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**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**ORDINARY ORIGINAL JURISDICTION**

**COMPANY PETITION NO.167 OF 2009**

**CONNECTED WITH**

**COMPANY APPLICATION NO. 171 OF 2009**

Copy applied on 1/9/09  
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By S. O. 24/09/09.

In the matter of the Companies Act,  
1956;

And

In the matter of Sections 391 to 394 of  
the Companies Act, 1956;

And

In the matter of Idea Cellular Limited;

And

In the matter of the Scheme of  
Arrangement between Idea Cellular  
Limited and Idea Cellular Towers  
Infrastructure Limited and their  
respective shareholders and creditors;



Idea Cellular Limited,  
a company incorporated under the  
provisions of the Companies Act,  
1956 and having its Registered  
Office at Suman Towers, Plot No.18,  
Sector No.11, Gandhinagar-382 011,  
Gujarat, India.

..... **Petitioner Company**

**BEFORE THE HON'BLE MR. JUSTICE JAYANT PATEL, J**

**DATE: 31/08/2009**

**ORDER ON PETITION**

The above Petition coming for hearing on 31<sup>st</sup> day of August, 2009, **UPON READING** the said Petition, the order dated 18<sup>th</sup> day of April 2009 and order dated 28<sup>th</sup> day of April 2009 below Speaking to Minutes in Company Application No. 171 of 2009, whereby meetings of the Equity Shareholders, Secured

Creditors and Unsecured Creditors of Idea Cellular Limited, the Petitioner abovenamed (hereinafter referred to as "the said Company") were ordered to be convened and held for the purpose of considering, and if thought fit, approving, with or without modification, the arrangement embodied in the Scheme of Arrangement between Idea Cellular Limited and Idea Cellular Towers Infrastructure Limited and their respective shareholders and creditors ("the said Scheme") and **UPON** reading the Affidavit of Shri Sanjeev Aga dated 9<sup>th</sup> day of June 2009, annexing the newspaper cuttings of English daily, Indian Express, all the editions in the State of Gujarat and Gujarati daily Gujarat Samachar, all the editions in the State of Gujarat, both dated the 30<sup>th</sup> day of May 2009 and also showing the dispatch of the notices convening the said meetings on 30<sup>th</sup> day of May 2009 and **UPON** reading the Chairman's Report of Shri Sanjeev Aga dated 6<sup>th</sup> day of July 2009 stating that the said Scheme has been approved with requisite statutory majority in the meeting of the Equity Shareholders and **UPON** reading the Chairman's Report of Shri Gian Prakash Gupta dated 6<sup>th</sup> day of July 2009 stating that the said Scheme has been approved with requisite statutory majority in the meeting of the Secured Creditors and the said Scheme has been approved unanimously in the meeting of the Unsecured Creditors and **UPON** reading the Affidavit of Shri Vineet Choraria, Authorised Signatory of the said Company, dated the 10<sup>th</sup> day of July 2009, verifying the Petition and **UPON** reading the Affidavit of Shri Vineet Choraria, dated 28<sup>th</sup> day of July 2009 showing publication of the notice of hearing of this Petition in English daily, The Times of India and Gujarati daily Gujarat Samachar, both in Ahmedabad Edition dated the 17<sup>th</sup> day of July 2009, (advertisement in the Gujarat Government Gazette having been dispensed with) and also showing the service of notice on the Regional Director, Department of Company Affairs and **UPON** hearing Shri Mihir Joshi, Senior Advocate along with Shri Sandeep Singhi, for Singhi & Co., Advocates for the said Company and hearing the submissions of the Assistant Solicitor General, Mr. P. S. Champaneri instructed by the Regional Director, Company Law Board, Western Region, Mumbai.



1. **THIS COURT** doth hereby sanction the Scheme of Arrangement at **Annexure 'D'** to the Petition and annexed as Schedule hereto, and doth hereby declare the same be binding on the said Company and all the

Equity Shareholders, Secured Creditors and Unsecured Creditors of the said Company and all persons concerned under the Scheme.

2. That the said Company do within 30 days of the sealing of this order, cause a certified copy of this order to be delivered to the Registrar of Companies, Gujarat, Ahmedabad for registration.
3. That the parties to the said Scheme or other persons interested shall be at liberty to apply to this Court for any directions that may be necessary in regard to the working of the arrangement embodied in the Scheme, as sanctioned hereunder and annexed as Schedule hereto.
4. That the fees of the Assistant Solicitor General of India, appearing for the Regional Director, Company Law Board, Mumbai, shall be paid by the said Company.



