

**SCHEME OF AMALGAMATION  
OF  
KIRLOSKAR SYSTECH LIMITED**

**(Amalgamating Company)**

**WITH**

**KIRLOSKAR BROTHERS LIMITED**

**(Amalgamated Company)**

**AND THEIR RESPECTIVE SHAREHOLDERS**

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

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**1. PRELIMINARY**

- 1.1 This Scheme of Amalgamation is presented for the Amalgamation of Kirloskar Systech Limited, (hereinafter referred to as "the **Amalgamating/Transferor Company**"), a company incorporated under the Companies Act, 1956 and a company under Section 2(20) of the Companies Act, 2013, and having its registered office at Udyog Bhavan, Tilak Road, Pune-411002 in the State of Maharashtra, India, with Kirloskar Brothers Limited, (hereinafter referred to as "the **Amalgamated/Transferee Company**") is a public company limited by shares incorporated under the Indian Companies Act, 1913 and a company under Section 2(20) of the Companies Act, 2013, having its registered office at Udyog Bhavan, Tilak road, Pune-411002. The equity shares of the Amalgamated Company are listed on NSE and BSE (hereinafter defined).
- 1.2 The Amalgamating Company is in the business of providing Engineering Services and IT Services.
- 1.3 The Amalgamated Company inter-alia carries on the business of manufacturing of pumps, valves and is involved in activities of undertaking turnkey EPC contracts.

**2 PURPOSES OF AMALGAMATION**

The Amalgamating Company is 100% subsidiary of the Amalgamated Company. Substantial income of Amalgamating Company is generated by providing services to the Amalgamated Company. With a view to maintain a simple corporate structure and eliminate duplicate corporate procedures, it is desirable to merge and amalgamate all the undertaking of the Amalgamating Company into Amalgamated Company.

The amalgamation of the undertaking of the Amalgamating Company into the Amalgamated Company will facilitate consolidation of all the undertakings in order to enable effective management and unified control of operations. Further, the amalgamation would create economies 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.

### **3 DEFINITIONS**

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

- 3.1 "**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, including any Committee thereof of the Amalgamating Company and the Amalgamated 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 references to the provisions so re-enacted.
- 3.2 "**Appointed Date**" For the purpose of this Scheme and the Income Tax Act, 1961, the "Appointed Date" means 1<sup>st</sup> April, 2015;
- 3.3 "**Effective Date**" means last of the date on which authenticated / certified copies of the Order of the High Court sanctioning the Scheme has been filed with the concerned Registrar of Companies, Pune, Maharashtra by the Amalgamating Company and the Amalgamated Company if required ;
- 3.4 "**High Court**" shall mean the High Court of Judicature at Bombay. 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.

- 3.5 "**Amalgamated Company**" or "**the Transferee Company**" means Kirloskar Brothers Limited, a public limited company having its registered office at Udyog Bhavan, Tilak Road, Pune-411002;
- 3.6 "**Amalgamating Company**" or "**the Transferor Company**" means Kirloskar Systech Limited, a company having its registered office at Udyog Bhavan, Tilak Road, Pune-411002;
- 3.7 "**Board of Directors**" or "**Board**" in relation to each of the Amalgamating Company and the Amalgamated Company including any committee thereof, as the case may be, means the board of directors of such company.
- 3.8 "**Scheme of Amalgamation**" or "**this Scheme**" or "**the Scheme**" means this Scheme of Amalgamation of Amalgamating Company with Amalgamated Company in its present form or as may be modified from time to time or as may be approved or directed by the High Court of Judicature at Bombay.
- 3.9 "**SEBI Circular**" means the circular number CIR/CFD/DIL/5/2013 dated February 4, 2013 read with circular number CIR/CFD/DIL/8/2013 dated May 21, 2013 (which provides clarifications with respect to the aforementioned circular), both issued by the Securities and Exchange Board of India.
- 3.10 "**Stock Exchanges**" means National Stock Exchange of India Limited (NSE) and BSE Limited (BSE).
- 3.11 "**Undertaking**" shall mean and include all the undertaking and businesses of Amalgamating Company as a going concern comprising of:
- 3.11.1 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, if any 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, if any and belonging to or in the ownership, power or possession and in the control of or vested in or granted in favour of or enjoyed by the Transferor Company, 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, if any and 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, if any 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 Amalgamating Company, if any under sale or purchase agreements, agreements for lease or licensor 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, whether used for surveying or otherwise, furniture, fixtures, whether used in the buildings, or otherwise as owned, leased or in possession of the Amalgamating Company (hereinafter collectively referred to as “**Assets**”).

