

381
28/11/18

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

**CP (CAA) No. 123/2018 in
CA(CAA) No. 110/230-232/NCLT/AHM/2018**

Coram: **Hon'ble Ms. MANORAMA KUMARI, MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 13.11.2018**

Name of the Company: Vodafone Idea Ltd.

Section of the Companies Act: Section 230-232 of the Companies Act, 2013

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	PARINI SHAH FOR SINGHI & CO	ADVOCATE	PETITIONER	PARINI. K. SHAH
2.				

ORDER

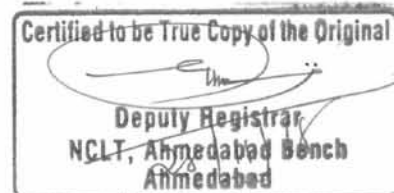
Advocate Ms. Parini Shah i/b Singhi & Co. is present for the applicant.

The Order is pronounced in the open court, vide separate sheet.

Manora
**MANORAMA KUMARI
MEMBER JUDICIAL**



Dated this the 13th day of November, 2018.



C.P. (CAA) No. 122/NCLT/AHM/2018
IN
C.A. (CAA) No. 109/NCLT/AHM/2018
AND
C.P. (CAA) No. 123/NCLT/AHM/2018
IN
C.A. (CAA) No. 110/NCLT/AHM/2018

NATIONAL COMPANY LAW TRIBUNAL,
BENCH, AT AHMEDABAD

C.P. (CAA) No. 122/NCLT/AHM/2018
IN
C.A. (CAA) No. 109/NCLT/AHM/2018
AND
C.P. (CAA) No. 123/NCLT/AHM/2018
IN
C.A. (CAA) No. 110/NCLT/AHM/2018

In the matter of:

Aditya Birla Telecom Limited,
a company incorporated under the
provisions of the Companies Act, 1956 and
having its registered office at
4th Floor, Suman Tower,
Sector-11, Gandhinagar-382 011,
Gujarat, India.

... Petitioner Company
(Transferor Company)

Vodafone Idea Limited,
a company incorporated under the
provisions of the Companies Act, 1956
and having its registered office at
Suman Tower, Plot No. 18,
Sector-11, Gandhinagar, 382 011,
Gujarat, India.

... Petitioner Company
(Transferee Company)

Order delivered on 13th November, 2018

Coram: Hon'ble Ms. Manorama Kumari, Member (Judicial)

Appearance:

Mr. Sandeep Singhi with Ms. Parini Shah, Advocates, for M/s. Singhi & Co., Advocates,
for the Petitioner Companies.

COMMON ORDER

1. The instant petitions are filed by the aforesaid Petitioner Companies for
sanctioning of the Scheme of Amalgamation of Aditya Birla Telecom Limited,
the Petitioner Transferor Company with Vodafone Idea Limited, the Petitioner
Transferee Company (Scheme).



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C.P. (CAA) No. 122/NCLT/AHM/2018
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C.A. (CAA) No. 109/NCLT/AHM/2018
AND
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IN
C.A. (CAA) No. 110/NCLT/AHM/2018

2. That the Petitioner Transferor Company of the C.P. (CAA) No. 122/NCLT/AHM/2018, i.e., Aditya Birla Telecom Limited, had filed an application before this Tribunal being C.A. (CAA) No. 109/NCLT/AHM/2018, inter alia, for seeking dispensation from the convening and holding of the meeting of the Equity Shareholders of the Petitioner Transferor Company. This Tribunal vide its order dated 20.9.2018, inter alia, dispensed with the holding and convening of the meeting of the Equity Shareholders of the Petitioner Transferor Company.
3. That the Petitioner Transferee Company of the C.P. (CAA) No. 123/NCLT/AHM/2018, i.e., Vodafone Idea Limited, had filed an application before this Tribunal being C.A. (CAA) No. 110/NCLT/AHM/2018, inter alia, for seeking dispensation from the convening and holding of the meetings of the Equity Shareholders, Secured Creditors (including secured debenture holders) and Unsecured Creditors (including unsecured debenture holders) of the Petitioner Transferee Company. This Tribunal vide its order dated 20.9.2018, inter alia, dispensed with the holding and convening of the meetings of the Equity Shareholders, Secured Creditors (including secured debenture holders) and Unsecured Creditors (including unsecured debenture holders) of the Petitioner Transferee Company.
4. The Petitioner Companies thereafter filed C.P. (CAA) No. 122/NCLT/AHM/2018 and C.P. (CAA) No. 123/NCLT/AHM/2018, seeking sanction of the Scheme. This Tribunal vide its orders dated 8.10.2018 admitted the aforesaid Company Petitions and directed issuance of notice of hearing of petition to the (i) the Central Government through Regional Director, North-Western Region; (ii) Registrar of Companies, Gujarat; (iii) Official Liquidator; and (iv) concerned Income-Tax Authorities in case of both the aforesaid Petitions. This Tribunal also directed publication of notice of hearing of the petitions in English daily, "Indian Express", Ahmedabad Edition and in Gujarati daily, "Sandesh", Ahmedabad Edition in respect of both the aforesaid Petitions.
5. That in pursuance to the orders dated 8.10.2018 passed by this Tribunal, in C.P. (CAA) No. 122/NCLT/AHM/2018 and C.P. (CAA) No. 123/NCLT/AHM/2018, both the Petitioner Companies i.e. Aditya Birla Telecom Limited and Vodafone Idea Limited, respectively, have published the notice of hearing of the petition in



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English daily, "Indian Express", Ahmedabad Edition and in Gujarati daily, "Sandesh", Ahmedabad Edition on 12.10.2018. The affidavits of service, on behalf of each of the Petitioner Companies, both dated 16.10.2018, have been filed by the Petitioner Companies confirming the publication of the notice in the newspapers as directed by this Tribunal and also the notice of hearing of the petitions being served upon the aforesaid statutory authorities.

6. In response to the notice to the Official Liquidator in C.A. (CAA) No. 109/NCLT/AHM/2018, the Official Liquidator, Ahmedabad has filed his report dated 29.10.2018 to which Aditya Birla Telecom Limited has filed its affidavit dated 30.10.2018.

In respect of the observations made by the Official Liquidator, Ahmedabad in paragraph 14 of its representation that the Transferor Company (ABTL) holds investment in equity shares of Indus Towers Limited (Indus), which is a joint venture company. The income from such investment exceeds more than 50% of its gross income as well investments in financial assets by ABTL is more than 50% of their total assets. Accordingly, ABTL would be deemed to be a non-banking financial company under the Reserve Bank of India Act, 1934 (RBI Act). Although a non-banking financial company which has net owned funds in excess of Rs. 2 crores require to register itself with the RBI. However, on enquiry, management of the ABTL explained that such registration is not necessary where a company is a Core Investment Company (CIC) (other than a systemically important CIC). The Petitioner Transferor Company, in paragraph 3 of its reply, has stated that it is a Core Investment Company (CIC) and therefore, it does not require registration as a Non-Banking Financial Company. Further, it is stated and submitted that the Petitioner Transferee Company shall preserve the books of accounts, papers and records of the Petitioner Transferor Company and shall not dispose of without the prior permission of the Central Government. It is also stated and submitted that the Transferee Company shall pay the cost of Rs. 15,000/- to the Official Liquidator as and when directed by this Hon'ble Tribunal.

That in respect of the observations made by the Official Liquidator, Ahmedabad in paragraph 19 of its representation, the Petitioner Transferor Company, in paragraph 4 of its reply, has stated the that contents of said paragraph of the report are general in nature. It is also stated and submitted by the Petitioner Transferor Company that the Scheme nowhere proposes absolving the Petitioner Transferor



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Company or the Petitioner Transferee Company from any of its statutory liabilities, if any.