**SCHEME**



**SCHEME OF ARRANGEMENT**  
**BETWEEN**  
**IDEA CELLULAR LIMITED**  
**AND**  
**IDEA CELLULAR TOWERS INFRASTRUCTURE LIMITED**  
**AND**  
**THEIR RESPECTIVE SHAREHOLDERS AND CREDITORS**

This Scheme of Arrangement (the "Scheme") is presented under Sections 391 to 394 and other relevant provisions of the Companies Act, 1956 (the "Act"), for the demerger of the Passive Infrastructure (as defined hereinafter) of Idea Cellular Limited ("Idea" or "the Company") and transfer of the Passive Infrastructure to Idea Cellular Towers Infrastructure Limited ("ICTIL") and for various other matters consequential, supplemental and/or otherwise integrally connected therewith.



**PREAMBLE**

**A. Background, Rationale and Objectives**

Idea is a leading GSM mobile services operator in India, now operating in 13 service areas of India covering Delhi, Mumbai, Himachal Pradesh, Rajasthan, Haryana, Uttar Pradesh (East), Uttar Pradesh (West) (including Uttaranchal), Madhya Pradesh (including Chhatisgarh), Gujarat, Maharashtra (including Goa), Andhra Pradesh, Kerala and Orissa. The mobile telephone service in Orissa service area started with effect from 9<sup>th</sup> April 2009. In addition, Idea directly holds new Unified Access Services Licences ("UASLs") issued by the Department of Telecommunications ("DoT") with respect to 8 (eight) service areas/ circles. Idea, through its wholly owned subsidiary Aditya Birla Telecom Limited ("ABTL"), also holds UASL for Bihar including Jharkhand service area.

ICTIL is a wholly owned subsidiary of ABTL. ABTL and its nominees hold the entire paid up equity share capital of ICTIL. ABTL is a wholly owned subsidiary of Idea. In terms of Section 4(1) (c) of the Act, ICTIL is a wholly owned subsidiary of Idea. ICTIL is incorporated to carry on, inter alia, the

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business of establishing, developing, operating and managing wireless communication towers and telecommunication infrastructure.

Telecommunications and other information and communication technologies play an increasingly important role in the growth of an economy. Considering this, various countries have put in place mechanisms to lower barriers of entry, so that the customers can choose among competing telecommunications service providers.

In order to do so, the telecommunications service providers should be in a position to access certain key infrastructure facilities at reasonable terms, so that they can roll out their networks quickly and efficiently. Furthermore, duplication of these facilities is uneconomic and undesirable. There has been increasing resistance regarding the duplication of support structures. It is not in the public interest to have multiple sets of poles or towers on streets or to have roads being dug up continually to accommodate multiple sets of underground ducts. It is also more economically efficient to share the costs of existing support structures than to duplicate this investment.

In the interim, the Ministry of Communications and Information Technology of the Government of India has announced that certain mobile operators can commence sharing of their infrastructure, particularly, the Wireless and Broadcast Towers ("Towers"). This has been an outcome of a joint project viz. Project MOST (Mobile Operators' Shared Towers) launched by certain CDMA and GSM mobile service providers (including Idea) operating in India. The project aims to substantially bring down costs of setting up new towers, de-clutter the country's skyline and reduce call-drops.

To evolve a structure for more effective participation in Project MOST, it is considered appropriate to consolidate the Towers alongwith their infrastructure ("Tower Infrastructure"), in a distinct company and, thereby, create distinct corporate identity for carrying on the business of providing Tower Infrastructure.

In this regard, Vodafone Essar Limited, Bharti Infratel Limited (Bharti), Idea and some of the group companies of Bharti and Idea (together "Parties") have established an independently managed joint venture company, namely, Indus Towers Limited ("Indus"), which will be engaged, inter alia, in the business of building, operating and maintaining new Tower Infrastructure and the existing Tower Infrastructure of the Parties within the circles as agreed between them. Indus will provide Tower Infrastructure services within the said circles to telecommunications service providers including the Parties on such commercial and arm's length terms as may be agreed by Indus with such service providers from time to time. The Parties have, inter alia, agreed the terms on which the Tower Infrastructure of the respective Parties shall be contributed to Indus.





