



**COMPOSITE SCHEME OF ARRANGEMENT AND AMALGAMATION
UNDER SECTIONS 230 TO 232
AND OTHER APPLICABLE PROVISIONS
OF THE COMPANIES ACT, 2013**

OF

**BAYER ZYDUS PHARMA PRIVATE LIMITED
(THE “TRANSFEROR COMPANY”)**

AND

**BAYER PHARMACEUTICALS PRIVATE LIMITED
(THE “TRANSFEEE COMPANY”)**

AND

THEIR RESPECTIVE SHAREHOLDERS

GENERAL**A. PREAMBLE**

This Composite Scheme of Arrangement and Amalgamation (the “Scheme”/ this “Scheme”/ the “Composite Scheme” as defined hereinafter) provides for amalgamation of Bayer Zydus Pharma Private Limited with Bayer Pharmaceuticals Private Limited pursuant to the provisions of sections 230 to 232 and other relevant provisions of the Companies Act, 2013. This Scheme also provides for other matters consequential thereto or otherwise connected to therewith.

B. DESCRIPTION OF COMPANIES AND BACKGROUND:

- I. **Bayer Zydus Pharma Private Limited, “BZPPL” or the “Transferor Company” (CIN: U24233MH2011PTC213118)** is an unlisted private limited company incorporated under the provisions of Companies Act, 1956, having its registered office at Bayer House, Central Avenue, Hiranandani Estate, Thane (West) – 400 607, Maharashtra, India (hereinafter referred to as the “Transferor Company”). The Transferor Company is engaged in the business, *inter alia* of marketing, sale and distribution of pharmaceutical, intermediaries, medicinal and other allied products.
- II. **Bayer Pharmaceuticals Private Limited, “BPPL” or the “Transferee Company” (CIN: U05195MH1998PTC116021)** is an unlisted private limited company incorporated under the provisions of Companies Act, 1956, having its registered office at Bayer House, Central Avenue, Hiranandani Estate, Thane (West) – 400 607, Maharashtra, India (hereinafter referred to as the “Transferee Company”). The Transferee Company is engaged in the business, *inter alia*, of manufacturing, marketing of sale and distribution of pharmaceutical, intermediaries, consumer health products, medicinal, radiology equipment, healthcare and other allied products. Both, the Transferor and the Transferee Company are commonly controlled by Bayer (South East Asia) Pte. Ltd., a Bayer Group Company (hereinafter referred to as “BSEA”).
- III. The Transferee Company holds 25% of the issued, subscribed and paid-up share capital of the Transferor Company and the remaining 75% is held by BSEA, which in turn holds 100% of the Transferee Company, as on the date of this Scheme, as approved by the Board of Director of both the Transferor and the Transferee Companies.
- IV. Neither the Transferor Company nor the Transferee Company’s equity shares are listed on the stock exchanges.
- V. This Scheme provides for the amalgamation of the Transferor Company with the Transferee Company and other consequential matters pursuant to Sections 230 to 232 and other relevant provisions of the Companies Act, 2013 and the rules made thereunder.

C. RATIONALE FOR THE SCHEME

The Transferee Company holds 25% of equity share capital in the Transferor Company and the remaining 75% is held by BSEA, which also holds 100% of equity share capital in the Transferee Company. The business objects and operations of both the Transferor Company and the Transferee Company are similar. In order to consolidate and effectively manage the Transferor Company and the Transferee Company in a single entity so as to operate such businesses that complement each other and to achieve *inter alia* economies of scale and efficiency, the amalgamation is being undertaken. The amalgamation of the Transferor Company with the Transferee Company would *inter alia* have the following benefits:

- (a) The Transferor Company is an extended arm of the Transferee Company serving as an essential component of its functional framework, hence the amalgamation shall strategically consolidate the pharmaceutical business to enhance overall operational efficiency;



- (b) Greater integration and greater financial strength and flexibility for the amalgamated entity, which would result in maximising overall shareholder value;
- (c) Greater efficiency in cash management of the Transferee Company and unfettered access to cash flow generated by the combined business which can be deployed more efficiently to fund organic and inorganic growth opportunities, to maximize shareholder value;
- (d) Improved organizational capability and leadership, arising from the pooling of human capital having diverse skills, talent and vast experience to compete successfully in an increasingly competitive industry;
- (e) Cost savings are expected to flow from more focused operational efforts, rationalization, standardisation and simplification of business processes, and the elimination of duplication, and rationalization of administrative expenses;
- (f) To optimise the legal and regulatory compliance, and reduce administrative duplications and costs associated with maintaining separate entities, thereby ensuring a streamlined group structure in India;
- (g) To optimally leverage the larger assets base and cash flow of the amalgamated entity; and
- (h) With the Transferee Company currently holding 25% of the equity capital of the Transferor Company, the amalgamation will result in the Transferee Company directly controlling and managing the business of the Transferor Company, simplifying the shareholding structure through the cancellation of the Transferee Company's investment and the reduction of shareholding tiers.

In view of the aforesaid, the Board of Directors of the Transferor Company and the Transferee Company have considered and proposed the amalgamation of the entire undertaking and business of the Transferor Company with the Transferee Company in order to benefit the stakeholders of both the companies. Accordingly, the Board of Directors of the Transferor Company and the Transferee Company have formulated this Composite Scheme of Amalgamation for the transfer and vesting of the entire undertaking and business of the Transferor Company with and into the Transferee Company pursuant to the provisions of Section 230 to Section 232 and other relevant provisions of the Companies Act, 2013 and the rules made thereunder.

- D.** Under the Scheme, there is no arrangement proposed to be entered with the creditors, either secured and / or unsecured of the Transferor and / or the Transferee Company. No compromise is offered under the Scheme to any of the creditors of the Transferor and/or the Transferee Company. The liability of the creditors of the Transferor and/or the Transferee Company, under the Scheme, is neither being reduced nor being extinguished.

E. PARTS OF THE SCHEME:

This Scheme is divided into the following parts:

- (i) **PART I** deals with definitions of the terms used in this Composite Scheme and sets out the share capital of the Transferor Company and the Transferee Company;
- (ii) **PART II** deals with the transfer and vesting of the Undertaking (as hereinafter defined) of the Transferor Company to and in the Transferee Company;
- (iii) **PART III** deals with the discharge of consideration by issuance of fresh shares by the Transferee Company to the eligible shareholders of the Transferor Company and cancellation of the share capital held by the Transferee Company in the Transferor Company and Transfer of Authorised Capital Balance;
- (iv) **PART IV** deals with the accounting treatment for the amalgamation in the books of the Transferee Company;
- (v) **PART V** deals with the conduct of business until the Scheme becomes effective, dissolution of the Transferor Company, the general terms and conditions applicable to this Composite Scheme and other matters consequential and integrally connected thereto.

PART I

DEFINITIONS AND SHARE CAPITAL

1. DEFINITIONS

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

- 1.1. "The Act"** means the Companies Act, 2013, the rules and regulations made thereunder and will include any statutory re-enactment or amendment(s) thereto, from time to time;
- 1.2. "Applicable Law"** means any applicable statute, notification, bye laws, rules, regulations, guidelines, rule of common law, policy, code, directives, circulars, master circulars, ordinances, orders or instructions having the force of law enacted or issued by any Appropriate Authority, including any statutory modification or re-enactment thereof for the time being in force;



- 1.3. **“Appointed Date”** for the purpose of this Scheme and for the IT Act, means the opening of business hours on 1st April 2024 or such other date as maybe fixed by the National Company Law Tribunal;
- 1.4. **“Board of Directors”** or **“Board”** means the Board of Directors of the Transferor Company or the Transferee Company, as the case may be, and shall include duly constituted committee(s) thereof or any person authorised by the Board or such committee;
- 1.5. **“Effective Date”** means the last of the dates on which the certified or authenticated copies of the order(s) of the National Company Law Tribunal sanctioning the Scheme are filed with the Registrar of Companies, Mumbai, Maharashtra, by the Transferor Company and by the Transferee Company.

