

  
BEEJAL DESAI  
Vice President Legal & Company Secretary

## ANNEXURE II

### SCHEME OF AMALGAMATION BETWEEN

**Tifco Holdings Limited** ... Transferor Company

AND

**The Indian Hotels Company Limited** ... Transferee Company

UNDER SECTIONS 230 TO 232 OF THE COMPANIES ACT, 2013

#### PART I – GENERAL

- A. Tifco Holdings Limited is an unlisted public limited company incorporated under the Companies Act, 1956, having its registered office at Mandlik House, Mandlik Road, Colaba, Mumbai-400001 (the “**Transferor Company**”). The Transferor Company was incorporated as “Taj Investment and Finance Company Limited” and changed its name to “Tifco Holdings Limited” consequent to the fresh certificate of incorporation dated January 22, 2009. The main objects of the Transferor Company are “to carry on the business of and as an investment Company, and to invest the capital and other moneys of the Company in the purchase or upon the security of shares, stock, units, debentures, debenture stock, bonds, mortgages, obligations and securities of any kind issued or guaranteed by any Company, corporation or undertaking of whatever nature, whether incorporated or otherwise and carrying on business in India or elsewhere and shares, stocks, debenture stock, bonds, notes, mortgages, obligations and other securities issued or guaranteed by any government, sovereign ruler, commissioners, trust, municipal or other authority firm, person or body of whatever nature, in India or abroad and to buy, underwrite, invest in and acquire and hold shares stocks, debentures, debenture-stock, bonds, obligations and securities issued or guaranteed by any company or body corporate whether incorporated or not or by a person or association, carrying on business in India or elsewhere.” The object clause of the Transferor Company further includes buying, selling, making investment in land and real estate. Taj Investment and Finance Company Limited was registered with the Reserve Bank of India to commence/carry on the business of a non-banking financial institution *vide* certificate of registration dated April 07, 1998, and consequent to change of name in 2009, the Reserve Bank of India issued a fresh certificate of registration bearing number 13.00615, to the Transferor Company. The Transferor Company is a wholly owned subsidiary of the Transferee Company (*as defined hereinafter*).
- B. The Indian Hotels Company Limited is a public limited company incorporated under the Indian Companies Act of 1882, having its registered office at Mandlik House, Mandlik Road, Mumbai-400001 (the “**Transferee Company**”). The Transferee Company is primarily engaged in the business of owning, operating and managing

hotels, palaces and resorts and its objects include acquiring and holding shares in any other company having objects in part similar to those of the Transferee Company or carrying on any business capable of being conducted so as to directly or indirectly benefit the Transferee Company. The equity shares of the Transferee Company are listed on the BSE Limited (“BSE”) and on the National Stock Exchange of India Limited (collectively, the “Stock Exchanges”).

- C. The Transferor Company was incorporated with the objective of being the investment arm of the Transferee Company for its investments in India. Further, the Transferor Company, being a non-banking financial company, is subject to various compliance requirements. Its ability to borrow is also restricted and it is dependent on the Transferee Company for funding. In the current environment, the utility of retaining the Transferor Company as a separate investment company is diminished and hence it is sought to be amalgamated with the Transferee Company.
- D. The Scheme shall enable the Transferee Company to reap several other benefits including:
- (a) simplify management structure, leading to better administration;
  - (b) reduction in costs from more focused operational efforts, rationalization, standardisation and simplification of business processes,
  - (c) the elimination of duplication and rationalization of administrative expenses;
  - (d) simplify shareholding structure and reduce shareholding tiers; and
  - (e) facilitate direct and indirect tax efficiencies.
- E. Accordingly, it is proposed that the Transferor Company be amalgamated with the Transferee Company, followed by the dissolution without winding up of the Transferor Company and the consequent cancellation of equity shares held by the Transferee Company in the Transferor Company, and various other matters consequential to or otherwise integrally connected with the above pursuant to Sections 230 to 232 and other relevant provisions of the Act (*as defined hereinafter*) in the manner provided for in this Scheme.
- F. The amalgamation of the Transferor Company with the Transferee Company pursuant to this Scheme shall take place with effect from the Appointed Date (*as defined hereinafter*).
- G. The amalgamation of the Transferor Company with the Transferee Company in accordance with this Scheme will be in compliance with the provisions of Sections 230 to 232 and other relevant provisions of the Act and Section 2(1B) of the Income Tax Act, 1961, such that:
- (i) all the properties/assets of the Transferor Company, immediately before the amalgamation, shall become the property/assets of the Transferee Company, by virtue of the amalgamation; and