3.11.2 All debts, liabilities, borrowings, if any and bills payable, interest accrued, contingent liabilities and all other liabilities, duties, undertakings, contractual obligations, guarantees given and obligations if any of the Amalgamating Company of every kind, nature and description whatsoever and howsoever (hereinafter referred to as “**Liabilities**”).

3.11.3 Without prejudice to the generality of Sub-clause 3.11.1 and 3.11.2 above, the undertaking of Amalgamating Company shall include all Amalgamating Company’s Assets including claims or obligation, consents /approvals / certifications/ permissions of whatsoever nature including those relating to employees and Technical Know-how agreement, 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 Amalgamating Company, 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 Amalgamating Company including but limited to buildings and structures, offices, residential and other premises, capital work in progress, if any and 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, if any paid by Amalgamating Company, 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, if any and 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.

3.11.4 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 upto 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.

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

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.

#### **4 OPERATIVE DATE – EFFECTIVE 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.

## 5 SHARE CAPITAL

5.1 The authorized, issued, subscribed and paid-up share capital of the Amalgamating Company as per the audited accounts as on 31<sup>st</sup> March 2015 is as under:

<i>Particulars</i>	<i>Rupees</i>
<b><u>CAPITAL:</u></b>	
<i>Authorised:</i>	
2,50,000 Equity Shares of Rs. 10/- each.	2,500,000
<i>Issued, Subscribed and Paid –up:</i>	
50,000 Equity Shares of Rs. 10/- each	500,000
Out of the above	
40,000 equity shares of Rs 10/- each were allotted as fully paid up pursuant to contract for consideration other than cash	400,000
<b>TOTAL</b>	<b>900,000</b>

The entire share capital of Amalgamating Company is held by the Amalgamated Company in its own name and jointly with its nominees(s) since its Incorporation. The Amalgamating Company is 100% subsidiary of the Amalgamated Company. Subsequent to 31<sup>st</sup> March, 2015 there has been no change in the capital structure of the Amalgamating Company.

5.2 The authorized, issued, subscribed and paid-up share capital of the Amalgamated Company as per the audited accounts as on 31<sup>st</sup> March 2015 is as under:

<i>Particulars</i>	<i>Rupees</i>
<b><u>CAPITAL:</u></b>	
<i>Authorised:</i>	
250,000,000 Equity Shares of Rs. 2/- each	500,000,000

<i>Issued, Subscribed and Paid up:</i> 79,388,176 Equity Shares of Rs. 2/- each Subscribed & Fully Paid up	158,776,352

Subsequent to 31<sup>st</sup> March, 2015 there has been change in the capital structure of the Amalgamated Company due to allotment of 20,750 equity shares of Rs.2/- each on exercise of options under ESOS.

The authorized, issued, subscribed and paid-up share capital of the Amalgamated Company post above allotment as on date is as under:

<i>Particulars</i>	<i>Rupees</i>
<u>CAPITAL:</u>	
<i>Authorised:</i> 250,000,000 Equity Shares of Rs. 2/- each	500,000,000
<i>Issued, Subscribed and Paid up:</i> 79,408,926 Equity Shares of Rs. 2/- each Subscribed & Fully Paid up	158,817,852

## **6 TRANSFER AND VESTING OF UNDERTAKING**

6.1 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 Amalgamating Company as a going concern shall be transferred to and vested in or be deemed to be transferred to and vested in the Amalgamated Company in such a manner that:

6.1.1 all the Assets of the Amalgamating Company immediately before the amalgamation become the property of the Amalgamated Company by virtue of the amalgamation;

6.1.2 all the Liabilities of the Amalgamating Company immediately before the amalgamation become the Liabilities of the Amalgamated Company by virtue of the amalgamation;