Any references in this Scheme to the date of **“coming into effect of this Scheme”** or **“effectiveness of this Scheme”** or **“Scheme taking effect”** shall mean the Effective Date;

- 1.6. **“Governmental Authority”** means any applicable central, state or local government, legislative body, regulatory or administrative authority, agency or commission or any court, tribunal, board, bureau or instrumentality thereof or arbitration or arbitral body having jurisdiction over the territory of India including but not limited to Registrar of Companies and NCLT;
- 1.7. **“IT Act”** means the Income Tax Act, 1961, of India, including any statutory modifications, re-enactments or amendments thereof for the time being in force;
- 1.8. **“IND-AS”** means the accounting standards prescribed under the Companies (Indian Accounting Standards) Rules, 2015, as amended;
- 1.9. **“MEIS”** means Merchandise Exports from India Scheme;
- 1.10. **“NCLT”** means the National Company Law Tribunal, Bench at Mumbai, having jurisdiction in relation to the Transferee Company and the Transferor Company;
- 1.11. **“Registrar of Companies”** / **“ROC”** means the Registrar of Companies, Maharashtra at Mumbai;
- 1.12. **“Scheme”** / **“Composite Scheme”** means this Composite Scheme of Amalgamation between the Transferor Company and the Transferee Company and their respective shareholders, pursuant to Sections 230 to 232 and other applicable provisions, if any, of the Companies Act, 2013 in its present form, and/or as submitted to the NCLT together with any modification(s) approved or directed by the NCLT;
- 1.13. **“Share Exchange Report”** means the Valuation Report dated June 11, 2024 issued by BDO Valuation Advisory LLP, Registered Valuers determining the share exchange ratio for the purposes of Clause 9 of this Scheme;
- 1.14. **“SGST, CGST and IGST”** means the State Goods and Services Tax, the Central Goods and Services Tax and Integrated Goods and Services Tax;
- 1.15. **“Transferor Company”** means **Bayer Zydus Pharma Private Limited (CIN: U24233MH2011PTC213118)**, an unlisted private limited company incorporated under the Companies Act, 1956, having its registered office at Bayer House, Central Avenue, Hiranandani Estate, Thane (West) – 400 607, Maharashtra, India;
- 1.16. **“Tax(s)”** means the advance tax, the tax deducted at source, deferred tax payment, the income tax under IT Act and any such direct or indirect taxes as may be applicable to the Transferor and Transferee Companies;
- 1.17. **“Transferee Company”** means **Bayer Pharmaceuticals Private Limited (CIN: U05195MH1998PTC116021)** an unlisted private limited company incorporated under the Companies Act, 1956, having its registered office at Bayer House, Central Avenue, Hiranandani Estate, Thane (West) – 400 607, Maharashtra, India;
- 1.18. **“Undertaking”** means the whole of the undertaking and entire business of the Transferor Company as a going concern, including (without limitation):
 - I. All the assets and properties (whether movable or immovable, tangible or intangible, real or personal, corporeal or incorporeal, present, future or contingent) of the Transferor Company, including but not limited to land (freehold/leasehold), plant and machinery, equipment, buildings and structures, offices, residential and other premises, furniture, fixtures, office equipment, appliances, accessories, depots, deposits, all stocks, assets, investments of all kinds (including shares, scrips, stocks, bonds, debenture stocks, units), and interests, cash balances or deposits with banks, loans, advances, disbursements, contingent rights or benefits, book debts, receivables, actionable claims, insurance claims, insurance policies, earnest moneys, advances or deposits paid by the Transferor Company, financial assets, leases (including lease rights), hire purchase contracts and assets, lending contracts, rights and benefits under any agreement, benefit of any security arrangements or



under any guarantees, reversions, powers, municipal permissions, tenancies in relation to the office and/or residential properties for the employees or other persons, guest houses, godowns, warehouses, licenses, fixed and other assets, trade and service names and marks, patents, copyrights, and other intellectual property rights of any nature whatsoever, know how, goodwill, rights to use and avail of telephones, telexes, facsimile, email, internet, leased line connections and installations, utilities, electricity and other services, reserves, provisions, funds, benefits of assets or properties or other interest held in trust, subsidiaries, joint ventures, associates, registrations, contracts, engagements, arrangements of all kind, privileges and all other rights including, title, interests, other benefits (including tax benefits), easements, privileges, liberties, mortgages, hypothecations, pledges or other security interests created in favour of the Transferor Company and advantages of whatsoever nature and whosoever situated in India or abroad, belonging to or in the ownership, power or possession and in the control of or vested in or granted in favour of or enjoyed by the Transferor Company or in connection with or relating to the Transferor Company and all other interests of whatsoever nature belonging to or in the ownership, power, possession or the control of or vested in or granted in favour of or held for the benefit of or enjoyed by the Transferor Company, whether in India or abroad;

- II. All liabilities including, without being limited to, secured and unsecured debts (whether in Indian rupees or foreign currency), sundry creditors, liabilities (including contingent liabilities), duties and obligations of the Transferor Company, of every kind, nature and description whatsoever and howsoever arising, raised or incurred or utilised;
- III. All agreements, rights, contracts, entitlements, permits, licenses, approvals, authorizations, concessions, consents, quota rights, engagements, arrangements, authorities, allotments, security arrangements (to the extent provided herein), benefits of any guarantees, reversions, powers and all other approvals of every kind, nature and description whatsoever relating to the Transferor Company;
- IV. All records, files, papers, computer programs, manuals, data, catalogues, sales material, lists of customers and suppliers, other customer information and all other records and documents relating to the business activities and operations of the Transferor Company;
- V. All permanent employees engaged by the Transferor Company as on the Effective Date.
- VI. All quotas, rights, entitlements, export/import incentives and benefits including advance licenses, MEIS, all kinds of duty drawbacks, bids, tenders (at any stage as it may be), letters of intent, expressions of interest, development rights (whatever vested or potential and whether under agreements or otherwise), subsidies, tenancies in relation to office, benefit of any deposits / privileges, all other rights, receivables, powers and facilities of every kind, nature and description whatsoever, rights to use and avail of telephones, telexes, facsimile connections and installations, utilities, electricity and other services, provisions and benefits of all agreements, contracts and arrangements, including technological licensing agreements, and benefits including but not limiting to all other interests in connection with or relating thereto;
- VII. All brand names, trademarks, trade names, patents and domain names, the intellectual property in relation to ANDAs (Abbreviated New Drug Application), Certificate of Pharmaceutical Products (CoPPs), Certificate of Suitability (CoS) registrations; applications and authorizations of pharmaceutical products with governmental authorities in any jurisdiction (in so far as such pharmaceutical products pertain to the Undertaking), filings, dossiers copyrights, industrial designs, trade secrets, know-how; ongoing research projects, data, formulations, technology, methodology, manufacturing procedures and techniques, test procedures, product registrations, applications and authorizations, Star Export House recognition and other intellectual property (in India or outside India) and all other interests exclusively relating to the goods or services being dealt with by the Transferor Company;
- VIII. All intellectual property rights created, developed or invented by employees concentrated on the research, development or marketing of products (including process development or enhancement) in connection with the Transferor Company;
- IX. All benefits and privileges under letters of permission and letters, of approvals in respect of Special Economic Zones and Export Oriented Units and the benefits related thereto, all tax credits, including SGST, CGST and IGST credits, refunds, reimbursements, claims, exemptions, benefits under service tax laws, value added tax, purchase tax, sales tax, MEIS or any other duty or tax or cess or imposts under central or state law including sales tax deferrals, advance taxes, tax deducted at source, right to carry forward and set-off unabsorbed losses,



if any and depreciation, deductions and benefits under the IT Act, as well as any recognition of the In-house Research and Development unit with the Department of Scientific & Industrial Research or any Government Authority;

All capitalized terms and words not defined but used in this Scheme shall, unless repugnant or contrary to the context or meaning thereof, have the same meaning ascribed to them under the Act, the Securities Contracts (Regulation) Act, 1956, the Depositories Act, 1996 and other applicable laws, rules, regulations and byelaws, as the case may be, or any statutory amendment(s) or re-enactment thereof, for the time being in force.