- (ii) all the liabilities of the Transferor Company, immediately before the amalgamation, shall become the liabilities of the Transferee Company, by virtue of the amalgamation.
- H. Since the Transferor Company is a wholly owned subsidiary of the Transferee Company, upon this Scheme becoming effective, the shares held by the Transferee Company in the Transferor Company will stand cancelled and no consideration whatsoever shall pass from the Transferee Company.
- I. This Scheme has been drawn up to comply with the conditions relating to “amalgamation” as specified under Section 2(1B) of the Income Tax Act, 1961. If any term or provision of the Scheme is found or interpreted to be inconsistent with the said provisions, including resulting from an amendment of law or for any other reason whatsoever, the Scheme may be modified in the manner provided in this Scheme to the extent determined necessary to comply with Section 2(1B) of the Income Tax Act, 1961. Such modification will however not affect other parts of the Scheme.
- J. This Scheme is divided into the following parts:
  - (a) **Part I**, which deals with the introduction and definitions, and sets out the share capital of the Transferor Company and the Transferee Company;
  - (b) **Part II**, which deals with the amalgamation of the Transferor Company with the Transferee Company; and
  - (c) **Part III**, which deals with the dissolution without winding up of the Transferor Company, accounting treatment and general terms and conditions applicable to this Scheme.

1. *Definitions and Interpretation*

- 1.1 In the Scheme, unless repugnant to the meaning or context thereof, the following expressions shall have the following meanings:
  - 1.1.1 “**Act**” means the Companies Act, 2013, and the Companies Act, 1956 (to the extent the same is in force and applicable), the rules and regulations made thereunder and shall include any statutory modification or re-enactment thereof for the time being in force;
  - 1.1.2 “**Appointed Date**” means April 1, 2017, or such other date as may be determined by the Boards of Directors of the Transferor Company and the Transferee Company and as the NCLT may direct/ allow;
  - 1.1.3 “**BSE**” shall have the meaning assigned to it in paragraph B of Part I hereof;
  - 1.1.4 “**Board of Directors**” or “**Board**” in relation to each of the Transferor Company and the Transferee Company, as the case may be, means the board of directors of such company, and shall include a committee of persons, duly constituted and authorised for the purposes of matters pertaining to the amalgamation, the Scheme and/or any other matter relating thereto;
  - 1.1.5 “**Companies**” mean the Transferor Company and the Transferee Company;

- 1.1.6 “**Effective Date**” means the last of the dates on which all the conditions and matters referred to in Clause 17 of the Scheme occur or have been fulfilled or waived in accordance with this Scheme. References in this Scheme to date of ‘coming into effect of the Scheme’ or ‘effectiveness of the Scheme’ shall be construed as references to the Effective Date;
- 1.1.7 “**Employees**” mean the employees, if any, of the Transferor Company, as on the Effective Date;
- 1.1.8 “**Encumbrance**” means any options, pledge, mortgage, lien, security, interest, claim, charge, pre-emptive right, easement, limitation, attachment, restraint or any other encumbrance of any kind or nature whatsoever, and the term “Encumbered” shall be construed accordingly;
- 1.1.9 “**Governmental Authority**” means any applicable central, state or local government, legislative body, regulatory authority including the Reserve Bank of India, or administrative authority, agency or commission including a stock exchange or any court, tribunal, board, bureau, instrumentality, judicial or arbitral body;
- 1.1.10 “**Liabilities**” means all debts and liabilities of the Transferor Company including all secured and unsecured debts (whether in Indian rupees or foreign currency), liabilities (including contingent liabilities, deferred tax liabilities and obligations under any licenses or permits or schemes), duties and obligations of the Transferor Company of every kind, nature and description whatsoever whether present or future, and howsoever arising, raised or incurred or utilised for its business activities and operations along with any charge, Encumbrance, lien or security thereon, if any;
- 1.1.11 “**National Company Law Tribunal**” or “**NCLT**” means the National Company Law Tribunal at Mumbai having jurisdiction in relation to the Companies and/or the National Company Law Appellate Tribunal as constituted and authorized as per the provisions of the Act for approving any scheme of arrangement, compromise or reconstruction of companies under Sections 230 to 232 of the Act and shall include, if applicable, such other forum or authority as may be vested with the powers of a tribunal for the purposes of Sections 230 to 232 of the Act as may be applicable;
- 1.1.12 “**Registrar of Companies**” means the Registrar of Companies at Mumbai, Maharashtra;
- 1.1.13 “**Scheme**” means this scheme of amalgamation, as amended or modified in accordance with the provisions hereof;
- 1.1.14 “**Stock Exchanges**” shall have the meaning assigned to it in paragraph B of Part I hereof;
- 1.1.15 “**Transferee Company**” shall have the meaning assigned to it in paragraph B of Part I hereof;
- 1.1.16 “**Transferor Company**” shall have the meaning assigned to it in paragraph A of Part I hereof; and