- 6.2 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 Amalgamating Company as a going concern shall be transferred to and vested in or be deemed to be transferred to and vested in the Amalgamated Company in the following manner:
- 6.2.1 With effect from the Appointed Date, the whole of the businesses and the undertaking of the Amalgamating Company and all the Assets of the Amalgamating Company, including the Assets specified in Clause 6.2.2 and Clause 6.2.3, of whatsoever nature and wheresoever situated, shall, under the provisions of Sections 391 and 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 Amalgamated Company as a going concern so as to become, as from the Appointed Date, the Assets and Liabilities of the Amalgamated Company and to vest all the right, title and interest therein to the Amalgamated Company.
- 6.2.2 With effect from the Appointed Date, all the moveable Assets including plant & machinery, furniture & fixtures, office equipments, vehicles, computers, air conditioner, electric installation, fire extinguisher, inventories, cash in hand of the Amalgamating Company, 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 Amalgamated Company to the end and intent that the property therein passes to the Amalgamated Company, on such delivery or endorsement and/ or delivery in pursuance of the provisions of Sections 391 - 394 and other applicable provisions of the Act.
- 6.2.3 In respect of the movable properties of the Amalgamating Company (other than those specified in Clause 6.2.2 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 Amalgamated 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 deposittee,

as the case may be, that pursuant to the 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 Amalgamating Company as the person entitled thereto to the end and intent that the right of the Amalgamating Company to recover or realize all such debts (including the debts payable by such person or depositor to the Amalgamating/Transferor Company) stands without any further act or deed, transferred and assigned to the Amalgamated/Transferee Company and that appropriate entries should be passed in its books to record the aforesaid change.

6.2.4 The Amalgamated Company may, at any time after 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 Amalgamating Company is party or any writings as may be necessary to be executed in order to give formal effect to the above provisions. The Amalgamated Company shall under the provisions of the Scheme be deemed to be authorised to execute any such writings on behalf of the Amalgamating Company and to implement or carry out all such formalities or compliance referred to above on the part of the Amalgamating Company to be carried out or performed.

6.2.5 With effect from the Appointed Date, all debts, Liabilities, duties, obligations of every kind, nature and description of the Amalgamating Company shall, under the provisions of sections 391 and 394 of the Act without any further act or deed be transferred to or be deemed to be transferred to the Amalgamated Company so as to become as from the Appointed Date the debts, Liabilities, duties, obligations of the Amalgamated 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 Clause.

6.3 If and to the extent there are inter-corporate loans, deposits, receivables or balances between the Amalgamating Company and the Amalgamated 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 Amalgamated 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 Amalgamating Company and the Amalgamated Company.

- 6.4 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 Amalgamating Company.

Provided however, that any reference in any security documents or arrangements, to which the Amalgamating Company is a party, to the Assets of the Amalgamating Company which it has offered or agreed to be offered as security for any financial assistance or obligations, to any secured creditors of the Amalgamating Company, shall be construed as reference only to the Assets of the Amalgamating Company as are vested in the Amalgamated 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 Amalgamated Company, unless specifically agreed to by the Amalgamated 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 the Amalgamating Company which shall vest in the Amalgamated Company by virtue of the Scheme and the Amalgamated Company shall not be obliged to create any further or additional security thereof after the Scheme has become effective or otherwise.

- 6.5 With effect from the Effective Date, the Amalgamated Company shall carry on and shall be authorized to carry on the business carried on by the Amalgamating Company in addition to the business of the Amalgamated Company.

- 6.6 All licenses, approvals, permits, registration and membership of the Amalgamating Company, 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, if any shall be transferred to and vested in and become the licenses, approvals, permits and registration and membership of the Amalgamated

Company and the Amalgamated Company shall continue to enjoy the benefits, rights and be liable for all obligations and liabilities as are available to or binding upon the Amalgamating Company in whose favour such licences, etc. have been issued or granted and the name of the Amalgamating Company shall be deemed to have been substituted by the name of the Amalgamated Company.

- 6.7 The transfer and/ or vesting of all the Assets and Liabilities of the Amalgamating Company to the Amalgamated Company and the continuance of all the contracts or proceedings by or against the Amalgamated Company shall not affect any contract or proceedings relating to the Assets or the Liabilities, tenancy rights, licenses already concluded by the Amalgamating Company on or after the Appointed Date.

