or deposits or

advances for assets, financial assets, inventories, stock in trade, debtors, current assets, investments, loans and advances, powers, authorities, allotments, approvals or consents or licenses or permissions of whatsoever nature and from whatever government, central or state or local self-government, or arm or department or division or statutory authority/body or corporation-sole of or constituted by any such government, domain name, tenancy rights, tenancy licenses, permits, quotas, subsidies and incentives, registrations, contracts, engagements, arrangements, rights, titles, interests, benefits and advantages of whatsoever nature and wheresoever situated belonging to or in the ownership, power or possession and in the control of or vested in or granted in favour of or enjoyed by the Transferor Companies, including but without being limited to all product patents, process patents, trademarks, copy rights, and other industrial, commercial and intellectual properties, trade names, and other commercial rights of any nature whatsoever including any applications filed for securing of any such intellectual property whether in India or abroad, rights and licenses in respect thereof, privileges, liberties, easements, advantages, benefits, leases, authorizations, right to use and avail of telephones, telexes, facsimile connections and installations, utilities, electricity and electronic, email, internet, leased line connections and installations, and other services, reserves, provisions, funds, benefits of all agreements and all other interests belonging to or in the ownership or, power or possession or in the control of or vested in, subsisting upon or granted in favour of or enjoyed by the Transferor Companies under sale or purchase agreements, agreements for lease or license or hire purchase or landing contracts or security arrangements or guarantees. Additionally, all plants, machinery, vehicles whether motor vehicles or otherwise, equipments, including without limitation, measuring devices, boats and other such vessels, whether used for surveying or otherwise, furniture, fixtures, whether used in the buildings, vessels, or otherwise as owned, leased or in possession of the Transferor Companies (hereinafter collectively referred to as "Assets").

- (ii) All debts, secured and unsecured (whether in Indian rupees or foreign currency), liabilities, borrowings, bills payable, interest accrued, contingent liabilities and all other liabilities, duties, undertakings, contractual obligations, guarantees given and

obligations of the Transferor Companies of every kind, nature and description whatsoever and howsoever arising, raised, incurred or utilized (hereinafter referred to as "Liabilities").

Without prejudice to the generality of sub-clauses (i) and (ii) above, the undertaking of Transferor Companies shall include all Transferor Companies' Assets including claims, obligations, liabilities, if any, or otherwise with any person/ institution/ company or any association anywhere in the world, enactments, lease-hold rights and, systems of any kind whatsoever, rights and benefits of all agreements and other interests including rights and benefits under various schemes of different taxation and other laws may belong to or be available to Transferor Companies, rights and powers of every kind, nature and description of whatsoever probabilities, liberties, and approval of, whatsoever nature and wherever situated, belonging to or in ownership, power or possession or control or entitlement of Transferor Companies including but limited to buildings and structures, offices, residential and other premises, capital work in progress, furniture, fixtures, office equipment, appliances, accessories, power lines, depots, deposits, all assets, cash balances with banks, contingent rights or benefits, receivables, earnest moneys, advances or deposits paid by Transferor Companies, financial assets, hire purchase contracts and assets, if any, marketing tie-ups or marketing networks or marketing rights, benefit of any security arrangements or under any guarantees, reversions, exemptions, incentives, deferrals, tenancies in relation to the offices and/or residential properties for the employees or other persons, all records, files, papers, computer programmes, manuals, data, catalogues, sales and advertising materials, lists and other details of present and former customers and suppliers, customer credit information, customer and supplier pricing information and other records, benefits of assets or properties or other interest held in trust, registrations and all other interests of whatsoever nature.

- 1.17 The Scheme has been drawn up to comply with the conditions relating to "Amalgamation" as specified under Section 2(1B) of the Income-tax Act, 1961. If any terms or provisions of the Scheme are found or interpreted to be inconsistent with the provisions of the said Section at a later date including resulting from an amendment of law or for any other reason whatsoever until the Effective Date, the provisions of the said

Section of the Income-tax Act, 1961 shall prevail and the Scheme shall stand modified to the extent determined necessary to comply with section 2(1B) of the Income-tax Act, 1961. Such modification will however not affect the other parts of the Scheme.

1.18 The words importing the singular include the plural; words importing any gender include every gender.

1.19 Any word or expression used and not defined in the Scheme but defined in the Act shall have meaning respectively assigned to them in the Act.

2 DATE OF TAKING EFFECT AND OPERATIVE DATE

The Scheme, though operative from the Appointed Date, shall become effective from the Effective Date. Reference in this Scheme to the date of "coming into effect of this Scheme" shall mean the Effective Date.

3 SHARE CAPITAL

3.1 The authorized, issued, subscribed and paid-up share capital of the Transferor Company 1 as on 1 December 2015 is as under:

<i>Particulars</i>	<i>Rupees</i>
<u>CAPITAL:</u>	
<u>Authorised:</u>	
500,000 Equity shares of Rs. 10 each	5,000,000
<u>Issued, Subscribed and Paid –up:</u>	
500,000 Equity shares of Rs. 10 each fully paid up	5,000,000

Subsequent to 1st December 2015 there has been no change in the capital structure of the Transferor Company 1.

3.2 The authorized, issued, subscribed and paid-up share capital of the Transferor Company 2 as on 1st December 2015 is as under:

<i>Particulars</i>	<i>Rupees</i>
<u>CAPITAL:</u>	

<u>Authorised:</u> 1,50,000 Equity shares of Rs.10 each	1,500,000
<u>Issued, Subscribed and Paid –up:</u> 150,000 Equity shares of Rs 10 each fully paid up	1,500,000

Subsequent to 1st December 2015 there has been no change in the capital structure of the Transferor Company 2.