2. SHARE CAPITAL

2.1. TRANSFEROR COMPANY

The Authorised, Issued, Subscribed and Paid-up share capital of the Transferor Company as on May 31, 2024 is as follows-

Particulars	Amount (INR)
Authorised Share Capital	
5,00,00,000 Equity Shares of INR 10/ – each	50,00,00,000
5,00,00,000 Preference Shares of INR 10/ – each	50,00,00,000
Total	100,00,00,000
Issued, Subscribed and Paid Up Share Capital	
5,00,00,000 Equity Shares of INR 10/ – each	50,00,00,000
15,00,000 Preference Shares of INR 10/ – each	1,50,00,000
Total	51,50,00,000

Subsequent to May 31, 2024, 15,00,000 preference shares of INR 10/ – each aggregating to INR 1,50,00,000 have been redeemed on June 10, 2024. With the redemption of preference shares on June 10, 2024, the share capital of the Transferor Company is now classified into one class of share capital, being Equity Share Capital. The revised Authorised, Issued, Subscribed and Paid-up share capital of the Transferor Company on June 10, 2024 is as follows:

Particulars	Amount (INR)
Authorised Share Capital	
5,00,00,000 Equity Shares of INR 10/ – each	50,00,00,000
5,00,00,000 Preference Shares of INR 10/ – each	50,00,00,000
Total	100,00,00,000
Issued, Subscribed and Paid Up Share Capital	
5,00,00,000 Equity Shares of INR 10/ – each	50,00,00,000
Total	50,00,00,000

Subsequent to June 10, 2024 and until the date of Scheme being approved by the Board of Directors, there has been no change in the authorised, issued, subscribed and paid up share capital of the Transferor Company.

The Transferee Company holds 25% equity share capital in the Transferor Company and the remaining 75% is held by BSEA, which also holds 100% of equity stake in the Transferee Company.



2.2. TRANSFEREE COMPANY

The Authorised, Issued, Subscribed and Paid-up share capital of the Transferee Company as on May 31, 2024 is as follows-

Particulars	Amount (INR)
Authorised Share Capital	
2,22,40,000 Equity Shares of INR. 10/ – each	22,24,00,000
1,20,00,000 Preference Shares of INR. 10/ – each	12,00,00,000
Total	34,24,00,000
Issued, Subscribed and Paid Up Share Capital	
2,13,16,701 Equity Shares of INR 10/ – each	21,31,67,010
Total	21,31,67,010

Subsequent to May 31, 2024 and until the date of Scheme being approved by the Board of Directors, there has been no change in the authorised, issued, subscribed and paid up share capital of the Transferee Company.

3. DATE OF TAKING EFFECT AND OPERATIVE DATE

The Scheme set out herein in its present form or with any modifications approved or imposed or directed by NCLT shall be effective from the Appointed Date but shall be operative from the Effective Date.

PART II

TRANSFER AND VESTING OF UNDERTAKING

4. TRANSFER OF UNDERTAKING

- 4.1. Upon the coming into effect of this Scheme and with effect from the Appointed Date, the Undertaking, pursuant to the sanction of this Scheme by NCLT under and in accordance with the provisions of Sections 230 to 232 and other applicable provisions, if any, of the Act, shall stand transferred to and be vested in or be deemed to have been transferred to and vested in the Transferee Company, as a going concern without any further act, instrument, deed, matter or thing to be made, done or executed so as to become, as and from the Appointed Date, the Undertaking of the Transferee Company by virtue of and in the manner provided in this Scheme.
- 4.2. Subject to the provisions of this Scheme as specified hereinafter and with effect from the Appointed Date, the entire Undertaking of the Transferor Company, including all the debts, liabilities, losses, duties and obligations, including those arising on account of taxation laws and other allied laws of the Transferor Company of every description and also including, without limitation, all the movable and immovable properties and assets, Tangible or Intangible assets (whether or not recorded in the books of account of the Transferor Company) of the Transferor Company comprising, amongst others, all land, motor vehicles, furniture and fixtures, computers, computer software and its licenses, office equipment, electrical installations, telephones, telex, facsimile and other communication facilities, receivables, actionable claims, insurance claims, business licenses, licenses under Factories Act, manufacturing licenses, permits, deposits, authorisations, approvals (including under MEIS) and any other certificates relating to the product, factory facilities and registrations granted by the Department of Scientific & Industrial Research to the in-house research and development units established, insurance cover of every description, lease, tenancy rights, permissions, incentives, if any, and all other rights, patents, know-how, trademark, service mark, trade secret, brands, registrations, licenses including Export Oriented Unit licences/advance licences, Special Economic Zones registrations, marketing authorisations and other intellectual property rights, proprietary rights, title, interest, contracts, no objection certificates, deeds, bonds, consents, approvals and rights and powers of every kind, nature and description whatsoever, privileges, liberties, easements, advantages and benefits, approvals, filings, dossiers, copyrights, industrial designs, trade secrets, know-how, ongoing research projects, data, formulations, technology, methodology, manufacturing procedures and techniques, test procedures, brand names, trade names and domain names, and all other interests in connection with or relating to and product registrations, applications and authorisations for product registrations and all other interests exclusively relating to the SGST, CGST and IGST, Good Manufacturing Practice Certificates shall, under the provisions of Sections 230 to 232 of the Act, and pursuant to the order of the NCLT, sanctioning this Scheme and without further act, instrument or deed, but subject to the charges affecting the same as on the Effective Date, be transferred and/or deemed to be transferred to and vested in the Transferee Company, so as to become the properties, assets, rights, business, certificates and Undertaking of the Transferee Company.

4.3. Transfer of Assets

- 4.3.1. Without prejudice to the generality of Clause 4.1 and 4.2 above, upon the coming into effect of this Scheme and with effect from the Appointed Date:
- 4.3.1.1. All the assets and properties comprised in the Undertaking of whatsoever nature and wheresoever situated, shall, under the provisions of Sections 230 to 232 and all other applicable provisions, if any, of the Act, without any further act or deed, be and stand transferred to and vested in the Transferee Company or be deemed to be transferred to and vested in the Transferee Company as a going concern so as to become the assets and properties of the Transferee Company.
- 4.3.1.2. Without prejudice to the provisions of Clause 4.3.1.1 above, in respect of such of the assets and properties of the Undertaking as are movable in nature or incorporeal property or are otherwise capable of transfer by manual delivery or by endorsement and/or delivery, the same shall be so transferred by the Transferor Company and shall, upon such transfer, become the assets and properties of the Transferee Company as an integral part of the Undertaking, without requiring any separate deed or instrument or conveyance for the same.
- 4.3.1.3. In respect of movables other than those dealt with in Clause 4.3.1.2 above including sundry debts, receivables, insurance claims, bills, credits, loans and advances of the Undertaking, if any, whether recoverable in cash or in kind or for value to be received, bank balances, investments, earnest money and deposits with any Governmental Authority or with any company or other person, the same shall on and from the Appointed Date stand transferred to and vested in the Transferee Company.
- 4.3.1.4. All interests of the Transferor Company in their respective subsidiaries as on the Appointed Date will become the interests and subsidiaries of the Transferee Company.
- 4.3.1.5. All the licenses, permits, quotas, approvals, permissions, registrations, incentives, tax deferrals and benefits, subsidies, concessions, grants, rights, claims, leases, tenancy rights, liberties, special status and other benefits or privileges enjoyed or conferred upon or held or availed of by the Transferor Company and all rights and benefits that have accrued or which may accrue to the Transferor Company, whether before or after the Appointed Date, shall, under the provisions of Sections 230 to 232 and all other applicable provisions, if any, of the Act, without any further act, instrument or deed, cost or charge be and stand transferred to and vest in or be deemed to be transferred to and vested in and be available to the Transferee Company so as to become as and from the Appointed Date licenses, permits, quotas, approvals, permissions, registrations, incentives, tax deferrals and benefits, subsidies, concessions, grants, rights, claims, leases, tenancy rights, liberties, special status and other benefits or privileges of the Transferee Company and shall remain valid, effective and enforceable on the same terms and conditions.
- 4.3.2. The Transferor Company shall, if so required, also give notice in such form as it may deem fit and proper to the debtors/vendors, that pursuant to the sanction of this Scheme by NCLT, under and in accordance with Sections 230 and 232 and all other applicable provisions, if any, of the Act, the said debtors/vendors should pay to the Transferee Company the debt, loan or advance or make the same on account of the Transferor Company and the right of the Transferor Company to recover or realize the same stands extinguished.
- 4.3.3. All assets and properties of the Transferor Company as on the Appointed Date, whether or not included in the books of the Transferor Company, and all assets and properties which are acquired by the Transferor Company on or after the Appointed Date but prior to the Effective Date, shall be deemed to be and shall become the assets and properties of the Transferee Company, and shall under the provisions of Sections 230 to 232 and all other applicable provisions, if any, of the Act, without any further act, instrument or deed, be and stand transferred to and vested in and be deemed to have been transferred to and vested in the Transferee Company upon the coming into effect of this Scheme.

Provided however that no onerous assets shall have been acquired by the Transferor Company after the Appointed Date without the consent of the Transferee Company as provided for in this Scheme.