1.1.17 “**Undertaking**” means the entire assets, liabilities, undertakings and business of the Transferor Company as a going concern, including, without limitation:

- (a) all the assets and properties (whether movable or immovable, tangible or intangible, present, or future of whatsoever nature), including fixed assets buildings, leasehold lands, and all rights, liberties, privileges, easements, profits, advantages, title, interest, use, enjoyment, inheritance, possessions, benefit, claim and/or demand, appurtenances whatsoever to the said assets, tenancies in relation to residences, offices or premises, etc. investments including trade investment, investments in listed companies, unlisted companies, associate companies, fellow subsidiaries, non current investments, and current assets of the Transferor Company, in each case, wherever situated, including the land and premises specified at Annexure 1 to this Scheme.
- (b) all permits, quotas, rights, entitlements and other licences, bids, tenders, letters of intent, expressions of interest, memoranda of understanding or similar instruments, (whether vested or potential and whether under agreements or otherwise), permissions, approvals, consents, subsidies, income tax benefits and exemptions including the right to deduction for the residual period, i.e. for the period remaining as on the Appointed Date out of the total period for which the deduction is available in law if the amalgamation pursuant to this Scheme had not taken place, all other rights including sales tax deferrals and exemptions and other benefits, (in each case including the benefit of any applications made therefore), receivables, and liabilities related thereto, 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 and all other interests (including all tenancies, leases, and other assurances in favour of the Transferor Company or powers or authorities granted by or to it) in connection with or relating to the Transferor Company;
- (c) all the Liabilities of the Transferor Company, whether provided for or not in the books of account or disclosed in the balance sheet of the Transferor Company;
- (d) all benefits and obligations under the contracts, deeds, bonds, agreements, schemes, arrangements and other instruments of any nature of the Transferor Company;
- (e) all books, records, files, papers, process information and drawings, manuals, data, catalogues, quotations, sales and advertising material, lists of present and former customers and suppliers, other customer information, and all other records and documents, whether in physical or electronic form, relating to business activities and operations of the Transferor Company; and
- (f) Employees, if any.

1.2 References to Clauses, sub-Clauses and Recitals, unless otherwise provided, are to clauses, sub-clauses and recitals of and to this Scheme.

1.3 The headings herein shall not affect the construction of this Scheme.

- 1.4 Unless the context otherwise requires, reference to any law or to any provision thereof shall include references to any such law or to any provision thereof as it may, after the date hereof, from time to time, be amended, supplemented or re-enacted, or to any law or any provision which replaces it, and any reference to a statutory provision shall include any subordinate legislation made from time to time under that provision.
- 1.5 The singular shall include the plural and vice-versa; and references to one gender include all genders.
- 1.6 Any phrase introduced by the terms “including”, “include”, “in particular” or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.7 Reference to a person includes any individual, firm, body corporate (whether incorporated or not), Governmental Authority, or any joint venture, association, partnership, works council or employee representatives body (whether or not having separate legal personality).