- 3.3 The authorized, issued, subscribed and paid-up share capital of the Transferor Company 3 as on 1st December 2015 is as under:

<i>Particulars</i>	<i>Rupees</i>
<u>CAPITAL:</u>	
<u>Authorised:</u> 50,000 Equity Shares of Rs 10/- each	500,000
<u>Issued, Subscribed and Paid –up:</u> 10,000 Equity Shares of Rs 10/- each	100,000

Subsequent to 1st December 2015 there has been no change in the capital structure of the Transferor Company 3.

- 3.4 The authorized, issued, subscribed and paid-up share capital of the Transferee Company as on 1st December 2015 is as under:

<i>Particulars</i>	<i>Rupees</i>
<u>CAPITAL:</u>	
<u>Authorised:</u> 25,000 Equity Shares of Rs 100/- each	25,00,000
<u>Issued, Subscribed and Paid –up:</u> 1328 Equity Shares of Rs 100/- each	

	1,32,800
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Subsequent to 1st December 2015 there has been no change in the capital structure of any of the Transferor Companies or the Transferee Company.

PART B

TRANSFER AND VESTING OF UNDERTAKING

4 TRANSFER AND VESTING OF UNDERTAKING

4.1 On and from the Appointed Date and subject to the provisions of the Scheme in relation to the mode of transfer and vesting, the entire business and whole of the Undertaking of the Transferor Companies as a going concern shall be transferred to and vested in or be deemed to be transferred to and vested in the Transferee Company in such a manner that:

4.1.1 all the Assets of the Transferor Companies immediately before the Amalgamation become the property of the Transferee Company by virtue of the Amalgamation;

4.1.2 all the Liabilities of the Transferor Companies immediately before the Amalgamation become the liabilities of the Transferee Company by virtue of the Amalgamation.

4.2 Without limiting the generality of the foregoing, on and from the Appointed Date and subject to the provisions of the Scheme in relation to the mode of transfer and vesting, the Undertaking of the Transferor Companies as a going concern shall be transferred to and vested in or be deemed to be transferred to and vested in the Transferee Company in the following manner:

4.2.1 With effect from the Appointed Date, the whole of the businesses and the undertaking of each of the Transferor Companies and all the Assets of each of the Transferor Companies, including the Assets specified in Clause 4.2.2 and Clause 4.2.3, of whatsoever nature and wheresoever situated, shall, under the provisions of Sections 391 to 394 and all other applicable provisions, if any, of the Act, without any further act or deed be transferred to and vested in and deemed to be transferred to and vested in the Transferee Company as a going concern so as to become, as from the Appointed Date, the Assets and Liabilities of the Transferee Company and to vest all the right, title and interest therein to the Transferee Company.

- 4.2.2 With effect from the Appointed Date, all the moveable Assets including plant & machinery, furniture & fixtures, office equipment, vehicles, computers, air conditioner, electric installation, fire extinguisher, inventories, cash in hand of each of the Transferor Companies, capable of transfer by physical delivery or by endorsement and/or delivery shall be so delivered or endorsed and/or delivered as the case may be to the Transferee Company to the end and intent that the property therein passes to the Transferee Company, on such delivery or endorsement and/or delivery in pursuance of the provisions of Sections 391 to 394 and other applicable provisions of the Act.
- 4.2.3 In respect of the movable properties of the Transferor Companies (other than those specified in Clause 4.2.2 above) including sundry debtors, receivables, bills, credits, loans and advances, recoverable in cash or in kind or for value to be received, bank balances and deposits with government, semi-government authorities, local and other authorities and bodies or with any company or other person, 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, give notice in such form as it may deem fit and proper, to each of such person, debtor or depositor, as the case may be, that pursuant to the Hon'ble High Court having sanctioned the Scheme, such debt, loan, advance, bank balance, or deposit be paid or made good or held on account of the Transferor Companies as the person entitled thereto to the end and intent that the right of the Transferor Companies to recover or realize all such debts (including the debts payable by such person or depositor to the Transferor Companies) stands without any further act or deed, transferred and assigned to the Transferee Company and that appropriate entries should be passed in its books to record the aforesaid change.
- 4.2.4 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, execute deeds of confirmation/notice in favour of any other party to any contract or arrangement to which the Transferor Companies is 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 under the provisions of the Scheme be deemed to be authorised to execute any such writings on behalf of the Transferor Companies and to implement or carry out all such.

formalities or compliance referred to above on the part of the Transferor Company to be carried out or performed.

4.2.5 With effect from the Appointed Date, all debts, Liabilities, duties, obligations of every kind, nature and description of the Transferor Companies shall, under the provisions of Sections 391 to 394 of the Act without any further act or deed be transferred to or be deemed to be transferred to the Transferee Company so as to become as from the Appointed Date the debts, Liabilities, duties, obligations of the Transferee Company and further 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 Scheme.

4.3 If and to the extent there are inter-corporate loans, deposits, receivables or balances between the Transferor Companies and the Transferee Company, the obligations in respect thereof shall, on and from the Appointed Date, come to an end and suitable effect shall be given in the books of accounts and records of the Transferee Company, if required, for such adjustments of debts or liabilities, as the case may be. For removal of doubts, it is hereby clarified that from the Appointed Date, there would be no accrual of interest or other charges in respect of any such inter-corporate loans, deposits, receivables or balances between the Transferor Companies and the Transferee Company.

4.4 The transfer and/or vesting of the properties as aforesaid shall be subject to the existing charges, hypothecation and mortgages, if any, over or in respect of all the aforesaid Assets or any part thereof of the Transferor Companies.