To achieve the aforesaid, it is, inter alia, decided between the Parties to demerge their respective Tower Infrastructure. By the present Scheme, Idea seeks to demerge the Passive Infrastructure (as defined hereinafter) and transfer the same to ICTIL.

Idea and ICTIL believe that the Scheme would benefit both the companies and their stake holders on account of the following amongst other reasons:

- (a) Reduced set-up and operating costs resulting in cost efficiency coupled with a greater financial flexibility;
- (b) improved quality of services to its customers by establishing highest service standards through operational agreements; and
- (c) to increase speed of roll-out and to increase efficiency and to improve sharing of infrastructure.

## B. Parts of the Scheme

The Scheme is divided into the following parts:

- |                 |   |   |
|-----------------|---|---|
| <b>Part I</b>   | : | deals with Definitions and Share Capital;                                 |
| <b>Part II</b>  | : | deals with the Demerger of the Passive Infrastructure of Idea into ICTIL; |
| <b>Part III</b> | : | deals with issue of Shares and Accounting Treatment;                      |
| <b>Part IV</b>  | : | deals with the Remaining Business; and                                    |
| <b>Part V</b>   | : | deals with other terms and conditions.                                    |

## PART I

### DEFINITIONS AND SHARE CAPITAL

#### 1. DEFINITIONS

In this Scheme unless inconsistent with the subject or context, the following expressions shall have the following meaning:

- 1.1 "Act" or "the Act" means the Companies Act, 1956 and includes any statutory re-enactment or amendment(s) thereto, from time to time.



- 1.2 "Active Infrastructure" includes base terminal station equipment, associated antennae, backhaul connectivity to an operator's network and other requisite equipment and associated civil and electrical works required to provide telecommunications services by Idea at telecommunication sites within the Circles.
- 1.3 "Appointed Date" means 1<sup>st</sup> January 2009.
- 1.4 "Circles" means the telecom circles of Andhra Pradesh, Delhi, Gujarat, Uttar Pradesh (East), Uttar Pradesh (West) (including Uttaranchal), Haryana, Kerala, Rajasthan and Mumbai.
- 1.5 "Effective Date" means the last of the dates on which the certified copies of the orders of the High Courts sanctioning the Scheme are filed with the Registrar of Companies, Gujarat at Ahmedabad and with the Registrar of Companies, New Delhi, respectively.



References in this Scheme to the date of "coming into effect of this Scheme" or "upon the Scheme being effective" shall mean the Effective Date.

- 1.6 "Free Reserves" means uncommitted reserves, not being capital reserves, available without limitation for all purposes including declaration of dividends and issuance of bonus shares.
- 1.7 "High Court" means the High Court of Delhi at New Delhi having jurisdiction in relation to ICTIL and the High Court of Gujarat at Ahmedabad having jurisdiction in relation to Idea, as the context may admit and shall, if applicable, include the National Company Law Tribunal, and "High Courts" shall mean both of them, as the context may require.
- 1.8 "Idea" means Idea Cellular Limited, a company incorporated under the Act and having its registered office at Suman Towers, Plot No.18, Sector No.11, Gandhinagar-382 011, Gujarat.
- 1.9 "ICTIL" means Idea Cellular Towers Infrastructure Limited, a company incorporated under the Act, and having its registered office at A-30, Mohan Co-operative Industrial Estate, Mathura Road, New Delhi - 110 044.
- 1.10 "Passive Infrastructure" comprises of:
- (a) the wireless and broadcast towers used for the purpose of hosting and assisting in the operation of plant and equipment

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used for transmitting telecommunication signals, being towers owned and operated by Idea within the Circles, the towers under construction or which have not become operational within the Circles and includes, without limitation, shelters, diesel generator sets, air conditioners, electrical and civil works within the Circles, leave and licence and/or leasehold rights over the land and/or structures on which the towers within the Circles have been or are proposed to be constructed or erected or installed, but excluding (i) certain strategic wireless and broadcast towers with necessary equipments, structures including the rights, permissions and benefits in respect of the same within the Circles as may be decided by the Board of Directors of Idea and ICTIL, and (ii) the Active Infrastructure within the Circles;