4.4. Transfer of Liabilities

- 4.4.1. Upon the coming into effect of this Scheme and with effect from the Appointed Date, all liabilities relating to and comprised in the Undertaking including all secured and unsecured debts (whether in Indian rupees or foreign currency), sundry creditors, liabilities (including contingent liabilities), duties and obligations and undertakings of the Transferor Company of every kind, nature and description whatsoever and howsoever arising, raised or incurred or utilised for its business activities and operations (herein referred to as the "**Liabilities**"), shall, pursuant to the sanction of this Scheme by the NCLT under and in accordance with the provisions of Sections 230 to 232 and other applicable provisions, if any, of the Act, without any further act, instrument, deed, matter or thing, be transferred to and vested in or be deemed to have been transferred to and vested in the Transferee Company, along with any charge, encumbrance, lien or security thereon, and the same shall be assumed by



the Transferee Company to the extent they are outstanding as on the Effective Date so as to become as and from the Appointed Date the liabilities 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 same and, further, 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.

- 4.4.2. All debts, liabilities, duties and obligations of the Undertaking as on the Appointed Date, whether or not provided in the books of the Transferor Company, and all debts and loans raised, and duties, liabilities and obligations incurred or which arise or accrue to the Undertaking on or after the Appointed Date till the Effective Date, shall be deemed to be and shall become the debts, loans raised, duties, liabilities and obligations incurred by the Transferee Company by virtue of this Scheme.
- 4.4.3. Where any such debts, loans raised, liabilities, duties and obligations of the Undertaking as on the Appointed Date have been discharged or satisfied by the Transferor Company after the Appointed Date and prior to the Effective Date, such discharge or satisfaction shall be deemed to be for and on account of the Transferee Company.
- 4.4.4. Loans, advances and other obligations (including any guarantees, letters of credit, letters of comfort or any other instrument or arrangement which may give rise to a contingent liability in whatever form), if any, due or which may at any time in future become due between the Undertaking and the Transferee Company shall, *ipso facto*, stand discharged and come to an end and there shall be no liability in that behalf on any party and appropriate effect shall be given in the books of accounts and records of the Transferee Company.

4.5. Encumbrances

- 4.5.1. The transfer and vesting of the assets comprised in the Undertaking to and in the Transferee Company under Clauses 4.1, 4.2 and 4.3 of this Scheme shall be subject to the mortgages and charges, if any, affecting the same, as and to the extent hereinafter provided.
- 4.5.2. All the existing securities, mortgages, charges, encumbrances or liens (the “**Encumbrances**”), if any, as on the Appointed Date and created by the Transferor Company after the Appointed Date, over the assets comprised in the Undertaking or any part thereof transferred to the Transferee Company by virtue of this Scheme and in so far as such Encumbrances secure or relate to liabilities of the Transferor Company, the same shall, after the Effective Date, continue to relate and attach to such assets or any part thereof to which they are related or attached prior to the Effective Date and as are transferred to the Transferee Company, and such Encumbrances shall not relate or attach to any of the other assets of the Transferee Company, provided however that no Encumbrances shall have been created by the Transferor Company over its assets after the Appointed Date without the consent of the Transferee Company as provided for in this Scheme.
- 4.5.3. The existing Encumbrances over the assets and properties of the Transferee Company or any part thereof which relate to the liabilities and obligations of the Transferee Company prior to the Effective Date shall continue to relate only to such assets and properties and shall not extend or attach to any of the assets and properties of the Undertaking transferred to and vested in the Transferee Company by virtue of this Scheme.
- 4.5.4. Any reference in any security documents or arrangements (to which the Transferor Company is a party) to the Transferor Company and its assets and properties, shall be construed as a reference to the Transferee Company and the assets and properties of the Transferor Company transferred to the Transferee Company by virtue of this Scheme. Without prejudice to the foregoing provisions, the Transferor Company and the Transferee Company may execute any instruments or documents or do all the acts and deeds as may be considered appropriate, including the filing of necessary particulars and/or modification(s) of charge(s), with the Registrar of Companies to give formal effect to the above provisions, if required.
- 4.5.5. Upon the coming into effect of this Scheme, the Transferee Company alone shall be liable to perform all obligations in respect of the Liabilities, which have been transferred to it in terms of the Scheme.
- 4.5.6. It is expressly provided that, no other term or condition of the Liabilities transferred to the Transferee Company is modified by virtue of this Scheme except to the extent that such amendment is required statutorily or by necessary implication.
- 4.5.7. The provisions of this Clause 4.5 shall operate in accordance with the terms of the Scheme, notwithstanding anything to the contrary contained in any instrument, deed or writing or the terms of sanction or issue or any security document; all of which instruments, deeds or writings shall be deemed to stand modified and/or superseded by the foregoing provisions.



4.6. Inter – se Transactions

Without prejudice to the provisions of Clauses 4.1 to 4.5, with effect from the Appointed Date, all inter-se transactions between the Transferor Company and the Transferee Company shall be considered as intra-se transactions for all purposes. Further, it is clarified that any taxes in the form of income-tax, goods and service tax, service tax, works contract tax, value added tax etc. paid on account of such transactions, shall be deemed to have been paid by or on behalf of the Transferee Company and on its own account and therefore, the Transferee Company will be eligible to claim the credit / refund of the same and is also entitled to revise its return to give effect to the same.

5. CONTRACTS, DEEDS, ETC.

- 5.1.** Upon the coming into effect of this Scheme and subject to the provisions of this Scheme, all contracts, deeds, bonds, agreements, schemes, arrangements, assurances and other instruments of whatsoever nature to which the Transferor Company is a party or to the benefit of which the Transferor Company may be eligible, and which are subsisting or have effect immediately before the Effective Date, shall continue in full force and effect by, for or against or in favour of, as the case may be, 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 or beneficiary or obligee or obligor thereto or thereunder.
- 5.2.** Without prejudice to the other provisions of this Scheme and notwithstanding the fact that vesting of the Undertaking occurs by virtue of this Scheme itself, the Transferee Company may, at any time after the coming into effect of this Scheme in accordance with the provisions hereof, if so required under any law or otherwise, take such actions and execute such deeds (including deeds of adherence), confirmations or other writings or arrangements with any party to any contract or arrangement to which the Transferor Company is a party or any writings as may be necessary in order to give formal effect to the provisions of this Scheme. The Transferee Company shall, under the provisions of this Scheme, 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 referred to above on the part of the Transferor Company from the Appointed Date and up to the Effective Date and, thereafter, for such period as may be decided by the Board of the Transferee Company to give effect to the Scheme.
- 5.3.** For the avoidance of doubt and without prejudice to the generality of the foregoing, it is clarified that upon the coming into effect of this Scheme, all consents, permissions, licenses, certificates, clearances, authorities, powers of attorney given by, issued to or executed in favour of the Transferor Company shall without any further act or deed, stand transferred to the Transferee Company, as if the same were originally given by, issued to or executed in favour of the Transferee Company, and the Transferee Company shall be bound by the terms thereof, the obligations and duties thereunder, and the rights and benefits under the same shall be available to the Transferee Company. The Transferee Company shall receive relevant approvals from the concerned Governmental Authorities as may be necessary in this behalf.

6. LEGAL PROCEEDINGS

On and from the Appointed Date, all suits, actions, claims and legal proceedings by or against the Transferor Company pending and/or arising on or before the Effective Date shall be continued and / or enforced as desired by the Transferee Company and on and from the Effective Date, shall be continued and/or enforced by or against the Transferee Company as effectually and in the same manner and to the same extent as if the same had been originally instituted and/or pending and/or arising by or against the Transferee Company. On and from the Effective Date, the Transferee Company shall have the right to initiate, defend, compromise or otherwise deal with any legal proceedings relating to the Undertaking, in the same manner and to the same extent as would or might have been initiated by the Transferor Company as the case may be, had the Scheme not been made; If any suit, appeal or other proceedings relating to the Undertaking, of whatever nature by or against the Transferor Company be pending, the same shall not abate or be discontinued or in any way be prejudicially affected by reason of the amalgamation of the Undertaking or by anything contained in this Scheme but the proceedings may be continued, prosecuted and enforced by or against the Transferee Company in the same manner and to the same extent as it would or might have been continued, prosecuted and enforced by or against the Transferor Company as if this Scheme had not been made.