## **7 BUSINESS AND PROPERTY OF THE AMALGAMATING COMPANY TO BE HELD IN TRUST FOR THE AMALGAMATED COMPANY**

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

- 7.1 The Amalgamating Company 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 Amalgamated Company. The Amalgamating Company hereby undertakes to hold the Assets, properties and Liabilities with utmost prudence until the Effective Date.
- 7.2 All the profits or income accruing or arising to the Amalgamating Company and all costs, charges, expenditure, taxes or losses arising or incurred by the Amalgamating Company shall, for all purposes, be treated and be deemed to be and accrue as the profits, income, costs, charges, expenditure, taxes or losses, as the case may be, of the Amalgamated Company.
- 7.3 The Amalgamating Company 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 Amalgamated 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 Amalgamating Company.

Provided however, the Amalgamating Company 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 Amalgamated Company in that behalf.

- 7.4 The Amalgamating Company shall not vary the terms and conditions of the employment of its employees except in the ordinary course of business.
- 7.5 The Amalgamating Company shall not, without the prior written consent of the Board of Directors of the Amalgamated Company, undertake any new business or substantial expansion of their existing business. However the Amalgamating Company shall be entitled to declare dividend.
- 7.6 The Amalgamating Company 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 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 Amalgamated Company and the Amalgamating Company.

## **8 LEGAL PROCEEDINGS**

- 8.1 All suits, actions, appeals, writ petitions, revisions or other proceedings of whatever nature (hereinafter called "the Proceedings") by or against the Amalgamating Company pending and/or arising on or before the Effective Date, if any shall not abate, not be discontinued or not be in any way prejudicially affected by reason of the transfer of the business of the Amalgamating Company pursuant to this Scheme but the Proceedings be continued, prosecuted and enforced by or against the Amalgamated 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 Amalgamating Company as if the Scheme had not been made. On and from the

Effective Date, the Amalgamated Company shall initiate, continue and defend any Proceedings which were earlier in the name of the Amalgamating Company.

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

## **9 CONTRACTS, DEEDS AND OTHER INSTRUMENTS**

The Transfer and vesting of the Assets, properties and Liabilities under Clause 6 above and the continuance of the proceedings mentioned in Clause 8 above shall not in any manner affect the transactions or proceedings already concluded by or against the Amalgamating Company:

- 9.1 All acts, contracts, agreements, deeds, bonds or any other instruments executed by the Amalgamating Company on or before the Appointed Date shall be in full force and effect against or in favor of the Amalgamated Company as the case may be and may be enforced as fully and effectually as if, instead of the Amalgamating Company, the Amalgamated Company had been a party or beneficiary thereto.
- 9.2 All acts, contracts, agreements deeds, bonds or any other instruments executed by the Amalgamating Company after the Appointed Date but before the Effective Date shall be in full force and effect against or in favor of the Amalgamated Company as the case may be and may be enforced as fully and effectually as if, instead of the Amalgamating Company, the Amalgamated Company had been a party or beneficiary thereto.
- 9.3 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 Amalgamating Company are / is a party or to the benefit of which the Amalgamating Company 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 Amalgamated Company as the case may be and may be enforced as fully and effectually as if, instead of the Amalgamating Company, the Amalgamated Company had been a party or beneficiary thereto. The Amalgamated 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 Amalgamating Company will, if necessary, also be a party in order to give formal effect to the provisions of this Clause, if so required or becomes necessary.

- 9.4 As a consequence of the amalgamation of the Amalgamating Company with the Amalgamated Company in accordance with this Scheme, the recording of change of name from the Amalgamating Company to the Amalgamated 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.
- 9.5 The Amalgamated 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 Amalgamating Company is a party or any writings, as may be necessary, to be executed in order to give formal effect to the above provisions. The Amalgamated Company shall under the provisions of the Scheme be deemed to be authorised to execute any such writings on behalf of the Amalgamating Company, implement or carry out all such formalities or compliances referred to above on the part of the Amalgamating Company, as the case may be, to be carried out or performed.
- 9.6 For the removal of doubts, it is expressly made clear that the dissolution of the Amalgamating Company 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 Amalgamating Company 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 Amalgamating Company shall be construed as reference only to the Amalgamated Company with effect from the Appointed Date.