2. Share Capital

(a) Transferor Company

- (i) The share capital structure of the Transferor Company as on March 31, 2017, is as under:

<b>A. Authorised Share Capital</b>	<b>Amount in INR</b>
9,00,00,000 equity shares of face value of INR 10 each	90,00,00,000
<b>Total</b>	<b>90,00,00,000</b>

<b>B. Issued, Subscribed and Paid-up Share Capital</b>	<b>Amount in INR</b>
8,15,00,000 equity shares of face value of INR 10 each	81,50,00,000
<b>Total</b>	<b>81,50,00,000</b>

- (ii) The equity shares of the Transferor Company are currently not listed on any stock exchange.
- (iii) All equity shares of the Transferor Company are held by the Transferee Company.

(b) Transferee Company

- (i) The share capital structure of the Transferee Company as on March 31, 2017, is as under:

<b>A. Authorised Share Capital</b>	<b>Amount in INR</b>
200,00,00,000 equity shares of face value of INR 1 each	200,00,00,000
<b>Total</b>	<b>200,00,00,000</b>

<b>B. Issued and Subscribed Share Capital</b>	<b>Amount in INR</b>
<i>Issued Share Capital</i>	
98,93,07,472 equity shares of face value of INR 1 each fully paid up	98,93,07,472
<i>Subscribed Share Capital</i>	
98,92,74,015 equity shares of face value of INR 1 each fully paid up	98,92,74,015

<b>C. Paid-up Share Capital</b>	<b>Amount in INR</b>
98,92,74,015 equity shares of face value of INR 1 each fully paid up	98,92,74,015
<b>Total</b>	<b>98,92,74,015</b>

- (ii) The Transferee Company has issued secured and non-secured non-convertible debentures. All non-convertible debentures are listed.

3. ***Date of taking effect and operative date***

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

**PART II – AMALGAMATION OF THE TRANSFEROR COMPANY WITH THE TRANSFEREE COMPANY**

**Section 1 – Transfer**

4. Upon the coming into effect of the Scheme and with effect from the Appointed Date, the Undertaking of the Transferor Company shall pursuant to the provisions of Sections 230 to 232 and other applicable provisions, if any, of the Act, be and stand transferred to and vested in and/or be deemed to have been transferred to and vested in the Transferee Company, as a going concern in accordance with Section 2(1B) and other applicable provisions of the Income Tax Act, 1961, without any further act, instrument, deed, matter or thing 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.

5. **Transfer of assets**

- (a) Without prejudice to the generality of Clause 4 above, upon the coming into effect of the Scheme and with effect from the Appointed Date, all the estate, assets, properties (including investments in shares, securities, stocks, debentures, units, obligations, bonds, trade investment, investments in listed companies, unlisted companies, investment in associate companies, fellow subsidiaries, non current investments), bank accounts, demat accounts, rights (including leasehold rights), claims, title, interest and authorities including accretions and appurtenances comprised in the Undertaking of whatsoever nature and where so ever situate, 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, under the provisions of Sections 230 to 232 of the Act and all

other applicable provisions of applicable law, if any, without any further act, deed or instrument, cost or charge and without any notice or other intimation to any third party for the transfer of the same, be and stand transferred to and vested in the Transferee Company and/or be deemed to be transferred to and vested in the Transferee Company as a going concern so as to become, as and from the Appointed Date (or in case of any estate, assets, etc. acquired on a date after the Appointed Date, with effect from such date), the estate, assets, properties (including investments in shares, securities, stocks, debentures, units, obligations, debenture stock, mortgages, bonds), rights, claims, title, interest and authorities of the Transferee Company, subject to the provisions of this Scheme in relation to Encumbrances, if any, in favour of banks and/or financial institutions.