- (b) all plant and equipment recognised and customarily treated by the telecom operators worldwide as forming part of Passive Infrastructure including in particular the electrical power connections and such other rights, permissions or approvals whether from Government bodies or otherwise, which may be necessary or deemed to be necessary, utilities, engine alternators and power backup equipments, all associated civil and electrical structures as also the mobile tower pertaining to the Passive Infrastructure;
- (c) all current assets and related telecom assets, whether movable, immovable or incorporeal pertaining or relating to the Passive Infrastructure;
- (d) all permits, licences, approvals, registrations (excluding IP-1 Registration granted by the Department of Telecommunications to Idea), quotas, incentives, powers, authorities, allotments, consents, rights, benefits, advantages, municipal permissions, trade marks, designs, copy rights, patents and other intellectual properties, powers of every kind, nature and description of whatsoever nature pertaining to or relating to the Passive Infrastructure;
- (e) all necessary books, records, files, applications, papers and other records and documents whether in physical or electronic form in connection with or relating to the Passive Infrastructure;

**Explanation:** In case of any doubt regarding whether any particular asset forms part of Passive Infrastructure or otherwise, the same shall be resolved mutually by the Board of Directors of Idea and ICTIL.

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- 1.11 "Remaining Business" means all the businesses and divisions of Idea other than the Passive Infrastructure.
- 1.12 "Scheme" or "the Scheme" or "this Scheme" means the Scheme of Arrangement in its present form filed with the High Courts or with any modification(s) approved or imposed or directed by the High Courts or modification(s) made under clause 16 hereof.

## 2. SHARE CAPITAL

- 2.1 The share capital structure of Idea as on 31<sup>st</sup> January 2009 was as follows:

Particulars	Amount in Rupees
<b>Authorised:</b>	
677,50,00,000 Equity Shares of Rs. 10/- each	67,75,00,00,000
1,500 Redeemable Cumulative Non-Convertible Preference Shares of Rs. 1,00,00,000/- each	15,00,00,00,000
<b>Total</b>	<b>82,75,00,00,000</b>
<b>Issued, Subscribed and Paid-up:</b>	
310,00,95,209 Equity Shares of Rs. 10/- each, fully paid-up	31,00,09,52,090
<b>Total</b>	<b>31,00,09,52,090</b>

- 2.2 The share capital structure of ICTIL as on 31<sup>st</sup> January 2009 was as follows:

Particulars	Amount in Rupees
<b>Authorised:</b>	
50,000 Equity Shares of Rs. 10/- each	5,00,000
<b>Total</b>	<b>5,00,000</b>

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<b>Issued, Subscribed and Paid-up:</b>	
50,000 Equity Shares of Rs. 10/- each, fully paid up	5,00,000
<b>Total</b>	<b>5,00,000</b>

ICTIL is a wholly owned subsidiary of Aditya Birla Telecom Limited (ABTL). ABTL is a wholly owned subsidiary of Idea. In terms of Section 4(1) (c) of the Act, ICTIL is a wholly owned subsidiary of Idea.

### 3. DATE OF TAKING EFFECT AND OPERATIVE DATE OF THE SCHEME

The Scheme shall be operative from the Appointed Date but shall be effective from the Effective Date.

## PART II

### DEMERGER

#### 4. TRANSFER AND VESTING OF PASSIVE INFRASTRUCTURE

- 4.1 With effect from the Appointed Date and subject to the provisions of the Scheme in relation to the mode of transfer and vesting, the Passive Infrastructure of Idea, without any further act, instrument or deed, shall be de-merged from Idea and transferred to and vested in ICTIL or be deemed to have been de-merged from Idea and transferred to and vested in ICTIL, so as to become as and from the Appointed Date the estate, assets, rights, title, interest and authorities of ICTIL, pursuant to Section 394(2) of the Act, free from any charges and encumbrances.
- 4.2 In respect of such of the assets of the Passive Infrastructure of Idea as are movable in nature or are otherwise capable of transfer by manual delivery or by paying over or endorsement and/or delivery, the same may be so transferred by Idea, and shall, upon such transfer, become the property, estate, assets, rights, title, interest and authorities of ICTIL as an integral part of the Passive Infrastructure of Idea.
- 4.3 In respect of such of the assets of the Passive Infrastructure of Idea other than those referred to in clause 4.2 above, the same shall, without any further act, instrument or deed, be transferred to and vested in and/or be deemed to be transferred to and vested in ICTIL



on the Appointed Date pursuant to the provisions of Section 394 of the Act. It is hereby clarified that all rights, title and interest of Idea in any properties taken on a) leasehold basis and/or b) leave and licence basis in relation to the Passive Infrastructure of Idea shall, pursuant to Section 394(2) of the Act, without any further act or deed, be transferred to and vested in or be deemed to have been transferred to and vested in ICTIL.