## **10 TREATMENT OF TAXES**

- 10.1 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 Amalgamating Company to the extent not provided for or covered by tax provision in the Accounts made as on the date immediately preceding the Appointed Date shall be transferred to Amalgamated Company.
- 10.2 All taxes (including income tax, wealth tax, sales tax, excise duty, customs duty, service tax, VAT, etc.) paid or payable by the Amalgamating Company in respect of the operations and/or the profits of the business on and from the Appointed Date, shall be on account of the Amalgamated 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 Amalgamating Company 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 Amalgamated Company, and, shall, in all proceedings, be dealt with accordingly.
- 10.3 Any refund under the Tax Laws due to Amalgamating Company consequent to the assessments made on Amalgamating Company 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 Amalgamated Company.
- 10.4 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 Amalgamating Company is entitled to in terms of the applicable Tax Laws of the Union and State Governments, shall be available to and vest in the Amalgamated Company.

## **11 SAVING OF CONCLUDED TRANSACTIONS**

The transfer of all the Assets and Liabilities and the licenses and permits and membership etc. under Clause 6 above and the continuance of proceedings by or against the



Amalgamated Company under Clause 8 above shall not affect any transaction or proceedings already concluded by the Amalgamating Company on or before the Appointed Date, and after the Appointed Date till the Effective Date, to the end and intent that the Amalgamated Company accepts and adopts all acts, deeds and things done and executed by the Amalgamating Company in respect thereto as done and executed on behalf of itself.

## **12 CONSIDERATION**

The Amalgamating Company is a 100% subsidiary of the Amalgamated Company and its entire equity share capital is held by the Amalgamated Company in its own name and jointly with its nominees under Section 49 of the Companies Act 1956 (corresponding Section 187 of the Companies Act, 2013). Accordingly, there would be no issue of equity shares of the Amalgamated Company to the shareholders (including those holding the shares as nominees of the Amalgamated Company) of the Amalgamating Company. Pursuant to the merger of the Amalgamating Company with the Amalgamated Company, the investment in the equity shares of the Amalgamating Company, appearing in the books of account of the Amalgamated Company will stand cancelled.

## **13 STAFF, WORKMEN AND EMPLOYEES OF THE AMALGAMATING COMPANY**

13.1 All staff, workmen and employees of the Amalgamating Company in permanent service on the Effective Date shall become the staff, workmen and employees of the Amalgamated 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 Amalgamating Company as the case may be on the said date.

13.2 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 Amalgamating Company are concerned, upon the Scheme becoming effective, the Amalgamated Company shall stand substituted for the Amalgamating Company 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 the said Funds in accordance with provisions of such schemes and 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 Amalgamating Company in relation to such Funds/ Schemes shall become those of the Amalgamated Company. It is clarified that the services of the staff, workmen and employees of the Amalgamating Company will be treated as having been continuous for the purpose of the aforesaid Funds or provisions.

13.3 The Amalgamating Company shall not vary the terms and conditions of the employment of its employees except in the ordinary course of business.

#### **14 ACCOUNTING TREATMENT**

Upon the Scheme becoming effective, the Amalgamated Company shall account for the amalgamation as under:

- i) The Amalgamated Company shall account for the Amalgamation of the Amalgamating Company 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 Amalgamated Company shall record all the assets and liabilities including reserves of the Amalgamating Company transferred to and vested in the Amalgamated Company pursuant to this Scheme, at their respective book values as appearing in the books of Amalgamating Company.
- iii) Upon coming into effect of this Scheme, to the extent that there are inter-corporate loans or balances between the Amalgamating Company and the Amalgamated 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 Amalgamating Company and the Amalgamated Company for the reduction of any assets or liabilities, as the case may be.

- iv) The investment in shares of the Amalgamating Company, appearing in the books of account of the Amalgamated Company shall, without any further act or deed, stand cancelled.
- v) The difference between the share capital of the Amalgamating Company and the book value of investments of Amalgamating Company in the Amalgamated Company shall be adjusted to Reserves in the books of the Amalgamated Company.
- vi) Adjustment for differences in accounting policies  
In case of any differences in the accounting policy between the Amalgamating Company and the Amalgamated Company, the impact of the same till the Amalgamation will be quantified and adjusted in Statement of Profit and Loss of the Amalgamated Company in accordance with AS-5 to ensure that the financial statements of the Amalgamated Company reflects the financial position on the basis of consistent accounting policy.