In respect of the observations made by the Official Liquidator, Ahmedabad in paragraph 20 of its report, the Petitioner Transferor Company, in paragraph 5 of its reply, has stated that they shall file the certified copy of the final order sanctioning the Scheme with the Registrar of Companies within 30 days from the date of passing of such final order.

The Official Liquidator in its representation dated 29.10.2018 has stated Income-tax assessment of the Transferor Company has been completed till A.Y. 2013-14 and no assessment notice has been received by the Transferor Company for A.Y. 2014-15 to 2016-17.

In light of the aforesaid, this Tribunal is of the view that the observations of the Official Liquidator, Ahmedabad, in its representations stand satisfied.

7. In response to the notice to the Regional Director, North Western Region, Ministry of Corporate Affairs, the Regional Director has filed common representation dated 22.10.2018.

In paragraph 2(d) of the said common representation it is mentioned by the Regional Director that the Petitioner Transferee Company viz. Vodafone Idea Limited is listed with NSE and BSE. In this regard, the petitioner company has stated that the NOCs from the respective stock exchanges are not required in the matter since all the shares of the Transferor Company are held by the Petitioner Transferee Company, pursuant to the SEBI Circular No. CFD/DIL/CIR/2018/2 dated 03.01.2018. This Tribunal be pleased to direct the Petitioner Company to submit all the relevant facts to state that NOCs from the respective stock exchanges are not required in the said matter.

In paragraph 2(e) of the said common representation it is mentioned by the Regional Director that the business of both the petitioner companies is relating to telecom business which is regulated by the respective regulatory authority and therefore submitted that this Tribunal be pleased to direct the Companies to obtain licenses, approvals and other permissions, if any, from the regulatory authority/concerned ministry and to follow all the procedures as may be required



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by the regulatory authorities on payment of fees, if any, on sanctioning of the scheme by this Tribunal.

In paragraph 2(f) of the said common representation, it is mentioned by the Regional Director that the Petitioner Transferee Company has foreign shareholders viz. Foreign Portfolio Investors, Foreign Bodies Corporate and Non-Resident Indians and therefore, the Petitioner Transferee Company to ensure about the compliances of FEMA and RBI guidelines in the matter from time to time.

In paragraph 2(g) of the said common representation, it is mentioned by the Regional Director that it is observed from the clause 1.1.2 of the Scheme that the appointed date is proposed in the Scheme as 01.04.2018 and both the Petitioner Companies have not filed their Balance Sheets as at 31.03.2018 with MCA Portal. The Regional Director has referred Section 137 of the Companies Act and suggested this Tribunal be pleased to direct the Petitioner Companies to file the Annual Return and Balance Sheet before passing of order of the Scheme.

8. Heard Mr. Sandeep Singhi, the Ld. Lawyer for the Petitioner Companies who stated that Petitioner Transferee Company, namely Vodafone Idea Limited, has filed affidavit in reply dated 30.10.2018 to the common representation dated 22.10.2018 filed by the Regional Director.

The Petitioner/Transferee Company in paragraph 3 of its reply has stated that SEBI Circular No. CFD/DIL3/CIR/2018/2 dated 3.1.2018, inter alia, provides that no prior approval of the Stock Exchanges is required when the scheme solely provides for merger of a wholly owned subsidiary with its parent entity. In light of the aforesaid, this Tribunal is of the view that the observation of the Regional Director at paragraph 2(d) of the common representation stands satisfied.

The Petitioner/Transferee Company in paragraph 4 of its reply has stated that the Petitioner Transferor Company is not holding any telecom licenses. Therefore, the question of seeking any permission from any of the regulatory authorities/concerned ministry, does not arise. In light of the aforesaid, this Tribunal is of the view that the observation of the Regional Director at paragraph 2(e) of the common representation stands satisfied.



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The Petitioner/Transferee Company in paragraph 5 of its reply has stated that under the Scheme, no shares are being allotted by the Petitioner Transferee Company either to its shareholders or to the shareholders of the Petitioner Transferor Company. In the circumstances, the question of complying with the provisions of FEMA and RBI guidelines does not arise. In light of the aforesaid, this Tribunal is of the view that the observation of the Regional Director at paragraph 2(f) of the common representation stands satisfied.

The Petitioner/Transferee Company in paragraph 6 of its reply has stated that in case of the Petitioner Transferee Company, the Registrar of Companies has granted extension till 31.12.2018 to hold its Annual General Meeting and therefore, the Petitioner Transferee Company undertakes to file its Annual Return and Balance Sheet after the meeting is held. Further, it is stated and submitted that the Annual Return and Balance Sheet of the Petitioner Transferor Company has already been filed with the Registrar of Companies. In light of the aforesaid, this Tribunal is of the view that the observation of the Regional Director at paragraph 2(g) of the common representation stands satisfied.

9. Considering the entire facts and circumstances of the case and on perusal of the Scheme and the proceedings, it appears that the requirements of the provisions of sections 230-232 of the Companies Act, 2013 are satisfied. Accordingly, both the Company Petitioners and the Scheme are/is allowed. The Scheme is hereby sanctioned as per prayers made in the respective Company Petitions subject to following conditions:

- (i) Approval of the Scheme by this Tribunal would not deter the Income-tax Authorities in scrutinizing the tax returns filed by the Petitioner Companies after giving effect to the Scheme. The decision of the Income-tax Authorities as well as any higher authority will be binding on the Petitioner Companies.
- (ii) That the petitioners shall abide by the tax implication, if any, arising out of this Scheme pre or post. Further approval of the Scheme by this Bench/Tribunal shall not deter/affect, any other competent authority(ies) in enforcing existing laws of the land, time being in force.
- (iii) Petitioner Companies are directed to accept the liability(ies) arise/arisen if any, on account of lapses or contravention of statutory provisions prior or post the Scheme of Amalgamation, FEMA/RBI Regulations etc.



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(iv) In the event of detection of any lapses on the part of the Petitioner Companies in compliance of any direction/guidelines and/or violation of any law for the time being in force, towards the Scheme of Arrangement, then the instant Scheme shall not come on the way/deter the competent authority(ies) to take any action for such violation or lapses.

(v) The Petitioner Transferee Company shall comply with all the applicable provisions of the Income-tax Act and all tax issues, if any, arising out of the Scheme in accordance with the law.

(vi) The Petitioner shall ensure the compliance of directions issued by Bombay Stock Exchange (BSE) and National Stock Exchange (NSE) and Reserve Bank of India towards the aforesaid Scheme of Arrangement in the nature of demerger, if applicable.

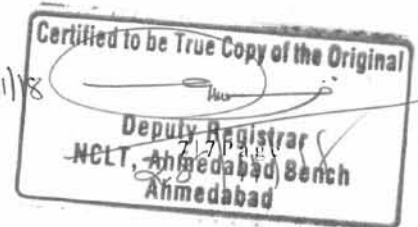
(vii) The Petitioner Transferee Company shall make compliance of AS-14 (INDAS-103) and/or other applicable accounting standards which are necessary.

10. The fee of Official Liquidator is quantified at Rs. 15,000/- in C.P. (CAA) No. 122/NCLT/AHM/2018. The said fees would be paid by Vodafone Idea Limited. Further, the fees of Regional Director is quantified at Rs. 25,000/-, for both the C.P. (CAA) No. 122/NCLT/AHM/2018 and C.P. (CAA) No. 123/NCLT/AHM/2018. The said fees of Rs. 25,000/- would be paid by the Petitioner Transferee Company, Vodafone Idea Limited.
11. Filing and issuance of drawn up orders are dispensed with. All concerned authorities to act on a copy of this order along with the Scheme duly authenticated by the Registrar of this Tribunal. The Registrar of this Tribunal shall issue the authenticated copy of this order alongwith Scheme immediately.
12. These Company Petitions are disposed of accordingly.