Provided however, that any reference in any security documents or arrangements, to which any Transferor Company is a party, to the Assets of such Transferor Company which it has offered or agreed to be offered as security for any financial assistance or obligations, to any secured creditors of such Transferor Company, shall be construed as reference only to the Assets of the relevant Transferor Company as are vested in the Transferee Company by virtue of the aforesaid Clause, to the end and intent that such security, mortgage and charge shall not extend or be deemed to extend, to any of the Assets or to any of the other units or divisions of the Transferee Company or the other

Transferor Companies, unless specifically agreed to by the Transferee Company with such secured creditors.

Provided that the Scheme shall not operate to enlarge the security of any loan, deposit or facility created by or available to any Transferor Company which shall vest in the Transferee Company by virtue of the Scheme and the Transferee Company shall not be obliged to create any further or additional security thereof after the Scheme has become effective or otherwise.

- 4.5 With effect from the Effective Date, the Transferee Company shall commence and carry on and shall be authorized to carry on the business carried on by the Transferor Companies in addition to the business of the Transferee Company.
- 4.6 All licenses, approvals, permits, registration and membership of the Transferor Companies, of/from any governmental or regulatory agencies including Reserve Bank of India, any trade associations, chambers of commerce or any charitable or other trusts as trustee or beneficiary shall be transferred to and vested in and become the licenses, approvals, permits and registration and membership of the Transferee Company and the Transferee Company shall continue to enjoy the benefits, rights and be liable for all obligations and liabilities as are available to or binding upon the Transferor Companies in whose favour such licenses, etc. have been issued or granted and the name of the Transferor Companies shall be deemed to have been substituted by the name of the Transferee Company.
- 4.7 The transfer and/or vesting of all the Assets and Liabilities of the Transferor Companies to the Transferee Company and the continuance of all the contracts or proceedings by or against the Transferee Company shall not affect any contract or proceedings relating to the Assets or the Liabilities, tenancy rights, licenses already concluded by the Transferor Companies on or after the Appointed Date.

5 BUSINESS AND PROPERTY OF THE TRANSFEROR COMPANIES TO BE HELD IN TRUST FOR THE TRANSFEE COMPANY

For the period beginning on and from the Appointed Date and ending on the Effective Date:

- 5.1 The Transferor Companies shall carry on and be deemed to have carried on all its business and activities and shall be deemed to have held and possessed of and shall

continue to hold and stand possessed of all the Assets, properties and Liabilities for and on account of and in trust for the Transferee Company. The Transferor Companies hereby undertakes to hold the Assets, properties and Liabilities with utmost prudence until the Effective Date.

5.2 All the profits or income accruing or arising to the Transferor Companies and all costs, charges, expenditure, taxes or losses arising or incurred by the Transferor Companies shall, for all purposes, be treated and be deemed to be and accrue as profits, income, costs, charges, expenditure, taxes or losses, as the case may be, of the Transferee Company.

5.3 The Transferor Companies shall carry on its business and activities until the Effective Date with reasonable diligence, and business prudence and shall not, without the prior consent of the Transferee Company, alienate, charge, mortgage, encumber or otherwise deal with or dispose off the Assets or any part thereof, except in the ordinary course of business or pursuant to any pre-existing obligation undertaken by the Transferor Companies.

Provided however, the Transferor Companies shall in the ordinary course of business be entitled to borrow in the form of loans, if deemed necessary by it and further consent for this purpose will not be required of the Transferee Company in that behalf.

5.4 The Transferor Companies shall not, without the prior written consent of the Board of Directors of the Transferee Company, undertake any new business or substantial expansion of their existing business.

5.5 The Transferor Companies shall not make any change in their capital structure, either by an increase (by issue of rights shares, bonus shares, convertible debentures or otherwise), decrease, reclassification, sub-division or re-organisation or in any other manner whatsoever or declare dividend other than the changes pursuant to any prior commitments, obligations or arrangements or acts and deeds already made except by mutual consent of the Board of Directors of the Transferee Company and such Transferor Company.

6 LEGAL PROCEEDINGS

6.1 All suits, actions, appeals, writ petitions, revisions or other proceedings of whatever nature (hereinafter called "the Proceedings") by or against the Transferor Companies

pending and/or arising on or before the Effective Date shall not abate, not be discontinued or not be in any way prejudicially affected by reason of the transfer of the business of the Transferor Companies pursuant to this Scheme but the Proceedings be continued, prosecuted and enforced by or against the Transferee Company as effectually and in the same manner and to the same extent as it would be or might have been continued, prosecuted and enforced by or against the Transferor Companies as if the Scheme had not been made. On and from the Effective Date, the Transferee Company shall initiate, continue and defend any Proceedings which were earlier in the name of the Transferor Companies.

- 6.2 On and from the Appointed Date but on or before the Effective Date, if any Proceedings are taken against or initiated by the Transferor Companies, the same shall be defended by the Transferor Companies for and on behalf of the Transferee Company.

7 CONTRACTS, DEEDS AND OTHER INSTRUMENTS

The Transfer and vesting of the Assets, properties and Liabilities under Clause 4 above and the continuance of the proceedings mentioned in Clause 6 above shall not in any manner affect the transactions or proceedings already concluded by or against the Transferor Companies.