#### **15. BOARD OF DIRECTORS OF THE AMALGAMATING COMPANY**

The Board of Directors (or any committee/ sub-committee thereof) of the Amalgamating Company, upon the Scheme becoming effective, shall without any further act, instrument and deed stand dissolved. All the Directors of the Amalgamating Company shall cease to be Directors of the Amalgamating Company on coming into effect of this Scheme. However, if any such Director is a Director of the Amalgamated Company he would continue to hold his office in the Amalgamated Company.

#### **16. APPLICATION TO THE HON'BLE HIGH COURT OF BOMBAY**

- 16.1 The Amalgamating Company and if required the Amalgamated Company shall with all reasonable dispatch, make applications to the jurisdictional High Court 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 Amalgamating Company as may be directed by the High Court.
- 16.2 On the Scheme being agreed to by the requisite majorities of the members of the Amalgamating Company, if so directed to be taken by the High Court, the Amalgamating Company shall, with all reasonable dispatch, apply to the High Court of Judicature at Bombay 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 Amalgamating Company without winding up.

#### **17. FILING / AMENDMENT OF RETURNS**

Amalgamated 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. Amalgamated Company is expressly permitted to amend TDS/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 Amalgamating Company shall be deemed to be the taxes/ duties paid by the Amalgamated Company and the Amalgamated 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 Amalgamating Company.

#### **18. SCHEME CONDITIONAL ON APPROVAL/SANCTIONS**

This Scheme is specifically conditional upon and subject to:

- 18.1 Approval of required majority of class of persons of Transferor company or Transferee company, if required or as may be directed by the High Court.
- 18.2 The requisite approval from the shareholders of the Transferee Company would be obtained by way of postal ballot.
- 18.3 The Scheme will be sanctioned by public shareholders of the Transferee Company by voting through postal ballot and e-voting, after disclosure of all material facts in the explanatory statement sent to the shareholders in relation to such resolution.
- 18.4 The Scheme shall be acted upon only if the votes cast by the public shareholders in favour of the proposal are more than the number of votes cast by the public shareholders against it. The term 'public' shall carry the same meaning as defined under Rule 2 of Securities Contracts (Regulation) Rules, 1957.

- 18.5 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.
- 18.6 The approval of, and agreement to the Scheme by the requisite majority of members of the Amalgamating Company or by the Amalgamated 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.
- 18.7 The sanction of the High Court being obtained by the Amalgamating Company and if required by the Amalgamated Company under Sections 391 and 394 and other applicable provisions of the Act.
- 18.8 The authenticated /certified copies of order of the High Court sanctioning the Scheme being filed with the concerned Registrar of Companies, Pune.

## **19. EFFECT OF NON-APPROVALS**

In the event of any of the approvals or conditions enumerated in clause 18 above not being obtained or complied or for any reasons this Scheme cannot be implemented then the Board of Directors of the Amalgamating Company and the Amalgamated 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 Amalgamating Company and the Amalgamated Company or their shareholders or creditors or any other person.

## **20. DISSOLUTION OF AMALGAMATING COMPANY**

On the Scheme coming into effect, the Amalgamating Company shall, without any further act or deed, stand dissolved without winding up.

## **21. MODIFICATION, WITHDRAWAL OR AMENDMENT TO THE SCHEME**

- 21.1 Subject to approval of High Court, the Amalgamating Company and the Amalgamated 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.

21.2 For the purpose of giving effect to this Scheme or to any modifications or amendments thereof, the Directors of the Amalgamated Company or such other person who are so authorised 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 Amalgamating Company.

21.3 The Amalgamating Company and the Amalgamated 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**

All costs, charges and expenses of the Amalgamating Company and the Amalgamated 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 Amalgamating Company in pursuance of this Scheme shall, except as specifically provided herein, be borne and paid solely by the Amalgamated Company.

In the event mentioned in Clause 20 above, each party shall bear their respective costs, charges and expenses in connection with the Scheme. If the cost cannot be identified, the same shall be share equally between the Amalgamating Company and the Amalgamated Company.