7. CONDUCT OF BUSINESS

- 7.1.** With effect from the Appointed Date and up to and including the Effective Date:
 - 7.1.1.** The Transferor Company shall carry on and shall be deemed to have carried on all its business and activities as hitherto and shall hold and stand possessed of and shall be deemed to have held and stood possessed of the Undertaking on account of, and for the benefit of and in trust for, the Transferee Company.
 - 7.1.2.** All the profits or income accruing or arising to the Transferor Company, and all expenditure or losses arising or incurred (including all taxes, if any, paid or accruing in respect of any profits and income) by the Transferor Company shall, for all purposes, be treated and be deemed to be and accrue as the profits or income or as the case may be, expenditure or losses (including taxes) of the Transferee Company.



7.1.3. Any of the rights, powers, authorities and privileges attached or related or pertaining to and exercised by or available to the Transferor Company shall be deemed to have been exercised by the Transferor Company for and on behalf of and as agent for the Transferee Company. Similarly, any of the obligations, duties and commitments attached, related or pertaining to the Undertaking that have been undertaken or discharged by the Transferor Company shall be deemed to have been undertaken or discharged for and on behalf of and as agent for the Transferee Company.

7.2. With effect from the date of approval of this Scheme by the Board of the respective companies and up to and including the Effective Date:

7.2.1. The Transferor Company shall preserve and carry on their business and activities with reasonable diligence and business prudence and shall not undertake any additional financial commitments of any nature whatsoever, borrow any amounts nor incur any other liabilities or expenditure, issue any additional guarantees, indemnities, letters of comfort or commitments either for itself or on behalf of its group Company or any third party or sell, transfer, alienate, charge, mortgage or encumber or deal with the Undertaking or any part thereof save and except in each case in the following circumstances:

7.2.1.1. if the same is in its ordinary course of business as carried on by it as on the date of filing this Scheme with NCLT; or

7.2.1.2. if the same is permitted by this Scheme; or

7.2.1.3. if consent of the Board of Directors of the Transferee Company has been obtained.

7.2.2. The Transferor Company shall not take, enter into, perform or undertake, as applicable (i) any material decision in relation to its business and operations other than decisions already taken prior to approval of the Scheme by the Board of Directors of the Transferor Company (ii) any agreement or transaction; and (iii) any new business, or discontinue any existing business or change the capacity of facilities; (iv) such other matters as the Transferee Company may notify from time to time save and except in each case in the following circumstances:

7.2.2.1. if the same is in its ordinary course of business as carried on by it as on the date of filing this Scheme with NCLT; or

7.2.2.2. if the same is permitted by this Scheme; or

7.2.2.3. if consent of the Board of Directors of the Transferee Company has been obtained.

8. STAFF WORKMEN AND EMPLOYEES

Upon the coming into effect of this Scheme:

8.1. All the permanent employees of the Transferor Company who are in its employment as on the Effective Date shall become the permanent employees of the Transferee Company with effect from the Effective Date without any break or interruption in service and on terms and conditions as to employment and remuneration not less favourable than those on which they are engaged or employed by the Transferor Company. It is clarified that the employees of the Transferor Company who become employees of the Transferee Company by virtue of this Scheme, shall not be entitled to the employment policies and shall not be entitled to avail of any schemes and benefits that may be applicable and available to any of the employees of the Transferee Company (including the benefits of or under any employee stock option schemes applicable to or covering all or any of the employees of the Transferee Company), unless otherwise determined by the Board of Directors of the Transferee Company. The Transferee Company undertakes to continue to abide by any agreement/ settlement, if any, validly entered into by the Transferor Company with any union/employee of the Transferor Company (as may be recognized by the Transferor Company).

8.2. The existing provident fund, gratuity fund and pension and/or superannuation fund or trusts or retirement funds or benefits created by the Transferor Company or any other special funds created or existing for the benefit of the concerned permanent employees of the Transferor Company (collectively referred to as the "Funds") and the investments made out of such Funds shall, at an appropriate stage, be transferred to the Transferee Company to be held for the benefit of the concerned employees. The Funds shall, subject to the necessary approvals and permission and at the discretion of the Transferee Company, either be continued as separate funds of the Transferee Company for the benefit of the employees of the Transferor Company or be transferred to and merged with other similar funds of the Transferee Company. In the event that the Transferee Company does not have its own fund with respect to any such Funds, the Transferee Company may, subject to necessary approvals and permissions, continue to maintain the existing Funds separately and contribute thereto, until such time as the Transferee Company creates its own funds at which time the Funds and the investments and contributions pertaining to the employees of the Transferor Company shall be transferred to such funds of the Transferee Company.



PART III

9. CONSIDERATION BY FRESH ISSUE OF EQUITY SHARES PER THE SHARE EXCHANGE RATIO REPORT

- 9.1. Upon the coming into effect of the Scheme, and in consideration of the Amalgamation of the Transferor Company's Undertaking having vested into the Transferee Company, the Transferee Company shall, without any further act or deed and without any further payment, basis the Share Exchange Report, issue and allot to the Shareholders of the Transferor Company (other than the Transferee Company) whose name is recorded in the register of members of the Transferor Company as on Record Date, new equity shares of the Transferee Company ("**New Equity Shares**") in lieu/exchange of the equity shares held by such Shareholders in the Transferor Company in the following manner:

"An aggregate of 86,25,000 New Equity Shares of ₹ 10/-each in the Equity Share exchange ratio of 23 (Twenty-three) New Equity Shares of ₹ 10/ – each of the Transferee Company credited as fully paid up for every 100 (Hundred)Equity Shares of ₹ 10/ – (Rupees Ten only) each held by the Shareholders (other than the Transferee Company) in the Transferor Company. The equity shares so held by the Transferee Company shall stand cancelled and be extinguished in terms of Clause 9.8 of the Scheme as hereinafter provided. It is clarified that no cash consideration shall be paid by the Transferee Company to the Transferor Company or its Shareholders."

- 9.2. In the event that the said New Equity Shares to be issued result in fractional entitlements, the Board of Directors of the Transferee Company will round off such fractional entitlements into the nearest whole number integer: a fraction of less than half shall be rounded down to the nearest lower whole number integer and a fraction of half or more shall be rounded up to the nearest higher whole number integer.
- 9.3. If necessary, the Transferee Company shall before allotment of the equity shares in terms of the Scheme, increase its authorised share capital by such amount as it stands to the credit of the Transferor Company by creation of at least such number of equity shares as may be necessary to satisfy its obligation under the provisions of the Scheme in compliance with the applicable provisions of the Act and the rules made thereunder.
- 9.4. The New Equity Shares to be issued to the Shareholders of the Transferor Company (other than the Transferee Company) above shall be subject to the Memorandum and Articles of Association of the Transferee Company and shall rank pari passu with the existing equity shares of the Transferee Company in all respects.
- 9.5. For the purpose of issue of the New Equity Shares to the Shareholders of the Transferor Company (other than the Transferee Company), the approval of this Scheme by the members of the Transferee Company shall be deemed to be in compliance with applicable provisions of the Act and the Transferee Company shall not be required to follow separate procedure for such issue and allotment under the Act (save and except filing of the required e-forms) under the applicable rules made under the Act.

CANCELLATION OF EQUITY SHARES HELD DIRECTLY OR INDIRECTLY BY TRANSFEREE COMPANY IN THE TRANSFEROR COMPANY:

- 9.6. As on the date of this Scheme, BZPPL, the Transferor Company is a subsidiary of BSEA.
- 9.7. Out of the 100% issued, subscribed and paid-up equity share capital of the Transferor Company, constituting of 5,00,00,000 equity shares of ₹ 10/ – (Rupees Ten Only) each aggregating to ₹ 50,00,00,000/- (Rupees Fifty Crore only), 75% is held directly by BSEA constituting of 3,75,00,001 equity shares of ₹ 10/- each (Rupees Ten Only) aggregating to ₹ 37,50,00,010/ – (Rupees Thirty Seven Crore Fifty Lakh and Ten only), and remaining 25% is held indirectly by BSEA through BPPL, the Transferee Company constituting of 1,24,99,999 equity shares of ₹ 10/ – each (Rupees Ten Only) aggregating to ₹ 12,49,99,990/ – (Rupees Twelve Crore Forty-Nine Lakh Ninety-Nine Thousand Nine Hundred Ninety only). In effect, both, the Transferor and the Transferee Company are ultimate step down subsidiaries; commonly controlled by the ultimate holding and parent BSEA. The current Issued, Subscribed and Paid-up Equity Share Capital of the Transferor and the Transferee Companies, respectively is as follows:

Sr. No.	Particulars	Transferor Company	Transferee Company
1.	Authorised Share Capital	5,00,00,000 Equity Shares of INR 10/ – each 5,00,00,000 Preference Shares of INR 10/ – each	2,22,40,000 Equity Shares of INR 10/ – each 1,20,00,000 Preference Shares of INR 10/ – each
2.	Issued, Subscribed and Paid Up Share Capital	3,75,00,001 Equity Shares of INR 10/ – each held by Bayer (South East Asia) Pte. Ltd. 1,24,99,999 Equity Shares of INR 10/ – each held by Bayer Pharmaceuticals Private Limited	2,13,16,700 Equity Shares of INR 10/ – each held by Bayer (South East Asia) Pte. Ltd. 1 Equity Share of INR 10/ – each held by Bayer (South East Asia) Pte. Ltd. jointly held with Bayer Vapi Private Limited
	Total	5,00,00,000 Equity Shares of INR 10/ – each	2,13,16,701 Equity Shares of INR 10/ – each



- 9.8. Upon the coming into effect of the Scheme, and in consideration of the Amalgamation of the Transferor Company's Undertaking having vested into the Transferee Company, the Transferee Company shall not issue or allot any new equity shares to itself in respect of its existing shareholding of 1,24,99,999 equity shares of ₹ 10 / – each (Rupees Ten Only) aggregating to Rs. 12,49,99,990 / – (Rupees Twelve Crore Forty-Nine Lakh Ninety-Nine Thousand Nine Hundred Ninety only), representing 25% of the total issued, subscribed and paid-up equity share-capital in the Transferor Company (as disclosed above), as a company cannot hold its own shares. Accordingly, on the Effective Date of this Scheme, the Transferee Company shall, subject to the other provisions of this Clause 9, but without any further act, deed or instrument and without any further issue, allotment or payment, cancel and extinguish all the existing equity shares held directly by the Transferee Company in the Transferor Company. Such cancellation and extinguishment of the existing equity shares shall be effectuated by the Transferee Company as on the Effective Date as an integral part of the Scheme without any further application, act, deed or instrument. In terms of the exemption granted by explanation to Section 230 (12) of the Act, such cancellation and extinguishment, diminution of liability of the existing equity shares held by the Transferee Company in the Transferor Company shall be effectuated by the Transferee Company on the Effective Date as an integral part of the Scheme, in pursuance of the order of NCLT sanctioning the Scheme and thus without any further application to be made, separate procedural compliance to be followed, act to be performed, deed or instrument to be made and/or any separate resolution to be passed in that behalf by either the Transferor or the Transferee Company.
- 9.9. Upon this Scheme becoming effective and the transfer and vesting of the Undertaking of the Transferor Company into the Transferee Company pursuant to this Scheme, the Reserves created in accordance with applicable IND-AS (Equity Component of Non-Cumulative Redeemable Preference Shares, Subvention from Shareholder Groups and Capital Reserve) but not prescribed by the Act, shall be eligible and be utilised by the Transferee Company for offsetting against any surplus of carrying value, over the face value of investments in the Transferee Company held by the Transferor Company. Provided further that the said Reserves created out of this Scheme shall not be available to the Transferor or the Transferee Company as Free Reserves consequently, the Transferor or the Transferee Company shall not use the amounts lying to the credit of such Reserves for distribution of dividend to its shareholders. In terms of the exemption granted by explanation to Section 230 (12) of the Act, such consequential reduction of capital of the Transferor and Transferee Company shall be effectuated by the Transferee Company on the Effective Date as an integral part of the Scheme, in pursuance of the order of NCLT sanctioning the Scheme and thus without any further application to be made, separate procedural compliance to be followed, act to be performed, deed or instrument to be made and/or any separate resolution to be passed in that behalf by either the Transferor or the Transferee Company.

TRANSFER OF AUTHORISED CAPITAL OF TRANSFEROR COMPANY TO THE CREDIT OF THE AUTHORISED SHARE CAPITAL OF TRANSFEE COMPANY:

- 9.10. Upon this Scheme becoming effective and upon the transfer and vesting of the Undertakings of the Transferor Company into the Transferee Company pursuant to this Scheme, the entire authorized share capital of BZPPL, the Transferor Company equal to 5,00,00,000 Equity shares of ₹ 10/ – each and 5,00,00,000 Non-Cumulative Redeemable Preference Shares of ₹ 10/ – each, aggregating to ₹ 1,00,00,00,000/ – , shall stand merged and reclassified with the authorised share capital of BPPL, the Transferee Company.
- The Authorized Share Capital of BPPL, the Transferee Company is 2,22,40,000 Equity Shares of ₹ 10/ – each and 1,20,00,000 Preference Shares of ₹ 10 / – total amounting to ₹ 34,24,00,000/-. Consequent to the amalgamation, the combined authorised equity share capital, shall stand increased by ₹ 50,00,00,000/ – to ₹ 72,24,00,000 / – divided into 7,22,40,000 Equity Shares of ₹ 10/ – each and the preference share capital by ₹ 50,00,00,000/ – to ₹ 62,00,00,000 divided into 6,20,00,000 Preference Shares of ₹ 10/ – each.
 - Accordingly, the authorized share capital of BPPL, the Transferee Company shall stand increased to an amount of ₹ 134,24,00,000/ – and Clause V of the Memorandum of Association of BPPL, the Transferee Company (relating to the authorized share capital) shall, without any further act, instrument or deed, be and stand altered, modified and amended pursuant to Sections 13 and 61 of the Companies Act, 2013 and other applicable provisions of the Companies Act, 2013 as the case may be and be replaced by the following clause :

“The Authorized Share Capital of the Company is ₹ 134,24,00,000/-(Rupees One Thirty Four Crore Twenty Four Lakh only) divided into 7,22,40,000 Equity Shares of ₹ 10/ – each and 6,20,00,000 Preference Shares of ₹ 10/ – each.

The Company has power from time to time to increase or reduce its capital and to divide the shares in the capital for the time being into several classes and to attach thereto respectively such preferential, deferred, qualified or other special rights, privileges, conditions or restrictions as may be determined by or in accordance with the Articles of Association of the Company and to vary, modify or abrogate any right privileges or condition or restriction in such manner as may for the time being be permitted by the Articles of Association of the Company or the legislative provision for the time being in force in that behalf.”



- 9.11. The stamp duty and filing fees paid on the authorized share capital of the Transferor Company are permitted to be utilized and applied towards the increase in the authorized share capital of the Transferee Company in accordance with this Clause 9 (Transfer of Authorized Capital of Transferor Company to the credit of the Authorized Share Capital of Transferee Company), and no further demand of additional stamp duty or filing fee shall be raised or made upon the Transferee Company by any regulatory authorities including, ROC, in relation to such increase in the authorized share capital of the Transferee Company.
- 9.12. It is hereby clarified that for the purposes of increasing the authorized share capital of the Transferee Company in accordance with the Clause 9 (Transfer of Authorized Capital of Transferor Company to the credit of the Authorized Share Capital of Transferee Company), the consent of the shareholders of the Transferee Company to this Scheme shall be deemed to be sufficient and that no further resolution under Sections 13, 14, 61, 62 or any other applicable provisions of the Act, if any, would be required to be separately passed.

PART IV

ACCOUNTING TREATMENT

10. ACCOUNTING TREATMENT IN THE BOOKS OF ACCOUNT OF TRANSFEE COMPANY

- 10.1. The Transferee Company shall account for amalgamation in accordance with Indian Accounting Standard (“IND AS”) 103 – “Business Combinations” prescribed under Section 133 of the Act and other generally accepted accounting principles in India.
- 10.2. The Transferee Company shall account for the transfer and vesting of the Assets and Liabilities of the Undertaking in its books of accounts as per the “Pooling of Interest” method prescribed under Appendix C to Indian Accounting Standard – 103 – “Business Combinations” prescribed under Section 133 of the Act read with the relevant rules issued thereunder and other generally accepted accounting principles in India as under:
- The Transferee Company shall, record all the assets and liabilities of the Undertaking vested in it pursuant to this Scheme at the respective carrying amounts as per the separate financial statements of the Transferor Company. No adjustments shall be made to reflect fair values, or recognise any new assets or liabilities.
 - The identity of the reserves created as per the requirements of the Companies Act or other applicable law standing in the books of account of the Transferor Company shall be preserved and they shall appear in the financial statements of the Transferee Company in the same form, as they appeared in the financial statements of the Transferor Company.
 - Inter-company transactions and balances including loans, advances, amount receivable or payable inter-se between the Transferor Company and the Transferee Company as appearing in their books of accounts, if any, shall stand cancelled.
 - The excess or deficit, if any, arising after recording the above entries and the value of the new equity shares issued and allotted by the Transferee Company as per clause 10.2 of the Scheme, shall be recorded in the capital reserve account (in case of an excess) or retained earnings (in case of a deficit) or amalgamation Adjustment Deficit Account (in case of inadequate reserves) in the books of the Transferee Company as the case may be and such amount recorded would be presented separately from other reserves with disclosure of its nature and purpose in the notes to the financial statements of the Transferee Company.
 - The financial information in the financial statements of the Transferee Company, to be prepared after the amalgamation, in respect of prior periods will be restated to include the financial information of the Transferor Company as if the business combination had occurred from the beginning of the preceding period in the financial statements.
 - In case there is any difference in the accounting policies adopted by the Transferor Company and the Transferee Company, the accounting policies followed by the Transferee Company will prevail and the difference will be quantified and accounted for in accordance with the applicable accounting standards.