- 7.1 All acts, contracts, agreements, deeds, bonds or any other instruments executed by the Transferor Companies on or before the Appointed Date shall be in full force and effect against or in favor of the Transferee Company as the case may be and may be enforced as fully and effectually as if, instead of the Transferor Companies, the Transferee Company had been a party or beneficiary thereto.
- 7.2 All acts, contracts, agreements deeds, bonds or any other instruments executed by the Transferor Companies after the Appointed Date but before the Effective Date shall be in full force and effect against or in favor of the Transferee Company as the case may be and may be enforced as fully and effectually as if, instead of the Transferor Companies, the Transferee Company had been a party or beneficiary thereto.
- 7.3 Upon the Scheme coming into effect and subject to the provisions of this Scheme all contracts, deeds, bonds, agreements, arrangements and other instruments of whatsoever nature to which the Transferor Companies are/is a party or to the benefit of which the Transferor Companies may be eligible, and which are subsisting or having effect

immediately before the Effective Date, shall be in full force and effect against or in favor of the Transferee Company as the case may be and may be enforced as fully and effectually as if, instead of the Transferor Companies, the Transferee Company had been a party or beneficiary thereto. The Transferee Company shall enter into and/or issue and/or execute deeds, writings or confirmations or enter into any multipartite agreements, arrangements, confirmations or novations to which the Transferor Companies will, if necessary, also be a party in order to give formal effect to the provisions of this Scheme, if so required or becomes necessary.

- 7.4 As a consequence of the Amalgamation of the Transferor Companies with the Transferee Company in accordance with this Scheme, the recording of change of name from the Transferor Companies to the Transferee Company, whether for the purposes of any licence, permit, approval or any other reason, or whether for the purposes of any transfer, registration, mutation or any other reason, shall be carried out by the concerned statutory or regulatory or any other authority.
- 7.5 The Transferee Company may, at any time, after the coming into the effect of this Scheme in accordance with the provisions hereof, if so required, under any law or otherwise, execute deeds of confirmation in favour of any party to any contract or arrangement to which the Transferor Companies 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 under the provisions of the Scheme be deemed to be authorised to execute any such writings on behalf of the Transferor Companies, implement or carry out all such formalities or compliances referred to above on the part of the Transferor Companies, as the case may be, to be carried out or performed.
- 7.6 For the removal of doubts, it is expressly made clear that the dissolution of the Transferor Companies without the process of winding up as contemplated hereinafter, shall not, except to the extent set out in the Scheme, affect the previous operation of any contract, agreement, deed or any instrument or beneficial interest to which the Transferor Companies is a party thereto and shall not affect any right, privilege, obligations or liability, acquired, or deemed to be acquired prior to Appointed Date and all such references in such agreements, contracts and instruments to the Transferor Companies

shall be construed as reference only to the Transferee Company with effect from the Appointed Date.

8 STAFF, WORKMEN AND EMPLOYEES OF THE TRANSFEROR COMPANIES

8.1 All staff, workmen and employees of the Transferor Companies in continuous service on the Effective Date shall become the staff, workmen and employees of the Transferee Company on such date without any break or interruption in service and on the terms and conditions not in any way less favourable to them than those subsisting with reference to the Transferor Companies as the case may be on the said date. The Transferee Company shall be liable to pay to the workman, in the event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by the transfer.

8.2 It is expressly provided that as far as the provident fund, gratuity fund, superannuation fund or any other special fund or schemes created or existing for the benefit of the staff, workmen and employees of the Transferor Companies are concerned, upon the Scheme becoming effective, the Transferee Company shall stand substituted for the Transferor Companies for all purposes whatsoever related to the administration or operation of such schemes or funds or in relation to the obligation to make contributions to said funds in accordance with provisions of such schemes and said funds as per the terms provided in the respective trust deeds/ other documents. To this end and intent all the rights, duties, powers and obligations of the Transferor Companies in relation to such funds/schemes 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 aforesaid funds or provisions.

8.3 The Transferor Companies shall not vary the terms and conditions of the employment of its employees except in the ordinary course of business.

9 ACCOUNTING TREATMENT

9.1 Upon the Scheme becoming effective, the Transferee Company shall account for the Amalgamation as under:

A. In the event that the shareholders of the Transferor Company 1 and Transferor Company 2 elect to receive Equity Shares as consideration for the Amalgamation:

- i) The Transferee Company shall account for the Amalgamation of the Transferor Companies as per the Accounting Standard 14 – Accounting for Amalgamations (AS14) - Pooling of interest method as stated in the Companies (Accounting Standards) Rules, 2006 read with General Circular No 8/2014 dated 4 April, 2014 issued by the Ministry of Corporate Affairs and any amendments thereto.
 - ii) The Transferee Company shall record all the assets and liabilities including reserves of the Transferor Companies transferred to and vested in the Transferee Company pursuant to this Scheme, at their respective book values as appearing in the books of Transferor Companies.
 - iii) Upon coming into effect of this Scheme, to the extent that there are inter-corporate loans or balances between the Transferor Companies and the Transferee Company, the obligations in respect thereof shall come to an end and corresponding effect shall be given in the books of accounts and records of the Transferor Companies and the Transferee Company for the reduction of any assets or liabilities, as the case may be.
 - iv) The investment in shares of the Transferor Company 3, appearing in the books of account of the Transferee Company shall, without any further act or deed, stand cancelled.
 - v) Adjustment for differences in accounting policies
- B. In the event that the shareholders of the Transferor Company 1 and Transferor Company 2 elect to receive Redeemable Preference Shares as consideration for the Amalgamation:
- i) The Transferee Company shall account for the Amalgamation of the Transferor Companies as per the Accounting Standard 14 – Accounting for Amalgamations (AS14) - Purchase method as stated in the Companies (Accounting Standards) Rules, 2006.
 - ii) The Transferee Company shall record its assets and liabilities at their existing carrying amounts or, alternatively, the consideration should be allocated to individual identifiable assets and liabilities on the basis of their fair values at the date of Amalgamation. The reserves (whether capital or revenue or arising on revaluation) of

the Transferor Company, other than the statutory reserves, should not be included in the financial statements of the Transferor Company.