- (b) Without prejudice to the provisions of sub-Clause (a) above, in respect of such of the assets and properties of the Transferor Company as are movable in nature (including securities, stocks, debentures, units, obligations, debenture stock, mortgages, bonds) or incorporeal property or are otherwise capable of transfer by delivery or possession, or by endorsement and/or delivery, the same shall stand so transferred by the Transferor Company upon the coming into effect of the Scheme, and shall, become the assets and property of the Transferee Company with effect from the Appointed Date pursuant to the provisions of Section 232 of the Act and all other applicable provisions of applicable law, if any, without requiring any deed or instrument of conveyance, cost or charge and without any notice or other intimation to any third party for transfer of the same, subject to the provisions of this Scheme in relation to Encumbrances, if any, in favour of banks and/or financial institutions.
- (c) In respect of such of the assets and properties belonging to the Transferor Company (other than those referred to in sub-Clause (b) above) including sundry debtors, receivables, bills, credits (including tax credits), loans and advances, if any, whether recoverable in cash or in kind or for value to be received, bank balances, earnest money and deposits with any Government, quasi-government, local or other authority or body or with any company or other person, the same shall stand transferred to and vested in the Transferee Company and/or deemed to have been transferred to and vested in the Transferee Company, without any further act, instrument or deed, cost or charge and without any notice or other intimation to any third party, upon the coming into effect of this Scheme and with effect from the Appointed Date pursuant to the provisions of Sections 230 to 232 of the Act and all other applicable provisions of applicable law, if any.
- (d) All the consents, certificates, clearances, licenses, permits, entitlements, approvals, permissions, registrations, incentives, tax deferrals, exemptions and benefits (including sales tax and service tax), subsidies, leasehold rights, 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 on, before or after the Appointed Date, income tax benefits and exemptions, all other rights, exemptions and benefits including those



acquired by the Transferor Company on or after the Appointed Date, shall, under the provisions of Sections 230 to 232 of the Act and all other applicable provisions of applicable law, if any, without any further act, instrument or deed, cost or charge and without any notice or other intimation to any third party for transfer of the same, on coming into effect of the Scheme and with effect from Appointed Date, be and stand transferred to and vest in and/or be deemed to be transferred to and vested in and be available to the Transferee Company so as to become licenses, permits, entitlements, approvals, permissions, registrations, incentives, tax deferrals, exemptions and benefits (including sales tax and service tax), subsidies, 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.

- (e) All the rights, remedies, claims and rights of action of the Transferor Company against third parties shall, pursuant to Sections 230 to 232 of the Act, without any further act, instrument or deed, cost or charge and without any notice or other intimation to any third party for transfer of the same, be and deemed to be rights, remedies, claims and rights of action of the Transferee Company upon the coming into effect of the Scheme and with effect from the Appointed Date.

6. Contracts, deeds etc.

- (a) Upon the coming into effect of this Scheme and with effect from Appointed Date, and subject to the provisions of this Scheme, all contracts, deeds, bonds, agreements, schemes, arrangements 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 for, and which are subsisting or have effect immediately before the Effective Date, shall, under the provisions of Sections 230 to 232 of the Act and all other applicable provisions of applicable law, if any, without any further act, instrument or deed, cost or charge and without any notice or other intimation to any third party, continue in full force and effect on or against or in favour, as the case may be, of 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 thereto or thereunder.
- (b) 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 the 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 to be carried out or performed.

- (c) For the avoidance of doubt and without prejudice to the generality of the foregoing, upon the coming into effect of the Scheme and with effect from the Appointed Date, all consents, permissions, licences, certificates, clearances, authorities, powers of attorney given by, issued to, or executed in favour of the Transferor Company shall 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.

7. Transfer of Liabilities

- (a) Upon the coming into effect of this Scheme and with effect from the Appointed Date, the Liabilities, whether or not recorded in its books and records, shall, under the provisions of Sections 230 to 232 of the Act and other applicable provisions of applicable law, if any, without any further act, instrument, deed, matter or thing, cost or charge and without any notice or other intimation to any third party for the transfer of the same, be and stand transferred to and vested in and be deemed to have been transferred to and vested in the Transferee Company, to the extent they are outstanding on the Effective Date and shall become as and from the Appointed Date (or in case of any Liability incurred on a date after the Appointed Date, with effect from such 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 7.
- (b) All Liabilities and obligations incurred or which arise or accrue to the Transferor Company on or after the Appointed Date till the Effective Date shall be deemed to be and shall become liabilities and obligations raised, used, incurred by the Transferee Company by virtue of this Scheme.
- (c) Where any Liabilities of the Transferor Company as on the Appointed Date have been discharged by the Transferor Company on or after the Appointed Date and prior to the Effective Date, such discharge shall be deemed to be for and on account of the Transferee Company upon the coming into effect of this Scheme.
- (d) All Liabilities incurred or undertaken by the Transferor Company on or after the Appointed Date and prior to the Effective Date shall be deemed to have been raised, used, incurred or undertaken for and on behalf of the Transferee Company and to the extent they are outstanding on the Effective Date, shall, upon the coming into effect of this Scheme and under the provisions of Sections 230 to 232 of the Act, without any further act, instrument or deed, cost or charge and without any notice or other intimation to any third party for the transfer of the same, be and stand transferred to and vested in and be deemed to have been transferred to and vested in the Transferee Company and shall become the loans and liabilities, duties and obligations of the Transferee Company, which shall meet, discharge and satisfy the same.