- 4.4 Upon the coming into effect of this Scheme, all permits, registrations, approvals, consents, statutory licences to set-up and operate any business, quotas, rights, entitlements, any other licenses including those relating to trademarks, tenancies, patents, copy rights, privileges, powers, facilities of every kind and description of whatsoever nature in relation to Passive Infrastructure, to which Idea is a party or to the benefit of which Idea may be eligible and which are subsisting or having effect immediately before the Effective Date, shall be and remain in full force and effect in favour of or against ICTIL, as the case may be, and may be enforced as fully and effectually as if, instead of Idea, ICTIL had been a party or beneficiary or obligee thereto.
- 4.5 Any inter se contracts between the Passive Infrastructure undertaking of Idea and ICTIL shall vest in ICTIL upon the sanction of the Scheme and upon the Scheme being effective. Idea has entered into site sharing agreements with other operators in respect of some of the towers owned by it. Upon the Scheme being effective, such agreements shall be assigned in favour of ICTIL without any further act or deed or instrument. Any statutory licenses, authorizations, statutory rights, permission, approvals, sales tax, service tax, excise, provident fund, ESI, DGFT, Reserve Bank of India Importer-Exporter Code etc. or other registrations, no objection certificates or consents to carry on the operations pertaining to the Passive Infrastructure shall stand transferred and vested in ICTIL without any further act or deed, and shall be appropriately mutated by the statutory authorities concerned therewith in favour of ICTIL upon the vesting and transfer of Passive Infrastructure pursuant to the Scheme so as to empower and facilitate the continuation of operations pertaining to the Passive Infrastructure of Idea in ICTIL without any hindrance.
- 4.6 Idea is entitled to various benefits under vendor approvals from various clients enabling Idea to do business with such clients pursuant to such vendor approvals and pursuant to the Scheme it is declared that the benefits under such vendor approvals from various clients, pertaining or relating to the Passive Infrastructure, enabling Idea to do business with such clients pursuant to such vendor approvals, shall stand and be transferred to and vested in ICTIL as if all such vendor



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approvals were in fact issued/given to ICTIL instead of Idea by such clients.

- 4.7 Idea and ICTIL are expressly permitted to file/revise their Income Tax, Wealth Tax, Service Tax, Excise and other statutory returns, upon the Scheme being effective, notwithstanding that the period for filing/revising such returns may have lapsed. Idea and ICTIL are expressly permitted to amend TDS/TCS or other statutory certificates and shall have the right to claim refunds, advance tax credits, set offs, adjustments etc., relating to their respective incomes/transactions from the Appointed Date. It is specifically declared that the taxes/duties paid by Idea relating to the period on or after the Appointed Date whether by way of deduction at source or advance, which pertains to the Passive Infrastructure shall be deemed to be the taxes/duties paid by ICTIL and ICTIL 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 Idea. Further any tax/duties, payments not directly relatable to the Passive Infrastructure, as the case may be, shall be apportioned between Idea and ICTIL on the appropriate basis as the Board of Directors of Idea and ICTIL mutually in their discretion deem fit and proper.



- 4.8 Upon coming into effect of the Scheme, all permissions, licences, approvals, incentives, remissions, tax-incentives, consents, sanctions, and other authorizations, pertaining to the Passive Infrastructure, to which Idea is entitled to shall stand vested and permitted or continued by the order of sanction of the High Courts in ICTIL and ICTIL shall file the Scheme, for the record of the statutory authorities who shall take it on file, pursuant to the sanction orders of the High Courts. ICTIL is authorised to take all such steps on behalf of Idea as may be necessary to give effect to the provisions contained above.
- 4.9 Upon the Scheme being effective, Idea shall file necessary particulars and/or modification(s) of charge, with the Registrar of Companies, Gujarat at Ahmedabad to give effect to the provisions of the Scheme.