Date of pronouncement of Order: 13/11/18
Date on which application for Certified Copy was made: 26/11/18
Date on which Certified Copy was ready: 28/11/18
Date on which Certified Copy delivered: 28/11/18

Manor
MS. MANORAMA KUMARI
MEMBER (JUDICIAL)



SCHEME OF AMALGAMATION

of

ADITYA BIRLA TELECOM LIMITED

with

VODAFONE IDEA LIMITED

(under Sections 230 to 232 and other applicable provisions of the Companies Act, 2013)

PREAMBLE

This Scheme (as defined hereinafter) is presented under Sections 230 to 232 and other applicable provisions of the Act (as defined hereinafter), for the amalgamation of the Transferor Company (as defined hereinafter) with the Transferee Company (as defined hereinafter); and for matters consequential, incidental, supplementary and or otherwise integrally connected therewith.

INTRODUCTION

- (a) The Transferor Company was incorporated on 20th day of December 2005 as Aditya Birla Telecom Limited, a public company with the Registrar of Companies, Maharashtra, under the provisions of the Companies Act, 1956 with Corporate Identification Number U64202GJ2005PLC103905. The registered office of the Transferor Company was shifted from the State of Maharashtra to the State of Gujarat on 5th day of September 2018. Presently, the registered office of the Transferor Company is situated at 4th Floor, Suman Tower, Sector-11, Gandhinagar-382 011, Gujarat, India.
- (b) The Transferor Company is a wholly-owned subsidiary of the Transferee Company. The Transferor Company is in the business of wholesale trading of data cards. The Transferor Company also holds 11.15% of the paid-up equity share capital of Indus Towers Limited.
- (c) The Transferee Company was incorporated on 14th day of March 1995 as Birla Communications Limited, a public company with the Registrar of Companies, Maharashtra, under the provisions of the Companies Act, 1956 with Corporate Identification Number L32100GJ1996PLC030976. Its name was changed to Birla AT&T Communications Limited on 30th day of May 1996. Its registered office was shifted from the State of Maharashtra to the State of Gujarat on 22nd day of October 1996. Its name was further changed to: (i) Birla Tata AT&T Limited on 6th day of November 2001; and (ii) Idea Cellular Limited on 1st day of May 2002. A composite scheme of amalgamation and arrangement was proposed among Vodafone Mobile Services Limited and Vodafone India Limited and the Transferee Company ("composite scheme" for short). Pursuant to the sanctioning of the composite scheme by the Tribunal (as defined hereinafter) and by the National Company Law Tribunal, Bench at Mumbai, respectively, the composite scheme has been made effective from 31st day of August 2018. The name of the Transferee Company was changed to Vodafone Idea Limited on 31st day of August, 2018. The equity shares of the Transferee Company are listed on BSE Limited ('BSE') and National Stock Exchange of India Limited ('NSE'). The registered office of the Transferee Company is situated at Suman Tower, Plot No. 18, Sector-11, Gandhinagar, 382 011, Gujarat, India.
- (d) The Transferee Company, inter alia, holds pan-India Unified Access Service/Unified Licence (authorisation for access services), Cellular Mobile Telephone Service, National Long Distance, International Long Distance and Internet Service Provider licences. The Transferee Company is primarily engaged in the business of providing fixed and mobile telecommunications services to consumers and enterprise customers, including direct-to-consumer video and content services that are bundled with



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telecommunication services in India. The Transferee Company is the holding company of the Transferor Company.

- (e) This Scheme is presented under Sections 230 to 232 and other applicable provisions of the Act for the amalgamation of the Transferor Company into and with the Transferee Company in accordance with the relevant provisions of the Act, Section 2(1B) of the Income Tax Act, 1961 and other applicable laws.

RATIONALE FOR THIS SCHEME

The amalgamation would, inter alia, bring about:

- (i) simplification of the corporate structure;
- (ii) better, efficient and economical management and control over the running of businesses of the subsidiaries;
- (iii) elimination of duplication in administrative cost and multiple record keeping thus resulting in cost savings, increased operational efficiencies and administrative convenience;
- (iv) strengthening the financial position and ability of the Transferee Company by raising resources against the assets owned by the Transferor Company, such as investments in mutual funds, Indus Towers Limited, etc., including monetisation of such assets; and
- (v) creating better synergies across the group, optimal utilization of resources and obtaining economies of scale.

PARTS OF THIS SCHEME

- (a) PART I deals with the definition, interpretation, effective date and share capital;
- (b) PART II deals with the amalgamation of the Transferor Company into and with the Transferee Company in accordance with Sections 230 to 232 of the Act; and
- (c) PART III deals with the general terms and conditions applicable to the Scheme.

PART I

1. DEFINITIONS, INTERPRETATION, EFFECTIVE DATE AND SHARE CAPITAL

1.1. DEFINITIONS

In this Scheme, the following words and expressions shall, unless the context requires otherwise, have the following meanings ascribed to them:

1.1.1. "Act" means the Companies Act, 2013 and shall include the provisions of the Companies Act, 1956, to the extent the corresponding provision in the Companies Act, 2013 has not been notified.

1.1.2. "Appointed Date" means 1st day of April 2018.

1.1.3. "Board of Directors" in relation to the Transferor Company and/or the Transferee Company, as the case may be, means the board of directors of the Transferor Company and/or the Transferee Company.



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- 1.1.4. "CENVAT" means central value added tax.
- 1.1.5. "Companies" means collectively, the Transferor Company and the Transferee Company.
- 1.1.6. "Contract" means any contract, lease, licence, indenture, agreement, commitment or other legally binding arrangement.
- 1.1.7. "Effective Date" means the last of the dates on which all the approvals or events specified under Clause 3.4 of the Scheme are obtained or have occurred or the requirement of which have been waived. References in this Scheme to the date of "upon the coming into effect of this Scheme" or "upon this Scheme becoming effective" shall mean the Effective Date.
- 1.1.8. "Governmental Approval" means any consent, approval, licence, permit, order, exemption, certificate, clearance or authorisation obtained or to be obtained from, or any registration, notification, declaration or filing made to or with, or to be made to or with, any Governmental Authority and shall include Required Governmental Filings.
- 1.1.9. "Governmental Authority" means any national, regional or local government or governmental, administrative, fiscal, judicial, or government-owned body or any of its ministries, departments, secretariats, agencies or any legislative body, commission, authority, court or tribunal or entity, and shall include the Stock Exchanges, any relevant Tax authority and any other authority exercising jurisdiction over the Companies.
- 1.1.10. "Income Tax Act" means the Income Tax Act, 1961.
- 1.1.11. "Intellectual Property Rights" means all intellectual property rights, including with respect to all patents, patent applications, and trademarks, service marks, trade names, logos, corporate names, brand names, domain names, all copyrights, designs, and all registrations, applications and renewals in connection therewith, and software and all website content (including text, graphics, images, audio, video and data), trade secrets, confidential business information and other proprietary information.
- 1.1.12. "Law" means any statute, law, ordinance, rule, regulation, press note, notification, circular, order, writ, injunction, directive, judgment or decree issued by any Governmental Authority.
- 1.1.13. "Licence" means any permit, licence, certification, approval, registration, consent, authorisation, variance, exemption and order issued or granted by a Governmental Authority.
- 1.1.14. "Required Governmental Filings" means, collectively, the filings required to be made with the Stock Exchanges, Tribunal and the RoC, in connection with the present Scheme.
- 1.1.15. "RoC" means the relevant Registrar(s) of Companies.
- 1.1.16. "Scheme" means this Scheme of Amalgamation, subject to any modification(s) thereto as may be imposed by the Tribunal or any modification(s) sought by the Companies, as confirmed/approved by the Tribunal.
- 1.1.17. "SEBI" means the Securities and Exchange Board of India.
- 1.1.18. "SEBI Circular" means, together, the circular no. CFD/DIL3/CIR/2017/21 dated 10th day of March 2017, the circular no. CFD/DIL3/CIR/2017/26 dated 23rd day of March 2017, the circular no. CFD/DIL3/CIR/2017/105 dated 21st day of September 2017 and circular no. CFD/DIL3/CIR/2018/2 dated 3rd day of January 2018, each issued by the SEBI.