- (e) Upon coming into effect of the Scheme, 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 liability, including a contingent liability in whatever form), if any, due or which may at any time in future become due between the Transferor Company 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 the appropriate effect shall be given in the books of accounts and records of the Transferee Company.
- (f) 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 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, with the Registrar of Companies, to give formal effect to the above provisions, if required.
- (g) Upon the coming into effect of this Scheme, the Transferee Company shall be liable to perform all obligations in respect of the Liabilities, which have been transferred to it in terms of this Scheme.
- (h) It is expressly provided that, save as herein provided, no other term or condition of the Liabilities transferred to the Transferee Company is amended by virtue of this Scheme except to the extent that such amendment is required statutorily.
- (i) The provisions of this Clause 7 and Clause 8 shall operate 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 or the terms of sanction or issue or any security document shall stand modified and/or superseded by the foregoing provisions.

8. Encumbrances

- (a) The transfer and vesting of the assets comprised in the Undertaking to and in the Transferee Company under Clause 4 and Clause 5 of this Scheme shall be subject to the Encumbrances, if any, affecting the same.
- (b) The Encumbrances, if any, existing prior to the Effective Date over the assets of the Transferor Company which secure or relate to the Liabilities, shall, after the Effective Date, without any further act, instrument or deed, 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. Provided that if any of the assets of the Transferor Company have not been Encumbered in respect of the Liabilities, such assets shall, even on the operation of the Scheme, remain unencumbered and the existing Encumbrance, if any, referred to above shall not be extended to and shall not operate over such assets. Further, such Encumbrances, if any, shall not relate

or attach to any of the other assets of the Transferee Company. The absence of any formal amendment which may be required by a lender or trustee or third party shall not affect the operation of the above. It is clarified that nothing in this clause shall prevent the Transferee Company to create any fresh Encumbrances on assets transferred in terms of this Scheme pursuant to effectiveness of the Scheme.

- (c) The existing Encumbrances, if any, over the other 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 to such assets and properties and shall not extend or attach to any of the assets and properties of the Transferor Company transferred to and vested in the Transferee Company by virtue of the Scheme.

9. Employees

- (a) Upon the coming into effect of this Scheme, the Employees, if any, shall, under the provisions of Sections 230 to 232 of the Act and other provisions of applicable law, if any, without any further act, instrument, deed, cost or charge and without any notice or other intimation to any third party for their transfer, become the employees of the Transferee Company on terms and conditions not less favourable than those on which they are engaged by the Transferor Company and without any interruption of or break in service as a result of the amalgamation of the Transferor Company with the Transferee Company. For the purpose of payment of any compensation, gratuity and other terminal benefits, the past services of such Employees with the Transferor Company shall also be taken into account, and paid (as and when payable) by the Transferee Company.
- (b) It is clarified that save as expressly provided for in this Scheme, the Employees who become the 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 any schemes and benefits that may be applicable and available to any of the other 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 other employees of the Transferee Company), unless otherwise determined by the Transferee Company.
- (c) In relation to those Employees, if any, who are not covered under the provident fund trust of the Transferor Company or who do not enjoy the benefit of any other provident fund trust, and for whom the Transferor Company is making contributions to the government provident fund, the Transferee Company shall stand substituted for the Transferor Company, for all purposes whatsoever, including relating to the obligation to make contributions to the said fund in accordance with the provisions of such fund, bye-laws, etc. in respect of such Employees, such that all the rights, duties, powers and obligations of the Transferor Company in relation to such provident fund trust shall become those of the Transferee Company.
- (d) Upon the coming into effect of this Scheme, the directors of the Transferor Company will not be entitled to any directorships in the Transferee Company

by virtue of the provisions of this Scheme. It is clarified that this Scheme will not affect any directorship of a person who is already a director in the Transferee Company as of the Effective Date, if any.