## 5. LEGAL PROCEEDINGS

- 5.1 Upon the coming into effect of this Scheme, all legal or other proceedings by or against Idea under any statute, whether pending on the Appointed Date, or which may be instituted any time in the future and in each case relating to the Passive Infrastructure shall be continued and enforced by or against ICTIL after the Effective Date. In the event of any difference or difficulty in determining as to whether any specific legal or other proceeding relates to the Passive

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Infrastructure or not, a certificate jointly issued by the Board of Directors of Idea and ICTIL as to whether such proceeding relates to Passive Infrastructure or not, shall be conclusive evidence of the matter.

- 5.2 If proceedings are taken against Idea in respect of the matters referred to in sub-clause 5.1 above, it shall defend the same in accordance with the advice of ICTIL and at the cost of ICTIL, and ICTIL shall reimburse and indemnify Idea against all liabilities and obligations incurred by Idea in respect thereof.
- 5.3 ICTIL undertakes to have all legal or other proceedings initiated by or against Idea referred to in Clauses 5.1 or 5.2 above transferred into its name and to have the same continued, prosecuted and enforced by or against ICTIL as the case may be, to the exclusion of Idea.

## 6. CONTRACTS, DEEDS, ETC.

- 6.1 Notwithstanding anything to the contrary contained in the contract, deed, bond, agreement or any other instrument, but subject to the other provisions of this Scheme, all contracts, deeds, bonds, agreements and other instruments, if any, of whatsoever nature and subsisting or having effect on and after the Appointed Date and relating to the Passive Infrastructure of Idea and all rights thereunder including rights of extension/renewal thereunder, shall continue in full force and effect against or in favour of ICTIL, and may be enforced effectively by or against ICTIL as fully and effectually as if, instead of Idea, ICTIL had been a party thereto.
- 6.2 ICTIL 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, 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 Idea is a party or any writings as may be necessary to be executed in order to give formal effect to the above provisions. ICTIL shall, be deemed to be authorised to execute any such writings on behalf of Idea and to carry out or perform all such formalities or compliances required for the purposes referred to above on the part of Idea.

## 7. SAVING OF CONCLUDED TRANSACTIONS

The transfer and vesting of the Passive Infrastructure under clause 4 hereof and the continuance of the proceedings by or against ICTIL under clause 5 hereof shall not affect any transaction or proceedings already completed by Idea on and after the Appointed Date, to the end



TRUST COMPANY



and intent that ICTIL accepts and adopts all acts, deeds and things done and executed by and/or on behalf of Idea as acts, deeds and things done and executed by and on behalf of ICTIL.

## 8. EMPLOYEES

8.1 Upon the coming into effect of this Scheme, all employees of Idea engaged in or in relation to the Passive Infrastructure and who are in employment as on the Effective Date shall continue to remain employees of Idea without any interruption or break in service as a result of the demerger of the Passive Infrastructure from Idea and transferred to and vested in ICTIL.

8.2 In so far as the existing provident fund, gratuity fund and pension and/or superannuation fund, trusts, retirement fund or benefits and any other funds or benefits created by Idea for the employees related to Passive Infrastructure (collectively referred to as the "Funds"), the Funds and such of the investments made by the Funds which are referable to the employees related to Passive Infrastructure shall continue to remain and be held by Idea.

## 9. BUSINESS AND PROPERTY IN TRUST AND CONDUCT OF BUSINESS

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

9.1 Idea shall be deemed to have been carrying on and to be carrying on all businesses and activities relating to the Passive Infrastructure and stand possessed of all assets, properties, rights, title, interest, authorities, contract, for and on account of, and in trust for ICTIL.

9.2 Idea hereby undertakes that it will preserve and carry on all businesses and activities relating to the Passive Infrastructure with diligence and utmost business prudence and agrees that it will not, without the prior written consent of the Board of Directors of ICTIL or pursuant to any pre-existing obligation, sell, transfer or otherwise alienate, charge, mortgage or encumber or otherwise deal with or dispose of its Passive Infrastructure or any part thereof except in the ordinary course of business.