- 1.1.19. "Stock Exchanges" means the BSE Limited and the National Stock Exchange of India Limited.
- 1.1.20. "Tax" or "Taxes" means any and all taxes (direct or indirect); surcharges, fees, levies, duties, tariffs, imposts and other charges of any kind (together with any and all interest, penalties, additions to tax and additional amounts imposed with respect thereto), in each case in the nature of a tax, imposed by any Governmental Authority (whether payable directly or by withholding), including taxes based upon or measured by income, windfall or other profits, gross receipts, property, sales, severance, branch profits, customs duties, excise, CENVAT, withholding tax, self-assessment tax, advance tax, service tax, goods and services tax, stamp duty, transfer tax, value-added tax, minimum alternate tax, banking cash transaction tax, securities transaction tax, taxes withheld or paid, customs duty and registration fees.
- 1.1.21. "Transferee Company" means Vodafone Idea Limited, a public company incorporated with limited liability under the provisions of the Companies Act, 1956 with its registered office at Suman Tower, Plot No. 18, Sector -11, Gandhinagar 382 011, Gujarat, India.
- 1.1.22. "Transferor Company" means Aditya Birla Telecom Limited, a public company incorporated with limited liability under the provisions of the Companies Act, 1956 with its registered office at 4th Floor, Suman Tower, Sector-11, Gandhinagar-382 011, Gujarat.
- 1.1.23. "Tribunal" means the National Company Law Tribunal, Ahmedabad Bench, which has jurisdiction in relation to the Companies.
- 1.1.24. "Undertaking" means the Transferor Company and includes all the business, undertakings, assets, properties, investments and liabilities of the Transferor Company, of whatsoever nature and kind and wherever situated, on a going concern basis and with continuity of business of the Transferor Company, which shall include:
- (a) all moveable assets, whether present, future or contingent, in possession or reversion; including moveable and fixed plant and machinery, if any, electrical fittings, equipment, installations, appliances, tools, accessories, power lines, stocks and inventory, packaging items, computers, communication facilities, vehicles, furniture, fixtures and office equipment;
 - (b) all current assets, including sundry debtors, receivables, cash, bank balances, loans and advances, actionable claims, bills and credit notes;
 - (c) all Licences, rights, entitlements, concessions, clearances, credits, awards, sanctions, allotments, quotas, no-objection certificates, subsidies, Tax deferrals, Tax credits, (including any credits arising from advance Tax, self-assessment tax, other income Tax credits, withholding Tax credits, minimum alternate Tax credits, CENVAT credits, goods and services Tax credits, other indirect Tax credits and other Tax receivables), other claims under Tax Laws, privileges, incentives (including incentives in respect of income Tax, sales Tax, value added Tax, service Tax, custom duties and goods and services Tax); benefits, Tax holidays, Tax refunds (including those pending with any Tax authority), advantages, benefits and all other rights and facilities of every kind, nature and description whatsoever;
 - (d) all Contracts, bids, tenders, letters of intent, arrangements, understandings, engagements, deeds and instruments, including lease agreements, if any, purchase orders, service orders, operation and maintenance Contracts, memoranda of understanding, hire and purchase agreements, panchnamas for right of way, equipment purchase agreements and tenancy rights and all rights, title, interest, claims and benefits thereunder;



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- (e) all application monies, advance monies, earnest monies and security and other deposits paid to any person, including any Governmental Authority, and payments against other entitlements;
- (f) all investments, including long term, short term, quoted, unquoted investments in different instruments, including shares, debentures, units warrants and bonds;
- (g) all liabilities (including Tax and contingent liabilities), loans, debts, guarantees, duties, responsibilities and obligations;
- (h) all immoveable assets, if any, including all freehold, leasehold, leave and licenced, tenancies and any other covenants, title, interest or continuing rights in such immoveable assets;
- (i) all intangible assets, including all Intellectual Property Rights and all goodwill attaching to such Intellectual Property Rights;
- (j) all staff and employees and other obligations of whatsoever kind, including liabilities of the Transferor Company, with regard to its employees, with respect to the payment of gratuity, superannuation, pension benefits and provident fund or other compensation or benefits, if any, whether in the event of resignation, death, retirement, retrenchment or otherwise;
- (k) all reserves, provisions and funds, books, records, files, papers, engineering and process information, software licences, test reports, records of standard operating procedures, computer programs along with their licences, drawings, manuals, data, databases catalogues, quotations, sales and advertising materials, dossiers, product master cards, lists of present and former customers and suppliers, customer credit information, customer pricing information and other records, whether in physical form or electronic form;
- (l) all rights to use and avail telephone, facsimile, e-mail, internet, leased line connections an installations, utilities, electricity and other services;
- (m) all legal proceedings, including quasi-judicial, arbitral and other administrative proceedings, of whatsoever nature involving the Transferor Company; and
- (n) any other assets or liabilities.

1.2. INTERPRETATION

1.2.1 All terms and words used in the Scheme but not specifically defined herein shall, unless contrary to the context thereof, have the meaning ascribed to them under the Act.

1.2.2 In the Scheme, unless the context otherwise requires:

- (i) references to a statutory provision include any subordinate legislation made from time to time under that provision;
- (ii) references to the singular include the plural and vice versa and references to any gender includes the other gender;
- (iii) references to a statute or statutory provision include that statute or provision as from time to time modified or re-enacted or consolidated and (so far as liability thereunder may exist or can arise) shall include also any past statutory provision (as from time to time modified or re-enacted or consolidated) which such provision has directly or indirectly replaced, provided that nothing in this Clause 1.2.2 shall operate to increase the liability of any Companies beyond that which would have existed had this Clause 1.2.2 been omitted;



- (iv) references to a document shall be a reference to that document as modified, amended, novated or replaced from time to time;
- (v) headings are for convenience only and shall be ignored in construing or interpreting any provision of this Scheme;
- (vi) the expression "this Clause" shall, unless followed by reference to a specific provision, be deemed to refer to the whole Clause (and not merely the sub-Clause, paragraph or other provision) in which the expression occurs;
- (vii) references to Clauses are to Clauses of this Scheme;
- (viii) references to any person shall include that person's successors and permitted assigns or transferees;
- (ix) references to the words "include" or "including" shall be construed without limitation;
- (x) references to the words "hereof", "herein" and "hereunder" and words of similar import shall refer to this Scheme as a whole and not to any particular provision of this Scheme; and
- (xi) where a wider construction is possible, the words "other" and "otherwise" shall not be construed *ejusdem generis* with any foregoing words.