- iii) The difference between the share capital of the Transferor Companies and the book value of investments of Transferor Companies in the Transferee Company shall be credited to Capital Reserve or debited to goodwill, as the case may be in the books of the Transferee Company. The goodwill arising on amalgamation should be amortised to income on a systematic basis over its useful life, for a period not exceeding five years, unless otherwise justifiable.
- iv) Where the requirements of the relevant statute for recording the statutory reserves in the books of the Transferee Company are complied with, statutory reserves shall be recorded in the financial statements of the Transferee Company.

In case of any differences in the accounting policy between the Transferor Companies and the Transferee Company, the impact of the same till the Amalgamation will be quantified and adjusted in Statement of Profit and Loss of the Transferee Company in accordance with Accounting Standard 5 - Net Profit or Loss for the period, Prior Period Items and Changes in Accounting Policies (AS5) to ensure that the financial statements of the Transferee Company reflects the financial position on the basis of consistent accounting policy.

10 DECLARATION OF DIVIDEND

- 10.1 During the period between the Appointed Date and up to and including the Effective Date, the Transferor Companies shall not declare any dividend without the prior written consent of the Board of Directors of the Transferee Company.
- 10.2 For the avoidance of doubt, it is hereby declared that nothing in the Scheme shall prevent the Transferee Company from declaring and paying dividends, whether interim or final, to its equity shareholders as on Record Date for the purpose of dividend and the shareholders of the Transferor Companies shall not be entitled to dividend, if any, declared by the Transferee Company prior to the Effective Date.

11 BOARD OF DIRECTORS OF THE TRANSFEROR COMPANIES

- 11.1 The Board of Directors (or any committee/sub-committee thereof) of the Transferor Companies, upon the Scheme becoming effective, shall without any further act, instrument or deed stand dissolved. All the Directors of the Transferor Companies shall

cease to be Directors of the Transferor Companies on coming into effect of this Scheme. However, if any such Director is a Director of the Transferee Company he would continue to hold his office in the Transferee Company.

- 11.2 For the removal of doubts, it is hereby clarified that withdrawal by any one or more of the Transferor Companies from the Scheme shall not prejudicially effect the implementation of the Scheme between the remaining Transferor Companies and the Transferee Company as if the party withdrawing from the Scheme was never a party to the Scheme in that behalf.

12 TREATMENT OF TAXES

- 12.1 Any tax liabilities under the Income Tax Act, 1961, Wealth Tax Act, 1957, Customs Act, 1962, Central Excise Act, 1944, Maharashtra Value Added Tax Act, 2002, Central Sales Tax Act, 1956 , any other state Sales Tax/Value Added Tax laws, Service Tax, stamp laws or other applicable laws/regulations (hereinafter in this Clause referred to as "Tax Laws") dealing with taxes/duties/levies allocable or related to the business of the Transferor Companies to the extent not provided for or covered by tax provisions in the accounts made as on the date immediately preceding the Appointed Date shall be transferred to Transferee Company.
- 12.2 All taxes (including income tax, wealth tax, sales tax, excise duty, customs duty, service tax, VAT, etc.) paid or payable by the Transferor Companies in respect of the operations and/or the profits of the business on and from the Appointed Date, shall be on account of the Transferee Company and, in so far as it relates to the tax payment (including without limitation income tax, wealth tax, sales tax, excise duty, customs duty, service tax, VAT, etc.), whether by way of deduction at source, advance tax or otherwise howsoever, by the Transferor Companies in respect of the profits or activities or operation of the business on and from the Appointed Date, the same shall be deemed to be the corresponding item paid by the Transferee Company, and, shall, in all proceedings, be dealt with accordingly.
- 12.3 Any refund under the Tax Laws due to Transferor Companies consequent to the assessments made on Transferor Companies and for which no credit is taken in the accounts as on the date immediately preceding the Appointed Date shall also belong to and be received by the Transferee Company.

12.4 Without prejudice to the generality of the above, all benefits including under the income tax, sales tax, excise duty, customs duty, service tax, VAT, etc., to which the Transferor Companies are entitled to in terms of the applicable Tax Laws of the Union and State Governments, shall be available to and vest in the Transferee Company.

13 SAVING OF CONCLUDED TRANSACTIONS

13.1 The transfer of all the Assets and Liabilities and the licenses and permits and membership etc. under Clause 4 above and the continuance of proceedings by or against the Transferee Company under Clause 6 above shall not affect any transaction or proceedings already concluded by the Transferor Companies on or before the Appointed Date, and after the Appointed Date till the Effective Date, to the end and intent that the Transferee Company accepts and adopts all acts, deeds and things done and executed by the Transferor Companies in respect thereto as done and executed on behalf of itself.

14 CONSIDERATION

14.1 Pursuant to the Scheme coming into effect and upon the entire businesses and the whole of the undertaking of the Transferor Companies being transferred to and vested in the Transferee Company, the Transferee Company shall issue and allot Election Securities, as a consideration for the Amalgamation to the equity shareholders of Transferor Company 1 and Transferor Company 2, at the option of such shareholder, whose name appear in the Register of Members ("Members") of Transferor Company 1 and Transferor Company 2 on the Merger Record Date or to their respective heirs, executors, administrators or other legal representatives or the successors-in-title, as the case may be, in the following manner:

A. In case of shareholders of Transferor Company 1:

- (a) 1 (one) Equity Share, credited as fully paid up of the Transferee Company *in lieu* of 3622 equity shares of Rs.10 (Rupee Ten only) each held in Transferor Company 1; OR
- (b) 1 (one) Redeemable Preference Share, credited as fully paid up of the Transferee Company *in lieu* of 3622 equity shares of Rs.10 (Rupee Ten only) each held in Transferor Company 1.