## 10. TAX CREDITS

ICTIL will be the successor of Idea vis-à-vis the Passive Infrastructure. The unutilised credits relating to Excise duties paid on inputs/capital goods lying to the account of the Passive Infrastructure



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of Idea in the books as well as the unutilised credits relating to Service Tax paid on input services consumed by Idea shall be permitted to be retained by Idea to be utilized while discharging its service tax liability or any Excise duty / Service Tax payable by it, including but not limited to in connection with output services rendered by it. As the Scheme does not contemplate removal of Passive Infrastructure by Idea from the premises in which it is installed, no reversal of CENVAT (Central Value Added Tax) credits need to be made or is required to be made by Idea.

### **Benefits and Incentives**

If Idea is entitled to any benefits under Incentive Schemes and Policies relating to the Passive Infrastructure, it is declared that the benefits under all of such Incentive Schemes and Policies shall be transferred to and vested in ICTIL.

## **PART III**

### **ISSUE OF SHARES AND ACCOUNTING TREATMENT**

#### **11. ISSUE OF SHARES**

ICTIL is a wholly owned subsidiary of ABTL. ABTL is a wholly owned subsidiary of Idea. In terms of Section 4(1) (c) of the Act, ICTIL is a wholly owned subsidiary of Idea. The Scheme is intended to transfer the assets relating to the Passive Infrastructure, in a more efficient manner consistent with the diverse needs of business. Hence, ICTIL shall not be required to issue any shares or pay any consideration to Idea or to its shareholders or any other person.

#### **12. ACCOUNTING TREATMENT IN THE BOOKS OF ICTIL**

- 12.1 Upon the Scheme being effective, ICTIL shall record the assets forming part of Passive Infrastructure vested in it at their respective book values as appearing in the books of accounts of Idea at the close of the business of the day immediately preceding the Appointed Date.
- 12.2 ICTIL will credit amount equal to the value at which the assets, forming part of Passive Infrastructure which are vested in it as per clause 12.1 above to General Reserve, which shall constitute Free Reserves.



TRUSTEES  


### 13. ACCOUNTING TREATMENT IN THE BOOKS OF IDEA

- 13.1 Upon the Scheme being effective (a) The value of investments in ABTL shall be increased by the book value of Passive Infrastructure vested with ICTIL as per clause 12.1 above, and (b) Idea shall recognize the difference between the book value of the investments and the value of the investments as per Clause 13.1(a) above, as "Reserve for Business Restructuring", available to meet the increased depreciation, costs, expenses, and losses, including on account of impairment of or write-down of assets which may be suffered by Idea, pursuant to this Scheme or otherwise in course of its business or in carrying out such restructuring of operations of Idea or any of its subsidiaries, as Idea considers necessary or appropriate. Such Reserve for Business Restructuring shall be arising out of this Scheme and shall not be considered as a reserve created by Idea.
- 13.2 Idea shall reduce from the book value of their assets, the book value of the Passive Infrastructure. The value of Passive Infrastructure reduced as above shall be debited by Idea to its Profit and Loss Account as a separate line item.
- 13.3 Idea shall withdraw an equal amount from its Reserve for Business Restructuring recognized as such under Clause 13.1 above and credit such withdrawn amount to Profit and Loss Account of Idea to off-set the write-off referred to in Clause 13.2 above.

### PART IV

#### 14. REMAINING BUSINESS

- 14.1 The Remaining Business and all the assets, liabilities and obligations pertaining thereto shall continue to belong to and remain vested in and be managed by Idea.
- 14.2 All legal, taxation or other proceedings whether civil or criminal (including before any statutory or quasi-judicial authority or tribunal) by or against Idea under any statute, whether pending on the Appointed Date or which may be instituted at any time thereafter, and in each case relating to the Remaining Business (including those relating to any property, right, power, liability, obligation or duties of Idea in respect of the Remaining Business) shall be continued and enforced by or against Idea after the Effective Date. ICTIL shall in no event be responsible or liable in relation to any such legal, taxation or other proceeding against Idea, which relate to the Remaining Business.



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*[Signature]*  
 Date

- 14.3 If proceedings are taken against ICTIL in respect of the matters referred to in Clause 14.2 above, it shall defend the same in accordance with the advice of Idea and at the cost of Idea, and the latter shall reimburse and indemnify ICTIL, against all liabilities and obligations incurred by ICTIL in respect thereof.

## PART V

### OTHER TERMS AND CONDITIONS

#### 15. APPLICATION TO HIGH COURTS

Idea and ICTIL shall, with all reasonable dispatch, make necessary applications/petitions under Sections 391 to 394 of the Act and other applicable provisions of the Act to the High Courts for seeking sanction of this Scheme and all matters ancillary or incidental thereto.