1.3. EFFECTIVE DATE

The Scheme set out herein in its present form, or with modification(s), if any, made in accordance with the provisions of the Scheme and/or the directions of the Tribunal, shall be effective from the Appointed Date but shall be operative from the Effective Date.

1.4. SHARE CAPITAL

- 1.4.1. The authorised, issued, subscribed and paid-up share capital of the Transferor Company as on 31st day of August, 2018 is as under:

SHARE CAPITAL	AMOUNT IN RS.
Authorised share capital	
7,50,00,000 equity shares of Rs.10/- each	75,00,00,000
25,00,000 Compulsorily convertible preference shares of Rs. 10/- each	2,50,00,000
Total	77,50,00,000
Issued, subscribed and paid-up capital	
1,00,00,000 equity shares of Rs.10/- each fully paid-up	10,00,00,000
Total	10,00,00,000

- 1.4.2. The authorised, issued, subscribed and paid-up capital of the Transferee Company as on 31st day of August, 2018 is as under:

SHARE CAPITAL	AMOUNT IN RS.
Authorised share capital	
2,879,30,02,000 equity shares of Rs.10/- each	28,793,00,20,000



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SHARE CAPITAL	AMOUNT IN RS.
1,500 redeemable cumulative non-convertible preference shares of Rs. 1,00,00,000/- each	1,500,00,00,000
Total	30,293,00,20,000
Issued, subscribed and paid-up capital*	
873,51,39,393 equity shares of Rs.10/- each fully paid-up	8,735,13,93,930
Total	8,735,13,93,930

* As on 31st day of August, 2018, 1,52,59,535 outstanding employee stock options existed. Assuming such options are exercised, the issued, subscribed and paid-up capital of the Transferee Company as on 31st day of August 2018 on a fully-diluted basis was 875,03,98,928 equity shares of Rs.10/- each (Rs. 8,750,39,89,280/-).

PART II

2. AMALGAMATION OF THE TRANSFEROR COMPANY INTO AND WITH THE TRANSFEREE COMPANY

2.1 Transfer and Vesting of the Transferor Company into and with the Transferee Company

2.1.1 Upon the coming into effect of this Scheme, and with effect from the Appointed Date, subject to the provisions of this Scheme, the Undertaking of the Transferor Company shall stand transferred to and vest in the Transferee Company, as a going concern, together with all its estate, properties, assets, rights, claims, title and authorities, benefits, liabilities and interest therein, subject to existing charges thereon in favour of banks and financial institutions or otherwise, as the case may be, if any, without any further act, instrument, deed, matter or thing being made, done or executed, so as to become, as and from the Appointed Date, the estate, properties, assets, rights, claims, title and authorities, benefits, liabilities and interest of the Transferee Company by virtue of and in the manner provided in the Scheme pursuant to the sanction of the Scheme by the Tribunal and the provisions of sections 230 to 232 and other applicable provisions of the Act.

2.1.2 Without prejudice to the generality of the above and to the extent applicable, unless otherwise stated herein, upon the coming into effect of this Scheme and with effect from the Appointed Date, in relation to the Undertaking:

(i) All assets of the Transferor Company that are movable in nature or are otherwise capable of transfer by physical or constructive delivery and/or by endorsement and delivery shall, pursuant to this Scheme, stand vested in and/or be deemed to be vested in the Transferee Company and shall become the property of the Transferee Company without any further act, instrument or deed.

(ii) All other movable assets of the Transferor Company, including investments in shares and any other securities, sundry debtors, actionable claims, earnest monies, receivables, bills, credits, outstanding loans and advances, if any, recoverable in cash or in kind or for value to be received, bank balances and deposits, if any, with Governmental Authorities, customers and other persons, shall stand transferred to, and vested in, the Transferee Company without any notice or other intimation to the debtors or obligors or any other person. The Transferee Company may (without being obliged to do so), if it so deems appropriate, give notice in such form as it deems fit and proper, to each such



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debtor or obligor or any other person, that pursuant to the sanction of the Scheme by the Tribunal, such debt, loan, advance, claim, bank balance, deposit or other asset be paid or made good or held on account of the Transferee Company as the person entitled thereto, to the end and intent that the right of the Transferor Company to recover or realise all such debts (including the debts payable by such debtor or obligor or any other person to the Transferor Company) stands transferred and assigned to the Transferee Company and that appropriate entries should be passed in the books of accounts of the relevant debtors or obligors or other persons to record such change.

- (iii) All lease and licence agreements, if any, entered into by the Transferor Company with landlords, owners and lessors in connection with the use of the assets of the Undertaking of the Transferor Company, together with security deposits, shall stand automatically transferred in favour of the Transferee Company on the same terms and conditions without any further act, instrument, deed, matter or thing being made, done or executed. The Transferee Company shall continue to pay rent amounts as provided for in such agreements and shall comply with the other terms, conditions and covenants thereunder and shall also be entitled to refund of security deposits paid under such agreements by the Transferor Company.
- (iv) All immovable properties of the Transferor Company, if any, including land together with the buildings and structures standing thereon and rights and interests in immovable properties of the Transferor Company, whether freehold or leasehold or otherwise, and all documents of title, rights and easements in relation thereto shall be vested in and/or be deemed to have been vested in the Transferee Company, without any further act or deed done or being required to be done by the Transferor Company and/or the Transferee Company. The Transferee Company shall be entitled to exercise all rights and privileges attached to such immovable properties and shall be liable to pay the ground rent and Taxes and fulfil all obligations in relation to or applicable to such immovable properties. The mutation or substitution of the title to the immovable properties shall, upon this Scheme becoming effective, be made and duly recorded in the name of the Transferee Company by the appropriate authorities pursuant to the sanction of this Scheme by the Tribunal and upon the coming into effect of this Scheme in accordance with the terms hereof.
- (v) Until the owned property, leasehold property and related rights thereto, licence or right to use the immovable property, tenancy rights, liberties and special status are transferred, vested, recorded, effected and/or perfected in the record of the appropriate authorities in favour of the Transferee Company, the Transferee Company shall be deemed to be authorised to carry on business in the name and style of the Transferor Company under the relevant agreement, deed, lease and/or licence, as the case may be, and the Transferee Company shall keep a record and account of such transactions.
- (vi) For purposes of taking on record the name of the Transferee Company in the records of the Governmental Authorities in respect of transfer of immovable properties to the Transferee Company pursuant to this Scheme, the Boards of Directors of the Transferor Company and the Transferee Company may approve the execution of such documents or deeds as may be necessary, including deed of assignment of lease or leave or licence (as the case may be) by the Transferor Company in favour of the Transferee Company.
- (vii) All liabilities, including all secured and unsecured debts, sundry creditors, contingent liabilities, duties, obligations and undertakings of the Transferor Company, of every kind, nature and description whatsoever and howsoever arising, raised, incurred or utilised for its business activities and operations, shall, pursuant to the sanction of the Scheme by the Tribunal and under the provisions of sections 230 to 232 of the Act and other applicable provisions, if any, of the Act, without any further act, instrument, deed, matter or thing being made, done or executed, be transferred to, and vested in, or be deemed to have



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been transferred to, and vested in, the Transferee Company, along with any charge, encumbrance, lien or security created in connection therewith, and such liabilities shall be assumed by the Transferee Company to the extent they are outstanding as on the Effective Date so as to become, the liabilities, debts, duties and obligations of the Transferee Company on the same terms and conditions as were applicable to the Transferor Company, and the Transferee Company shall meet, discharge and satisfy the liabilities and 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 liabilities have arisen in order to give effect to the provisions of this clause.