B. In case of shareholders of Transferor Company 2:

- (a) 1 (one) Equity Share, credited as fully paid up of the Transferee Company *in lieu*

of 357 equity shares of Rs.10 (Rupee Ten only) each held in Transferor Company 2; OR

- (b) 1 (one) Redeemable Preference Share, credited as fully paid up of the Transferee Company *in lieu* of 357 equity shares of Rs.10 (Rupee Ten only) each held in Transferor Company 2;

C. In case of shareholders of Transferor Company 3:

- (a) The entire equity share capital of the Transferor Company 3 i.e. 10,000 equity shares of Rs. 10 (Rupee Ten only) each, held by the Transferee Company shall stand cancelled and extinguished.

The aforesaid ratio for the issue of Equity Share and Redeemable Preference Share by the Transferee Company against the equity shares held in Transferor Company 1 and Transferor Company 2 has been arrived at based on the recommendations made in the valuation report and fairness opinion issued by SMC Capitals Limited, a SEBI-registered Category I Merchant Banker.

- 14.2 Notwithstanding anything set out in Clause 14.1, in light of the provisions of the Foreign Exchange Management Act, 1999 and the rules and regulations made thereunder ("FEMA"), issuance of Redeemable Preference Shares to non-residents shall be subject to obtaining an approval from the Reserve Bank of India (RBI) and such other approvals as may be required and subject to such other declarations and undertakings as may be required by other governmental authorities under applicable laws for such issuance. In case RBI does not accord its approval for issuance of Redeemable Preference Shares to non-resident shareholders electing to receive such shares, then such non-resident shareholders shall receive Equity Shares in such ratio as is specified in Clause 14.1. Further, shareholders who do not make any election or do not convey their preference to either receive Equity Shares or Redeemable Preference Shares, then such shareholder shall by default be issued Equity Shares in such ratio as is specified in Clause 14.1.
- 14.3 The ratio in which shares of the Transferee Company is to be issued and allotted to the equity shareholders of the Transferor Company 1 and Transferor Company 2 is herein referred to as the "Share Exchange Ratio". In the event that the Transferee Company restructures its share capital by way of share split/ consolidation/issue of bonus shares

during the pendency of the Scheme, the Share Exchange Ratio shall be adjusted accordingly to take into account the effect of such corporate actions.

- 14.4 It is clarified that no shares will be issued to the Transferee Company in its capacity as shareholder of Transferor Company 3 since the Transferee Company cannot issue shares to itself.
- 14.5 It is further clarified that, save and except as provided in this Clause 14 hereinabove, shares of the Transferor Companies held by the Transferee Company on the Merger Record Date shall be cancelled without any further act or deed, and the Transferee Company shall not issue shares to the extent of shares held by itself in the Transferor Companies as well as shares held by the Transferor Companies inter-se as on the Merger Record Date.
- 14.6 Any fraction arising on issue of Equity Shares / Redeemable Preference Shares as above will be rounded off to the nearest integer.
- 14.7 The Equity Shares / Redeemable Preference Shares to be issued and allotted in terms hereof will be subject to the Memorandum and Articles of Association of the Transferee Company.
- 14.8 The Transferee Company shall, if and to the extent required, apply for and obtain any approvals from concerned regulatory authorities for actions to be undertaken under this Scheme.
- 14.9 Within 7 (seven) working days from the Merger Record Date, the Transferee Company shall notify and send an election notice to the Members of Transferor Company 1 and Transferor Company 2, to enable them to elect the Election Securities in accordance with Clause 14.1, in the manner provided in such notice.
- 14.10 **Increase in authorised, issued, subscribed and paid-up capital of Transferee Company**
- 14.10.1 Upon the Scheme coming into effect, the authorised share capital of the Transferee Company in terms of its Memorandum of Association and Articles of Association shall automatically stand enhanced without any further act, instrument or deed on the part of the Transferee Company, including payment of stamp duty and fees payable to Registrar of Companies, by an amount as shall be suitably required to accommodate the issuance of Election Securities in

accordance with Clause 14.1, and the Memorandum of Association and Articles of Association of the Transferee Company (relating to the authorized share capital) shall, without any further act, instrument or deed, be and stand altered, modified and amended, and the consent of the shareholders to the Scheme shall be deemed to be sufficient for the purposes of effecting this amendment, and no further resolution(s) under Section 13, Section 14, Section 61 of the Companies Act, 2013 or any other applicable provisions of the Act, would be required to be separately passed. For this purpose, the filing fees and stamp duty already paid by the Transferor Companies on their respective authorised share capital shall be utilized and applied to the increased share capital of the Transferee Company, and shall be deemed to have been so paid by the Transferee Company on such combined authorised share capital and accordingly, the Transferee Company shall not be required to pay any fees/stamp duty on the authorised share capital so increased. Further, if required, the Transferee Company shall take necessary steps to further increase and alter its Authorized Share Capital suitably to enable it to issue and allot the Redeemable Preference Shares required to be issued and allotted by it in terms of this Scheme.

Accordingly, in terms of this Scheme, the authorised share capital of the Transferee Company shall stand enhanced to an amount of INR 30,00,000 (Rupees Thirty Lakhs Only) to the extent of 10,000 preference shares of Rs. 100 each. The capital clause being Clause V. of the Memorandum of Association of the Transferee Company shall on the Effective Date stand substituted to read as follows:

"The Authorised Share Capital of the Company is INR 35,00,000 (Rupees Thirty Five Lakhs Only) divided into:

(a) 25,000 equity shares of Rs. 100 each; and

(b) 10,000 preference shares of Rs. 100 each;

with such rights, privileges and conditions as to security, redemption, conversion into equity shares, rate of dividend, right of accumulation of dividend etc., attaching thereto as are provided by the Articles of Association of the Company. The Company shall have power to increase or reduce, consolidate or sub-divide

the Share Capital of the Company for the time being and from time to time divide the shares of the new Capital into several classes and denomination and to issue any shares of the original or further Share Capital of the Company for the time being with such preferential, qualified or special rights, privileges or conditions attached thereto respectively including rights to dividend in distribution of assets of the Company from time to time in accordance with the Articles of Association of the Company and subject to the provisions of the Companies Act, 1956 and the Companies Act, 2013, as the case may be, for the time being in force."