#### 16. MODIFICATION OR AMENDMENTS TO THE SCHEME

- 16.1 Idea (by its Board of Directors) and ICTIL (by its Board of Directors) either by themselves or through a committee appointed by them in this behalf, may, in their full and absolute discretion assent to any alteration or modification to this Scheme or agree to any terms and/or condition that the High Courts or any other authorities may deem fit to direct or impose or which may otherwise be considered necessary, desirable or appropriate by them.

- 16.2 Idea (by its Board of Directors) and ICTIL (by its Board of Directors) either by themselves or through a committee appointed by them in this behalf, may give such directions as they may consider necessary to settle any question or difficulty arising under the Scheme or in regard to and of the meaning or interpretation of the Scheme or implementation hereof or in any manner whatsoever connected therewith or to review the position relating to the satisfaction of various conditions to the Scheme and if necessary, waive any of those (to the extent permissible under law) for bringing the Scheme into effect.

- 16.3 In the event of any of the conditions that may be imposed by the High Courts or other authorities which Idea and ICTIL may find unacceptable for any reason, then Idea and ICTIL are at liberty to withdraw the Scheme.



SECRETARY  
  
 Ahmedabad



## 17. CONDITIONALITY OF THE SCHEME

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

- 17.1 the approval by the respective requisite majorities of the members and/or creditors (where applicable) of Idea and ICTIL as required under the Act and the requisite orders of the High Courts referred to in clause 15 hereof being obtained; and
- 17.2 certified copies of the Orders of the High Courts sanctioning the Scheme being filed with the Registrar of Companies, Gujarat, at Ahmedabad and with Registrar of Companies, New Delhi.

## 18. EFFECT OF NON-RECEIPT OF APPROVALS

In the event of this Scheme failing to take effect finally by December 31, 2009 or by such later date as may be agreed by Idea and ICTIL, this Scheme shall become null and void and in that event no rights and liabilities whatsoever shall accrue to or being incurred inter-se by the parties. In such case both the companies shall bear their own cost or shall bear cost as may be mutually agreed.

## 19. COSTS, CHARGES & EXPENSES

All costs, charges, taxes including duties, levies and all other expenses, if any (save as expressly otherwise agreed) arising out of, or incurred in carrying out and implementing this Scheme and matters incidental thereto, shall be paid and borne by Idea.



2009/09/09  
  
 Advocate

WITNESS K. S. RADHAKRISHNAN, ESQUIRE, THE CHIEF JUSTICE at Ahmedabad  
aforesaid this 31<sup>st</sup> day of August, Two Thousand and Nine.

BY THE ORDER OF THE COURT

*Sd/- A. K. Upadhyay*

REGISTRAR (JUDICIAL)

This 26<sup>th</sup> day of September 2009

SEALER

*Sd/- N.P. Tekani*

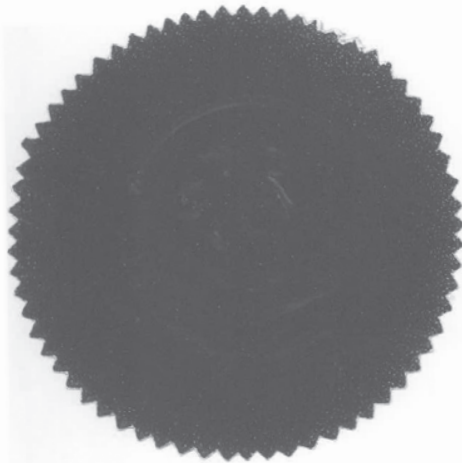
DEPUTY REGISTRAR

This 26<sup>th</sup> day of September 2009



*[Handwritten signature]*

ORDER SANCTIONING THE SCHEME OF  
ARRANGEMENT DRAWN ON THE  
APPLICATION OF M/S. SINGHI & CO.,  
ADVOCATES FOR THE PETITIONER  
HAVING THEIR OFFICE AT 7-8<sup>TH</sup> FLOOR,  
PREMCHAND HOUSE ANNEXE, ASHRAM  
ROAD, AHMEDABAD- 380 009



TRUE COPY

*[Handwritten signature]*  
ASSISTANT REGISTRAR  
THIS 26<sup>th</sup> DAY OF 2009