- (viii) All electricity, gas, water and any other utility connections and tariff rates in respect thereof sanctioned by various public sector and private companies, boards, agencies and authorities to the Transferor Company, together with security deposits and all other advances paid, shall stand automatically transferred in favour of the Transferee Company on the same terms and conditions without any further act, instrument, deed, matter or thing being made, done or executed. The relevant electricity, gas, water and any other utility companies, boards, agencies and authorities shall issue invoices in the name of the Transferee Company with effect from the billing cycle commencing from the month immediately succeeding the month in which the Effective Date falls. The Transferee Company shall comply with the terms, conditions and covenants associated with the grant of such connection and shall also be entitled to refund of security deposits placed with such companies, boards, agencies and authorities by the Transferor Company.

Permits

- (ix) All Governmental Approvals and other consents, permissions, quotas, rights, authorisations, entitlements, no-objection certificates and licences, including those relating to tenancies, privileges, powers and facilities of every kind and description of whatsoever nature, to which the Transferor Company is a party or to the benefit of which the Transferor Company may be entitled to use or which may be required to carry on the operations of the Transferor Company, and which are subsisting or in effect immediately prior to the Effective Date, shall be, and remain, in full force and effect in favour of or against the Transferee Company and may be enforced as fully and effectually as if, instead of the Transferor Company, the Transferee Company had been a party, a beneficiary or an obligee thereto and shall be appropriately mutated by the relevant Governmental Authorities in favour of the Transferee Company.
- (x) Without prejudice to the generality of the Clauses mentioned above, the assets of the Transferor Company shall also include all permits, licences, and any other licences, approvals, clearances, authorities, quotas, allocations granted to the Transferor Company, all municipal approvals, authorisations, statutory rights, permissions, registrations, certificates, consents, authorities (including for the operation of bank accounts), powers of attorneys (given by, issued to or executed in favour of the Transferor Company) and benefits of all Contracts, allotments, consents, quotas, rights, easements, engagements, exemptions, entitlements, advantages of whatever nature and howsoever named, properties, movable, in possession or reversion, present or contingent of whatsoever nature and where-so-ever situated, liberties, ownerships rights and benefits, earnest moneys payable pertaining to the assets mentioned in the aforesaid Clauses, if any, all other rights and benefits, licences, powers, privileges and facilities of every kind, nature and description whatsoever; right to use and avail of telephones, telexes, facsimile, connections, installations and other communication facilities and equipment, titles, all other utilities, benefits of all Contracts, government Contracts, memoranda of understanding, project service agreements, pre-qualification, applications, bids, tenders, letters of intent, concessions, non-possessionary contractual rights or any other Contracts, development rights, allocated deferred Tax and all other interest in connection



with or relation to the Transferor Company, shall stand transferred to the Transferee Company in accordance with the applicable Laws.

Contracts

- (xi) All Contracts, deeds, bonds, agreements (including in connection with Contracts for services) and other instruments to which the Transferor Company is a party, or to the benefit of which the Transferor Company may be entitled, and which are subsisting or having effect immediately prior to the Effective Date, shall, without any further act, instrument or deed, continue in full force and effect against or in favour of, as the case may be, the Transferee Company, and may be enforced effectively by or against the Transferee Company as fully and effectually as if, instead of the Transferor Company, the Transferee Company had been a party or beneficiary or obligor or obligee thereto or thereunder. The Transferee Company will, if required, enter into novation agreements in relation to such Contracts, deeds, bonds, agreements and other instruments.
- (xii) All other agreements entered into by the Transferor Company in connection with the assets of the Undertaking of the Transferor Company shall stand automatically transferred in favour of the Transferee Company on the same terms and conditions without any further act, instrument, deed, matter or thing being made, done or executed.

Legal Proceedings

- (xiii) All legal proceedings, including quasi-judicial, arbitral and other administrative proceedings, if any, of whatsoever nature by or against the Transferor Company pending on the Effective Date shall not abate or be discontinued or be prejudicially affected in any way by reason of the Scheme or by anything contained in the Scheme but shall be continued, prosecuted and enforced, as the case may be, by or against the Transferee Company, in the same manner and to the same extent as they would or might have been continued, prosecuted and enforced by or against the Transferor Company. The Transferee Company undertakes to have all legal or other proceedings specified in this Clause, initiated by or against the Transferor Company, transferred to its name and to have such proceedings continued, prosecuted and enforced by or against the Transferee Company, as the case may be. Following the Effective Date, the Transferee Company may initiate any legal proceeding for and on behalf of the Transferor Company.

Employees

- (xiv) With effect from the Effective Date, all the staff and employees of the Transferor Company, if any, who are in such employment as on the Effective Date shall become, and be deemed to have become, the staff and employees of the Transferee Company, and, subject to the provisions of the Scheme, on terms and conditions not less favourable than those on which they are engaged by the Transferor Company and without any interruption of or break in service as a result of the transfer and vesting of the Undertaking of the Transferor Company to the Transferee Company. With regard to provident fund, gratuity, superannuation, leave encashment and any other special scheme or benefits created by the Transferor Company which exist immediately prior to the Effective Date, the Transferee Company shall stand substituted for the Transferor Company for all purposes whatsoever, upon the coming into effect of this Scheme, including with regard to the obligation to make contributions to relevant authorities, such as the Regional Provident Fund Commissioner or to such other funds maintained by the Transferor Company, in accordance with applicable Law. It is hereby clarified that upon the coming into effect of this Scheme, such benefits and schemes shall continue to be provided to the transferred employees and the service of all transferred employees of the



Transferor Company for such purpose shall be treated as having been continuous.

- (xv) The Transferee Company shall comply with any agreement(s)/settlement(s) entered into with labour unions (if any) or employees by the Transferor Company. The Transferee Company agrees that for the purpose of payment of any retrenchment compensation, gratuity and other termination benefits, the past services of employees with the Transferor Company, if any, shall also be taken into account, and further agrees to pay such benefits when they become due.

Intellectual Property

- (xvi) All Intellectual Property Rights of the Transferor Company shall stand transferred to and vested in the Transferee Company.

Inter se Transactions

- (xvii) Upon the coming into effect of this Scheme and with effect from the Appointed Date, all *inter-se* Contracts solely between the Transferor Company and the Transferee Company shall stand cancelled and cease to operate, and appropriate effect shall be given to such cancellation and cessation in the books of accounts and records of the Transferee Company. For the removal of doubt, it is clarified that in view of the above, there will be no accrual of income or expense on account of any transactions, including *inter-alia* any transactions in the nature of sale or transfer of any goods, materials or services, between the Transferor Company and the Transferee Company. For avoidance of doubt, it is hereby clarified that there will be no accrual of interest or other charges in respect of any *inter se* loans, deposits or balances between the Transferor Company and the Transferee Company.

Borrowing Limits; Corporate Approvals

- (xviii) Upon the coming into effect of this Scheme and with effect from the Appointed Date, the borrowing and investment limits of the Transferee Company under the Act shall be deemed without any further act or deed to have been enhanced by the borrowing and investment limits of the Transferor Company, such limits being incremental to the existing limits of the Transferee Company.
- (xix) Any corporate approvals obtained by the Transferor Company, whether for purposes of compliance or otherwise, shall stand transferred to the Transferee Company and such corporate approvals and compliance shall be deemed to have been obtained and complied with by the Transferee Company.