14.10.2 It is clarified that the approval of the Scheme shall amount to due approval/ compliance of provisions of the Companies Act, 2013 / Companies Act, 1956, and any other rules, regulations or law, as the case may be. It is clarified that no special resolution under Section 180 of the Companies Act 2013 shall be required to be passed by the Transferee Company separately in a general meeting for issue of shares to the shareholders of the Transferor Companies under this Scheme and on the members of the Transferee Company approving this Scheme, it shall be deemed that they have given their consent to the issue of preference shares of the Transferee Company to the eligible shareholders of the Transferor Companies in the Share Exchange Ratio.

14.11 General provisions

14.11.1 Issue of shares in dematerialized:

Issuance of Election Securities by the Transferee Company pursuant to Clause 14.1 above shall be issued in dematerialized form, provided that the shareholders of Transferor Company 1 and Transferor Company 2 have a demat account with a depository participant and such shareholders have provided complete details thereof and such other confirmations as may be required are furnished by such shareholders to the Transferee Company on or before the Merger Record Date.

14.11.2 Pending share transfers, etc.:

- i. In the event of there being any pending share transfers, whether lodged or outstanding, of any shareholder of the respective Transferor Company, the Board of Directors of the Transferee Company shall be empowered in appropriate cases, prior to or even subsequent to the Merger Record Date, to effectuate such a

transfer as if such changes in the registered holder were operative as on the Merger Record Date, in order to remove any difficulties arising to the transferor or transferee of equity and/ or preference shares in the Transferor Companies, after the effectiveness of this Scheme;

- ii. The new preference shares to be issued by the Transferee Company pursuant to this Scheme in respect of any equity shares of the Transferor Companies which are held in abeyance under the provisions of Section 206A of the Act or otherwise shall pending allotment or settlement of dispute by order of Court or otherwise, be held in abeyance by the Transferee Company.

14.11.3 Terms of the new preference shares:

- i. The new preference shares issued and allotted by the Transferee Company in terms of this Scheme shall be subject to the provisions of the Memorandum and Articles of Association of the Transferee Company.
- ii. The term of each Redeemable Preference Share shall be 19 years from the date of allotment ("**Maturity Date**").
- iii. The Redeemable Preference Share shall represent a share in the paid-in capital of the Transferee Company.
- iv. Unless otherwise agreed by the holder of Redeemable Preference Share, the due date for redemption shall be the Maturity Date ("**Redemption Due Date**").
- v. The holder of Redeemable Preference Share shall be entitled to receive a dividend, payable annually, on the outstanding face value of the Redeemable Preference Share at the same rate as is proposed for the shareholders of equity shares ("**Dividend Payment**") till the Redemption Due Date. The right to receive the dividend shall be cumulative and in priority, and will be paid out of the funds legally available for dividend distribution. If a dividend has been declared by the Company but has not been paid by the Redemption Due Date, the dividend shall accrue to the holder of Redeemable Preference Share in accordance with the number of Redeemable Preference Share held by it at the date of declaration.
- vi. Each Redeemable Preference Share shall be redeemable on the Redemption Due Date at an aggregate value equal to the face value and the redemption premium ("**Redemption Payment**"). In case of a redemption during the liquidation of the

Transferee Company, the holder of Redeemable Preference Share shall have priority over equity shareholders to the extent of the face value of Redeemable Preference Share held, and for any amount in excess, they shall have a *pro rata* share in the liquidation proceeds *pari passu* to those of the equity shareholders after all third party claims have been settled.

- vii. The holder of Redeemable Preference Share shall have such rights to attend and vote at shareholders' meetings as are available to the shareholders of equity shares, including and without limitation to the right to receive notice of, and to be present and to vote, either in person or by proxy, at any shareholders' meetings of the Transferee Company on such matters as to which it is statutorily entitled to vote upon. In order to enable such voting rights, the Articles of Association of the Transferee Company shall be appropriately amended to specifically provide for such voting rights in accordance with Section 47 of the Act read with Gazetted Notification No. G.S.R. 464(E) dated June 5th, 2015 of the Ministry of Corporate Affairs, Government of India.

PART C

GENERAL TERMS AND CONDITIONS

15 APPLICATION TO THE HON'BLE HIGH COURT OF BOMBAY/MADRAS

- 15.1 The Transferor Companies and Transferee Company shall with all reasonable dispatch, make applications to the jurisdictional High Court(s) under Section 391 of the Act seeking orders for dispensing with or, if required, convening, holding and conducting of the meetings of the members and/or creditors of the Transferor Companies as may be directed by the High Court.
- 15.2 On the Scheme being agreed to by the requisite majorities of the members of the Transferor Companies, if so directed to be taken by the High Court, the Transferor Companies shall, with all reasonable dispatch, apply to the High Court of Judicature at Bombay and at Madras for sanctioning the Scheme of Amalgamation under Sections 391 and 394 of the Act, and for such other order or orders, as the High Court may deem fit for carrying this Scheme into effect and for dissolution of the Transferor Companies without winding up.