11. TAX BENEFITS AND OBLIGATIONS

- 11.1. The amalgamation of the Transferor Company with the Transferee Company in terms of this Scheme shall take place with effect from the Appointed Date and shall be in accordance with the provisions of Sections 2(1B), 47 and any other application provisions of the IT Act.
- 11.2. Upon the Scheme becoming effective, 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, IGST, CGST and SGST credit balances as 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.

- 11.3. The provisions of this Scheme as they relate to the amalgamation of the Transferor Company into and with the Transferee Company have been drawn up to comply with the conditions relating to “amalgamation” as defined under Section 2(1B) of the IT Act. If any terms or provisions of the Scheme are found or interpreted to be inconsistent with the provisions of the said Section of the IT Act, at a later date including resulting from an amendment of law or for any other reason whatsoever, the provisions of the said Section of the IT Act, shall prevail and the provisions of this Scheme shall stand modified to the extent determined necessary to comply with Section 2(1B) of the IT Act. Such modification will, however, not affect the other parts of the Scheme.
- 11.4. Any tax liabilities under the IT Act, Wealth Tax Act, 1957, Customs Act, 1962, Goods and Services Tax Act, 2017, any other Tax laws, service tax, luxury tax or other applicable laws/ regulations (hereinafter in this Clause referred to as “Tax Laws”) dealing with taxes/ duties/ levies allocable or related to the business of the Transferor Company to the extent not provided for or covered by tax provision in the accounts made as on the date immediately preceding the Appointed Date shall be transferred to Transferee Company.
- 11.5. All taxes (including income tax, wealth tax, sales tax, customs duty, SGST, CGST and IGST, luxury tax etc.) paid or payable by the Transferor Company in respect of the operations and/or the profits of the business on and from the Appointed Date, shall be on account of the Transferee Company and, insofar as it relates to the tax payment (including without limitation income tax, wealth tax, sales tax, customs duty, SGST, CGST and IGST, luxury 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 business on and from the Appointed Date, the same shall be deemed to be the corresponding item paid by the Transferee Company, and shall, in all proceedings, be dealt with accordingly.
- 11.6. Any refund under the Tax Laws due to the Transferor Company consequent to the assessments made on Transferor Company and for which no credit is taken in the accounts as on the date immediately preceding the Appointed Date shall also belong to and be received by the Transferee Company.
- 11.7. Without prejudice to the generality of the above, all benefits including under the income tax (including benefits available to TDS credit), sales tax, excise duty, customs duty, service tax, luxury tax, VAT, SGST, CGST and IGST, etc., to which the Transferor Company is entitled to in terms of the applicable Tax Laws of the Union and State Governments, shall be available to and vest in the Transferee Company.

12. DECLARATION OF DIVIDEND

- 12.1. During the period between the Appointed Date and up to and including the Effective Date, the Transferor Company shall not declare any dividend without the prior written consent of the Board of Directors of the Transferee Company.
- 12.2. The Transferor Company and Transferee Company shall be entitled to declare and pay dividends only out of distributable profits or any other manner as permitted under the Act, earned by respective companies during the relevant financial year and shall not transfer any amount from the reserves for the purposes of payment of dividend. The dividend shall be declared by the companies only by mutual agreement between the Board of Directors of both the Companies.
- 12.3. The holders of shares of the Transferor Company and the Transferee Company shall, save as expressly provided otherwise in this Scheme, continue to enjoy their existing rights under their respective article of association including the right to receive dividends from the respective companies, of which they are members till the date, this Scheme finally takes effect i.e. the Effective Date.
- 12.4. It is clarified, however that the aforesaid provisions in respect of declarations of dividend are enabling provisions only and shall not be deemed to confer any right on any member of the Transferor Company or Transferee Company to demand or claim or be entitled to any dividend which subject to the provisions of the said Act, shall be entirely on the discretion of the Board of Directors and the approval of the shareholders of the respective companies.

13. POWER TO GIVE EFFECT TO THIS PART

- 13.1. The Transferee Company shall enter into and/ or issue and/ or execute deeds, writings or confirmations or enter into any tripartite arrangements, confirmations or novations, to which the Transferor Company will, if necessary, also be party in order to give formal effect to the provisions of this Scheme, if so required. Further, the Transferee Company shall be deemed to be authorised to execute any such deeds, writings or confirmations on behalf of the Transferor Company and to implement or carry out all formalities required on the part of the Transferor Company to give effect to the provisions of this Scheme.



- 13.2.** Upon coming into effect of the Scheme, the Transferee Company and/or the Transferor Company shall, with reasonable dispatch / time lines apply for transition of all licenses and statutory registrations of the Transferee Company including but not limited to product registrations (including applications and authorizations for product registrations), manufacturing licenses, insurance policies, product permissions, certificates, market authorizations, filings, dossiers (including experience and prequalification submissions), industrial licences, municipal permissions, approvals, consent, permits, quotas, registration with Food and Drug Administrations of various states, incentives, subsidies and recognitions. The period between the Effective Date and the last date on which the transfer of all such aforementioned licenses and statutory registrations have occurred is hereinafter referred to as "Transitory Period". During the Transition Period the Transferee Company, may procure or use or manufacture or sale, all materials and products under the respective country registrations including the packing material, art work, label goods, cartons, stickers, wrappers, labels, containers, point of sale material, sign board, samples, closures, publicity materials in the name and form/format of the Transferor Company under any license and/or statutory registration, if any, while conducting the business of the Undertaking, with a view to avoid any disruption of business, to ensure continuity of operations and uninterrupted supply of the registered products for export purposes.
- 13.3.** Even after the Scheme becomes operative, the Transferee Company shall be entitled to operate all Bank Accounts and use all bank guarantees and letter of credit of the Transferor Company, relating to the Undertaking and release all monies and complete and enforce all subsisting contracts and transactions in respect of the Transferor Company in the name of Transferor Company in so far as may be necessary, till the transfer of rights and obligations of the Transferor Company to the Transferee Company until this Scheme is formally accepted by the all the parties concerned.

PART V
DISSOLUTION OF TRANSFEROR COMPANY
AND
GENERAL TERMS AND CONDITIONS

14. DISSOLUTION OF TRANSFEROR COMPANY

On the coming into effect of this Scheme, the Transferor Company shall stand dissolved without winding-up, and the Board of Directors and any committees thereof of the Transferor Company shall without any further act, instrument or deed be and stand dissolved. On and from the Effective Date, the name of the Transferor Company shall be struck off from the records of the concerned ROC.

15. VALIDITY OF EXISTING RESOLUTIONS, ETC.

Upon the coming into effect of this Scheme the resolutions, if any, of the Transferor Company, which are valid and subsisting on the Effective Date, shall continue to be valid and subsisting and be considered as resolutions of the Transferee Company and if any such resolutions have any monetary limits approved under the provisions of the Act, or any other applicable statutory provisions, then the said limits shall be added to the limits, if any, under like resolutions passed by the Transferee Company and shall constitute the aggregate of the said limits in the Transferee Company.

16. MODIFICATION OF SCHEME

16.1. Subject to approval of NCLT, the Transferor Company and the Transferee Company by their respective Board of Directors or any director/executives or any committee authorised in that behalf (hereinafter referred to as the "Delegate") may assent to, or make, from time to time, any modification(s) or addition(s) to this Scheme which NCLT or any authorities under law may deem fit to approve of or may impose and which the Board of Directors of the Transferor Company and the Transferee Company may in their discretion accept, or such modification(s) or addition(s) as the Board of Directors of the Transferor Company and the Transferee Company or as the case may be, their respective Delegate may deem fit, or required for the purpose of resolving any doubts or difficulties that may arise in carrying out this Scheme.