Taxes

- (xx) Upon the coming into effect of this Scheme and with effect from the Appointed Date, all Taxes payable by, or refundable to, the Transferor Company, including any refunds, claims or credits (including credits for income Tax, withholding Tax, advance Tax, self-assessment Tax, minimum alternate Tax, CENVAT credit, goods and services Tax credits, other indirect Tax credits and other Tax receivables) shall be treated as the Tax liability, refunds, claims, or credits, as the case may be, of the Transferee Company, and any Tax incentives, benefits (including claims for unabsorbed Tax losses and unabsorbed Tax depreciation), advantages, privileges, exemptions, credits, Tax holidays, remissions or reductions, which would have been available to the Transferor Company, shall be available to the Transferee Company, and following the Effective Date, the Transferee Company shall be entitled to initiate, raise, add or modify any claims in relation to such Taxes on behalf of the Transferor Company.



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Creditors

- (xxi) Upon the coming into effect of this Scheme and with effect from the Appointed Date, the secured creditors of the Transferor Company and/or other holders of security over the properties of the Transferor Company, if any, shall be entitled to security only in respect of the properties, assets, rights, benefits and interest of the Transferor Company, as existing immediately prior to the amalgamation of the Transferor Company with the Transferee Company and the secured creditors of the Transferee Company and/or other holders of security over the properties of the Transferee Company shall be entitled to security only in respect of the properties, assets, rights, benefits and interest of the Transferee Company, as existing immediately prior to the amalgamation of the Transferor Company with the Transferee Company. It is hereby clarified that pursuant to the amalgamation of the Transferor Company with the Transferee Company, (a) the secured creditors of the Transferor Company and/or other holders of security over the properties of the Transferor Company, if any, shall not be entitled to any additional security over the properties, assets, rights, benefits and interest of the Transferee Company and therefore, such assets which are not currently encumbered shall remain free and available for creation of any security thereon in future in relation to any current or future indebtedness of the Transferee Company and (b) the secured creditors of the Transferee Company and/or other holders of security over the properties of the Transferee Company shall not be entitled to any additional security over the properties, assets, rights, benefits and interest of the Transferor Company and therefore, such assets which are not currently encumbered shall remain free and available for creation of any security thereon in future in relation to any current or future indebtedness of the Transferee Company.

2.2 Business and property in trust and conduct of the business for the Transferee Company

2.2.1 With effect from the Appointed Date and up to and including the Effective Date, the Transferor Company shall carry on its business with reasonable diligence and except in the ordinary course of business, the Transferor Company shall not, without the prior written consent of the Board of Directors of the Transferee Company or pursuant to any pre-existing obligation, sell, transfer or otherwise alienate, charge, mortgage, encumber or otherwise deal with or dispose off any of the assets of the Undertaking of the Transferor Company or any part thereof.

2.2.2 With effect from the Appointed Date and upto and including the Effective Date:

- (a) the Transferor Company shall carry on and be deemed to have carried on all business and activities and shall hold and stand possessed of and shall be deemed to hold and stand possessed of all its estates, assets, rights, title, interest, authorities, contracts, investments and strategic decisions for and on account of, and in trust for, the Transferee Company;
- (b) all profits and income accruing or arising to the Transferor Company, and losses and expenditure arising or incurred by it (including Taxes, if any, accruing or paid in relation to any profits or income) for the period commencing from the Appointed Date shall, for all purposes, be treated as and be deemed to be the profits, income, losses or expenditure (including Taxes), as the case may be, of the Transferee Company;
- (c) any of the rights, powers, authorities or privileges exercised by the Transferor Company shall be deemed to have been exercised by the Transferor Company for and on behalf of, and in trust for and as an agent of the Transferee Company. Similarly, any of the obligations, duties and commitments that have undertaken or discharged by the Transferor Company shall be deemed to have been undertaken for and on behalf of and as an agent for the Transferee Company; and



- (d) all Taxes (including, without limitation, income Tax, minimum alternate tax, tax deducted at source, sales Tax, goods and services tax, excise duty, customs duty, service Tax, VAT, entry Tax, etc.) paid or payable by the Transferor Company in respect of the operations and/or the profits of the Undertaking of the Transferor Company before the Appointed Date, shall be on account of the Transferor Company and, in so far as it relates to the tax payment (including, without limitation, income Tax, minimum alternate tax, tax deducted at source, sales Tax, goods and services tax, excise duty, customs duty, service Tax, VAT, entry Tax, etc.), whether by way of deduction at source, advance Tax or otherwise howsoever, by the Transferor Company in respect of the profits or activities or operation of the Undertaking of the Transferor Company with effect 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.

2.3 Cancellation of Shares

Upon the coming into effect of this Scheme, and in consideration of the transfer of and vesting of the Undertaking of the Transferor Company in the Transferee Company in terms of the Scheme, all the equity shares issued by the Transferor Company and held by the Transferee Company and/or its nominees shall stand cancelled and extinguished and in lieu thereof, no allotment of any shares in the Transferee Company shall be made to any person whatsoever.

2.4 Dissolution of the Transferor Company

Upon the coming into effect of this Scheme, the Transferor Company shall stand dissolved without being wound up, without any further act or deed.

2.5 Accounting Treatment

Notwithstanding anything to the contrary herein, upon this Scheme becoming effective, the Transferee Company shall give effect to the accounting treatment in its books of account in accordance with the accounting standards specified under section 133 of the Act read with the Companies (Indian Accounting Standards) Rules, 2015, or any other relevant or related requirement under the Act, as applicable on the Effective Date.

PART III

3. GENERAL TERMS AND CONDITIONS

3.1. Applications to the Tribunal

The Companies shall make necessary applications and/ or petitions pursuant to sections 230 to 232 of the Act and other applicable provisions of the Act to the Tribunal for approval of the Scheme and all matters ancillary or incidental thereto, as may be necessary to give effect to the terms of the Scheme.

3.2. Matters Relating to Tax in respect of the Undertaking

- 3.2.1. The provisions of Part II of this Scheme are intended to comply with the conditions relating to "Amalgamation" as specified under section 2(1B) of the Income Tax Act. If, at a later date, any terms or provisions of the Scheme are found or interpreted to be inconsistent with the provisions of section 2(1B) of the Income Tax Act, including as a result of an amendment of Law or the enactment of a new legislation or for any other reason whatsoever, the provisions of section 2(1B) of the Income Tax Act, or a corresponding provision of any amended or newly enacted Law, shall prevail and the Scheme shall stand modified to the extent determined necessary to comply with section 2(1B) of the Income Tax Act. Such modification(s) will, however, not affect the other parts of the Scheme. The power to make such modification(s), if necessary, shall vest with the Boards of Directors of the Companies, which power shall be exercised reasonably in the best interest of each of the Companies and their shareholders and



creditors in accordance with Clause 3.3. In addition, upon the Scheme becoming effective:

- (i) to the extent required, the Companies are permitted to revise and file their respective income Tax returns, withholding Tax returns (including Tax deducted at source certificates), sales Tax, value added Tax, service Tax, central sales Tax, entry Tax, goods and services Tax returns and any other Tax returns, even if the time limits prescribed under the Income Tax Act have lapsed; and
- (ii) the Transferee Company shall be entitled to: (a) claim deduction with respect to items such as provisions, expenses, etc. disallowed in earlier years in the hands of the Transferor Company, which may be allowable in accordance with the provisions of the Income Tax Act on or after the Appointed Date; and (b) exclude items such as provisions, reversals, etc. for which no deduction or Tax benefit has been claimed by the Transferor Company prior to the Appointed Date.

3.2.2. Upon the Scheme becoming effective, notwithstanding anything to the contrary contained in the provisions of this Scheme, all accumulated Tax loss, unabsorbed Tax depreciation, minimum alternate Tax credit, if any, of the Transferor Company as on the Appointed Date, shall, for all purposes, be treated as accumulated Tax loss, unabsorbed Tax depreciation and minimum alternate Tax credit of the Transferee Company. It is further clarified that any business loss and unabsorbed depreciation of the Transferor Company as specified in its books of account shall be included as business loss and unabsorbed depreciation of the Transferee Company for the purposes of computation of minimum alternate Tax.