16 FILING / AMENDMENT OF RETURNS

16.1 Transferee Company is expressly permitted to file/revise its income tax, wealth tax, service tax, VAT, Sales tax, Excise, Cenvat /MODVAT and other statutory returns, consequent to the Scheme becoming effective, notwithstanding that the period for filing/revising such returns may have lapsed. Transferee Company is expressly permitted to amend Tax Deducted at Source (TDS)/Tax Collected at Source (TCS) and other statutory certificates and shall have the right to claim refunds, advance tax credits, set offs and adjustments relating to their respective incomes/transactions from the Appointed Date. It is specifically declared that all the taxes/duties paid by the Transferor Companies shall be deemed to be the taxes/duties paid by the Transferee Company and the Transferee Company shall be entitled to claim credit for such taxes deducted/paid against its tax/duty liabilities notwithstanding that the certificates/challans or other documents for payment of such taxes/duties are in the name of the Transferor Companies.

17 SCHEME CONDITIONAL ON APPROVAL/SANCTIONS

This Scheme is specifically conditional upon and subject to:

- 17.1 The sanction or approval under any law or of the Central Government or any other Agency, Department or Authorities concerned being obtained and granted in respect of any of the matters in respect of which such sanction or approval is required.
- 17.2 Any issuance of Redeemable Preference Shares to non-resident shareholders of Transferor Company 1 and Transferor Company 2 pursuant to Clause 14.1, shall be subject to the approval of the Reserve Bank of India and such other approvals as may be required from other governmental authorities under applicable law.
- 17.3 The approval of, and agreement to the Scheme by the requisite majority of members of the Transferor Companies or by the Transferee Company, if required as may be directed by the High Court on the Application made for directions under Section 391 of the Act for dispensing/calling meetings and necessary resolutions being passed under the Act for the purpose.
- 17.4 The sanction of the High Court being obtained by the Transferor Companies and by the Transferee Company under Sections 391 and 394 and other applicable provisions of the Act.

17.5 The authenticated/certified copies of order of the High Court sanctioning the Scheme being filed with the concerned Registrar of Companies, Mumbai and with Registrar of Companies, Chennai.

18 EFFECT OF NON-APPROVALS

18.1 In the event of any of the approvals or conditions enumerated in Clause 17 above not being obtained or complied or for any reasons this Scheme cannot be implemented then the Board of Directors of the Transferor Companies and the Transferee Company shall waive such conditions as they consider appropriate to give effect appropriately and, as far as possible, to this Scheme and failing such agreement or in case this Scheme is not sanctioned by the High Court of Judicature at Bombay, then the Scheme shall become null and void and in that event no rights and liabilities whatsoever shall accrue to or be incurred, inter-se, between the Transferor Companies and the Transferee Company or their shareholders or creditors or any other person.

19 DISSOLUTION OF TRANSFEROR COMPANIES

19.1 On the coming into effect of this Scheme, the Transferor Companies shall stand dissolved without winding-up, and the Board of Directors and any committees thereof of the Transferor Companies shall without any further act, instrument or deed be and stand dissolved.

20 VALIDITY OF EXISTING RESOLUTIONS, ETC.

20.1 Upon the coming into effect of this Scheme, the resolutions, if any, of the Transferor Companies, 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 said limits shall be added to the limits, if any, under like resolutions passed by the Transferee Company and shall constitute the aggregate of said limits in the Transferee Company.

21 MODIFICATION, WITHDRAWAL OR AMENDMENT TO THE SCHEME

21.1 Subject to approval of High Court, the Transferor Companies and the Transferee Company through its respective Board of Directors/its authorized officers are hereby empowered and authorized to assent from time to time to any modifications or amendments or substitution of this Scheme or to any conditions or limitations which the

High Court of Judicature at Bombay or any other statutory authorities may impose and to settle all doubts or difficulties that may arise for carrying out the Scheme and to do and execute all acts, deeds, matters and things as may be necessary for putting the Scheme into effect. The Transferor Companies and the Transferee Company by their respective Boards of Directors or delegates are authorised to do and execute all acts, deeds, matters and things necessary for bringing this Scheme into effect, or review the position relating to the satisfaction of the conditions of this Scheme and if necessary, waive any of such conditions (to the extent permissible under law) for bringing this Scheme into effect, and/or give such consents as may be required in terms of this Scheme. In the event that any conditions are imposed by the Hon'ble High Courts or any governmental authorities, which the Board of Directors of the Transferor Companies or the Transferee Company find unacceptable for any reason, then the Transferor Companies and the Transferee Company shall be at liberty to withdraw the Scheme.

- 21.2 For the purpose of giving effect to this Scheme or to any modifications or amendments thereof, the Directors of the Transferee Company or such other person who are so authorized may give and is/are authorized to give all such directions as are necessary including directions for settling any question of doubt or difficulty that may arise after the dissolution of the Transferor Companies.
- 21.3 The Transferor Companies and the Transferee Company through its respective Board of Directors/its authorized officers are hereby empowered and authorized to withdraw this scheme prior to the Effective Date in any manner and at any time.

22 COSTS, CHARGES & EXPENSES & STAMP DUTY

- 22.1 All costs, charges, stamp duty and any other expenses (including any taxes and duties) of the Transferor Companies and the Transferee Company in relation to or in connection with this Scheme and for carrying out and implementing/completing the terms and provision of the Scheme and/or incidental to the completion of the Amalgamation of the undertaking of the Transferor Companies in pursuance of this Scheme shall, except as specifically provided herein, be borne and paid solely by the Transferee Company.

23 CHANGE OF NAME

- 23.1 On and from the Effective Date, the name of "Bruker India Scientific Private Limited" shall stand changed to "Bruker India Private Limited" or such other name as may be

decided by the Board of Directors or a committee thereof and approved by the concerned Registrar of Companies. Further, the name of "Bruker India Scientific Private Limited" wherever it occurs in its Memorandum and Articles of Association be substituted by such name.