16.2. The Transferor Company and the Transferee Company by their respective Boards of Directors or Delegates are authorised to do and execute all acts, deeds, matters and things necessary for bringing this Scheme into effect, or review the position relating to the satisfaction of the conditions of this Scheme and if necessary, waive any of such conditions (to the extent permissible under law) for bringing this Scheme into effect, and/or give such consents as may be required in terms of this Scheme. In the event that any conditions are imposed by NCLT or any Governmental Authorities, which the Board of Directors of the Transferor Company or the Transferee Company find unacceptable for any reason, then the Transferor Company and the Transferee Company shall be at liberty to withdraw the Scheme.

16.3. For the purpose of giving effect to this Scheme or to any modification(s) thereof or addition(s) thereto, the Delegates (acting jointly) of the Transferor Company and Transferee Company may give and are authorised to determine and give all such directions as are necessary for settling or removing any question of doubt or difficulty that may arise under this Scheme or in regard to the meaning or interpretation of any provision of this Scheme or implementation



thereof or in any matter whatsoever connected therewith (including any question or difficulty arising in connection with any deceased or insolvent shareholders or depositors, if any of the Transferor Company) or to review the position relating to the satisfaction of various conditions of this Scheme and if necessary, to waive any such conditions (to the extent permissible in law) and such determination or directions or waiver, as the case may be, shall be binding on all parties, in the same manner as if the same were specifically incorporated in this Scheme. For the avoidance of doubt, it is clarified that where this Scheme requires the approval of the Board of Directors of the Transferor Company or the Transferee Company to be obtained for any matter, the same may be given through their Delegates.

17. FILING OF APPLICATIONS

The Transferor Company and the Transferee Company shall use their best efforts to make and file all applications and petitions under Sections 230 to 232 and other applicable provisions of the Act, before the NCLT having jurisdiction for sanction of this Scheme under the provisions of law and shall apply for such approvals as may be required under the provisions of law.

18. APPROVALS

The Transferee Company shall be entitled, pending the sanction of the Scheme, to apply to any Governmental Authority, if required, under any law for such consents and approvals which the Transferee Company may require to own the Undertaking and to carry on the business of the Transferor Company.

19. SCHEME CONDITIONAL UPON SANCTIONS, ETC.

This Scheme is conditional upon and subject to:

19.1. The Scheme being approved by the requisite majority of the respective classes of shareholders and/or creditors, as applicable, of the Transferor Company and of the Transferee Company as required under the Act, as applicable, and the requisite order of the NCLT being obtained, or dispensation having been received from the NCLT in relation to obtaining such consent from the shareholders and/or creditors, as applicable;

19.2. Such other approvals and sanctions including sanction of any statutory authority, as may be required by law or contract in respect of the Scheme;

19.3. The NCLT having accorded sanction to the Scheme and if any modifications have been prescribed the same being acceptable to the Transferor Company and the Transferee Company; and

19.4. Such certified / authenticated copy of the order of the NCLT being filed with the ROC

20. EFFECT OF NON-RECEIPT OF APPROVALS/SANCTIONS

20.1. In case the Scheme is not approved by the NCLT or any of the approvals or conditions enumerated in the Scheme have not been obtained or complied with, or for any other reason, if this Scheme cannot be implemented, then the Board of directors of the Transferor Company and the Transferee Company shall mutually waive such conditions as they consider appropriate to give effect, as far as possible, to this Scheme and failing such mutual agreement, the Scheme shall become null and void and each party shall bear their respective costs, charges and expenses in connection with this Scheme.

20.2. If any part of this Scheme hereof is invalid, held illegal by any court and/or tribunal and/or statutory authority of competent jurisdiction, or unenforceable under any present or future laws, then it is the intention of the parties that such part shall be severable from the remainder of the Scheme, and the Scheme shall not be affected thereby, unless the deletion of such part shall cause this Scheme to become materially adverse to any party, in which case the parties shall attempt to bring about a modification in the Scheme, as will best preserve for the parties the benefits and obligations of the Scheme, including but not limited to such part.

21. PROCEDURAL FORMALITIES POST SANCTION OF THE SCHEME –BUSINESS CONTINUITY

21.1. The Transferee Company shall, at any time after the coming into effect of this Scheme in accordance with the provisions hereof, if so required under any law or otherwise, execute deeds of confirmation or novation or other writings or arrangements with any party to any contract or arrangement in relation to which the Transferor Company has been a party, in order to give formal effect to the above provisions. The Transferee Company shall, under the provisions of this Scheme, be deemed to be authorized as a constituted attorney to execute any such deeds, writings, documents, receipts and discharges on behalf of the Transferor Company and to carry out or perform all such formalities or compliances referred to in this Scheme on the part of and for and behalf of the Transferor Company as if the Transferor Company has not been dissolved without being wound-up.

21.2. Upon the Scheme becoming effective, for statistical purposes only and without any separate deed, instrument or writing, the Transferor Company and/or the Transferee Company shall, if required, simultaneously with the amendment in the register of charges and file particulars of the modified charge with the concerned Registrar of Companies. Any documentation subsequently entered into with the term lenders or the working capital lenders of the Transferor



Company and the Transferee Company, shall be for the sake of convenience and record only and to reflect the changes in the security pursuant to the Scheme and there shall be no break in the continuity of such charge and the same shall relate back to the date of its creation thereof in the Transferor Company.

- 21.3. Upon the Scheme becoming effective, all statutory permissions, licenses, approvals, consents, privileges, benefits and benefits of filings and all other incorporeal rights emanating from such licenses (together the “**Licenses**”, for the purpose of this Clause 21.3) relating to the Transferor Company, shall stand transferred to and vested in the Transferee Company without any further act, instrument or deed, as more particularly provided hereinabove. Notwithstanding such transfer /vesting of the Licenses, if any application is required for the statistical record of the statutory authorities to implement the transfer and vesting of the Licenses, as provided hereinabove, the Transferee Company shall facilitate the statutory authorities by filing such applications, which shall be granted /approved in favour of the Transferee Company based on the sanction order of the Scheme by the NCLT.
- 21.4. Upon the Scheme becoming effective, the Transferee Company is expressly entitled and authorized under the Scheme by the Transferor Company to revise its direct or indirect tax returns and related withholding certificates and shall be entitled to claim refund, advance tax credits including CENVAT credit, pertaining to the Transferor Company, if any.
- 21.5. From the Effective Date, all bank accounts of the Transferor Company shall be permitted to be continued with the same balances as of the Effective Date in the name of the Transferee Company and for statistical record the Transferee Company shall be permitted to file names and particulars of the new authorised signatories for withdrawals and/ or deposits/ credits in such bank accounts and the relevant bank accounts shall be reconstituted accordingly.
- 21.6. The powers and authorization granted to and to be exercised by the Transferee Company in terms of Clauses 21.1 to 21.5 herein are with the aim and intent that the business and operations relating to the Undertaking transferred herein of the Transferor Company even after the Effective Date are transitioned and continue on a “*going concern basis*” without any interruption or break in continuity.
- 21.7. On the coming into effect of this Scheme, the Transferor Company shall without any further act, instrument or deed shall cease to function and shall be discharged from its obligations. Upon dissolution of the Transferor Company without winding up, no person shall make / or assert claims, demands or proceed against any director, employee or officer of the Transferor Company for any acts, deeds and things done or decisions taken by or on behalf of the Transferor Company, while carrying out the business and activities of the Transferor Company in ordinary course.

22. SAVING OF CONCLUDED TRANSACTIONS

Subject to the terms of this Scheme, the transfer and vesting of the Undertaking of the Transferor Company under Clause 4 of this Scheme shall not affect any transactions or proceedings already concluded by the Transferor Company on or before the Appointed Date or concluded after the Appointed Date till the Effective Date, to the end and intent that the Transferee Company accepts and adopts all acts, deeds and things made, done and executed by the Transferor Company as acts, deeds and things made, done and executed by or on behalf of the Transferee Company.

23. COSTS, CHARGES AND EXPENSES

All costs, charges and expenses of or payable by the Transferor Company and the Transferee Company in relation to or in connection with this Scheme and incidental to the completion of the amalgamation of the Transferor Company and the Transferee Company in pursuance of this on the Order of the NCLT, if any, shall be

- 23.1. borne and paid by the Transferor Company till the Effective Date; and
- 23.2. borne and paid by the Transferee Company after the Effective Date.

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