3.2.3. Upon the Scheme becoming effective, the Transferee Company shall be entitled to claim refunds (including refunds or claims pending with the Tax authorities) or credits, with respect to Taxes paid by, for, or on behalf of, the Transferor Company under applicable Laws, including income Tax, minimum alternate tax, tax deducted at source, sales Tax, value added Tax, service Tax, entry Tax, custom duty, goods and services Tax or any other Tax, whether or not arising due to an inter-se transaction between Transferor and Transferee Company, even if the prescribed time limits for claiming such refunds or credits have lapsed.

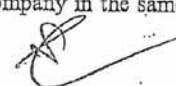
3.2.4. Upon the Scheme becoming effective and with effect from the Appointed Date, all Taxes, cess, duties and liabilities (direct and indirect), payable by or on behalf of the Transferor Company, including any taxes paid and taxes deducted at source and deposited by the Transferee Company on inter se transactions between the Appointed Date and Effective Date), shall, for all purposes, be treated as Taxes, cess, duties and liabilities, as the case may be, of the Transferee Company.

3.2.5. Upon the Scheme becoming effective and with effect from the Appointed Date, all unavailed credits and exemptions and other statutory benefits, including in respect of income Tax, CENVAT, customs, value added Tax, sales Tax, service Tax, entry Tax and goods and services Tax to which the Transferor Company is entitled shall be available to and vest in the Transferee Company, without any further act or deed.

3.2.6. Any Tax liabilities under the Income Tax Act or other applicable Tax Laws or regulations allocable to the Transferor Company, whether or not provided for or covered by any Tax provisions in the accounts of the Transferor Company made as on the date immediately preceding the Appointed Date, shall be transferred to the Transferee Company. Any surplus in the provision for Taxation or duties or levies in the accounts of the Transferor Company, including advance Tax and Tax deducted at source as on the close of business in India on the date immediately preceding the Appointed Date will also be transferred to the account of the Transferee Company.

3.2.7. All Tax assessment proceedings and appeals of whatsoever nature by or against the Transferor Company, pending or arising as at the Effective Date, shall be continued and/or enforced by or against the Transferee Company in the same manner and to the



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same extent as would or might have been continued and enforced by or against the Transferor Company. Further, the aforementioned proceedings shall neither abate or be discontinued nor be in any way prejudicially affected by reason of the amalgamation of the Transferor Company with the Transferee Company or anything contained in this Scheme.

- 3.2.8. Any refund under the Income Tax Act or any other Tax Laws related to or due to the Transferor Company, including those for which no credit is taken as on the date immediately preceding the Effective Date, shall also belong to and be received by the Transferee Company.
- 3.2.9. Without prejudice to the generality of the above, all benefits, incentives, claims, losses, credits (including income Tax, service Tax, excise duty, goods and services Tax and applicable state value added Tax) to which the Transferor Company is entitled to in terms of applicable Tax Laws, shall be available to and vest in the Transferee Company from the Effective Date.
- 3.2.10. All the expenses incurred by the Transferor Company and the Transferee Company in relation to the amalgamation of the Transferor Company with the Transferee Company in accordance with this Scheme, including stamp duty expenses, if any, shall be allowed as deduction to the Transferee Company in accordance with Section 35DD of the Income Tax Act over a period of five (5) years beginning with the financial year in which this Scheme becomes effective.

3.3. Modification or Amendment to the Scheme

- 3.3.1. The Companies, through their respective Boards of Directors (or any duly authorised committee thereof), may mutually agree to any modification of or amendment to the Scheme. The Companies, acting through their respective authorised representatives, are hereby authorised to jointly take all such steps as may be necessary, desirable or appropriate to resolve any difficulties or questions, whether by reason of any direction or order of the Tribunal or of any other authorities or otherwise arising out of or under or by virtue of the Scheme and/or any matter concerned or connected therewith.
- 3.3.2. If any provision in this Scheme shall be held to be illegal, invalid or unenforceable, in whole or in part, the provision shall apply with whatever deletion or modification is necessary so that the provision is legal, valid and enforceable and gives effect to the commercial intention of the Companies.

3.4. Scheme conditional upon approvals/sanctions

This Scheme is and shall be conditional upon and subject to:

- (a) the Transferee Company filing the Scheme with the Stock Exchanges in terms of the SEBI Circular;
- (b) the Scheme being approved by the respective requisite majorities of the classes of members and creditors (where applicable) of the Companies in accordance with the Act or dispensation having been received from the Tribunal in relation to obtaining such approval from the shareholders and/or creditors or any Law permitting the respective Companies not to convene the meetings of its shareholders and/or creditors;
- (c) the Scheme being confirmed/approved by the Tribunal, either on terms as originally approved by the Companies, or subject to such modifications approved by the Tribunal, which shall be in form and substance acceptable to the Companies, each acting reasonably and in good faith; and
- (d) certified copies of the confirmation orders of the Tribunal confirming/sanctioning the Scheme being filed with the RoC by the Transferor Company and the Transferee Company, respectively.



3.5. **Effect of Non-Receipt of Approvals; Withdrawal**

3.5.1. In the event of any of the said confirmations/sanctions and approvals not being obtained and/or the Scheme not being confirmed/sanctioned by the Tribunal, the Scheme shall become null and void and the Companies shall bear and pay its respective costs, charges and expenses for and/or in connection with the Scheme.

3.5.2. The Companies, acting through their respective Board of Directors, may mutually agree in writing to withdraw this Scheme from the Tribunal.

3.6. **Costs and Expenses**

All costs, duties, levies, charges and expenses payable by the Transferor Company and the Transferee Company in relation to or in connection with the Scheme and/or incidental to the completion of the Scheme shall be borne and paid by the Transferee Company.

3.7. **Residual Provisions**

3.7.1. Upon the Scheme becoming effective, the Transferee Company shall be entitled to operate all bank accounts, realise all monies and complete and enforce all pending Contracts and transactions in the name of the Transferor Company to the extent necessary until the transfer of the rights and obligations of the Transferor Company to the Transferee Company under the Scheme is formally accepted and completed by the Companies concerned. For avoidance of doubt, it is hereby clarified that with effect from the Effective Date and until such time that the name of the bank accounts of the Transferor Company have been replaced with that of the Transferee Company, the Transferee Company shall be entitled to operate the bank accounts of the Transferor Company in the name of the Transferor Company in so far as may be necessary.

3.7.2. The Transferee Company may, at any time after the Scheme becoming effective in accordance with the provisions hereof, if so required under any Law or otherwise, enter into, or issue or execute deeds, writings, confirmations, novations, declarations, or other documents with, or in favour of, any party to any Contract or arrangement to which the Transferor Company is a party or any writings as may be necessary to be executed in order to give formal effect to the provisions of the Scheme. The Transferee Company shall be deemed to be authorised to execute any such writings on behalf of the Transferor Company and to carry out or perform all such formalities or compliances required for the purposes specified above by the Transferor Company.

3.7.3. Upon the Scheme becoming effective, all Licences, incentives, remissions, Tax incentives, subsidies, privileges, consents, sanctions, and other authorisations, to which the Transferor Company is entitled, shall stand vested in the Transferee Company and permitted or continued by the order of sanction of the Tribunal. The Transferee Company shall file the Scheme with applicable Governmental Authorities for their record, who shall take it on record pursuant to the sanction order of the Tribunal.



[Handwritten signature]

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