10. Legal, taxation and other proceedings
  - (a) Upon the coming into effect of this Scheme, all suits, actions, and other proceedings including legal and taxation proceedings, (including before any statutory or quasi-judicial authority or tribunal) by or against the Transferor Company, whether pending and/or arising on or before 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 instituted and/or pending and/or arising by/or against the Transferee Company.
  - (b) The Transferee Company shall have all legal, taxation or other proceedings initiated by or against the Transferor Company referred to in sub-Clause (a) above transferred to its name as soon as is reasonably possible after the Effective Date and to have the same continued, prosecuted and enforced by or against the Transferee Company.
11. Without prejudice to the provisions of Clauses 4 to 10, with effect from the Appointed Date, all inter-party transactions between the Transferor Company and the Transferee Company shall be considered as intra-party transactions for all purposes.

## **Section 2 – Conduct of Business**

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

- (d) all taxes (including, without limitation, income tax, wealth tax, sales tax, excise duty, customs duty, service tax, VAT, etc.) paid or payable by the Transferor Company in respect of the operations and/or the profits of the Transferor Company before the Appointed Date, shall be on account of the Transferor Company and, insofar as it relates to the tax payment (including, without limitation, income tax, minimum alternate tax, wealth tax, sales tax, excise duty, customs duty, service tax, VAT, etc.), whether by way of deduction at source, advance tax or otherwise howsoever, by the Transferor Company in respect of the profits or activities or operation of the Transferor Company with effect from the Appointed Date, the same shall be deemed to be the corresponding item paid by the Transferee Company, and, shall, in all proceedings, be dealt with accordingly.
13. Subject to the terms of the Scheme, the transfer and vesting of the Undertaking as per the provisions of the Scheme, shall not affect any transactions or proceedings already concluded by the Transferor Company on or before the Appointed Date or 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. It is hereby clarified that till the Effective Date, nothing shall prevent the Transferor Company to create fresh Encumbrances over the assets to be transferred to the Transferee Company, subject to approval of the Transferee Company.

### **Section 3 – Cancellation of Shares of the Transferor Company**

14. Upon the Scheme coming into effect, all equity shares of the Transferor Company held by the Transferee Company (directly and/or through nominees) shall stand cancelled without any further application, act or deed. It is clarified that no new shares shall be issued or payment made in cash or in kind, whatsoever, by the Transferee Company in lieu of such shares of the Transferor Company.

## **PART III – DISSOLUTION OF TRANSFEROR COMPANY, ACCOUNTING TREATMENT AND OTHER TERMS AND CONDITIONS**

### **15. Dissolution of Transferor Company**

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

### **16. Accounting Treatment**

Upon the Scheme becoming effective, the Transferee Company shall account for the amalgamation in its books of accounts as per the Pooling of Interests Method in accordance with the principles as laid down in the Indian Accounting Standard (Ind AS) 103 – Business Combinations, other applicable accounting standards and the applicable provisions of the Companies Act, 2013, including as under:

- (a) All the assets and liabilities of the Transferor Company transferred to the Transferee Company shall be recorded in the books of the Transferee

Company at the value and in the same form as recorded in the books of the Transferor Company as at the Appointed Date;

- (b) In case of any difference in accounting policies between the Transferor Company and the Transferee Company, the impact of the same till the Appointed Date will be quantified and adjusted to the reserves of the Transferee Company to ensure that the financial statements of the Transferee Company reflect the financial position on the basis of consistent accounting policies;
- (c) All costs and expenses incurred in connection with the implementation of the Scheme shall be debited to the Profit & Loss Account of the Transferee Company;
- (d) If common control existed prior to the Appointed Date, the comparative financial information presented in the financial statements of the Transferee Company shall be restated for the accounting impact of the amalgamation, as stated above, as if the amalgamation had occurred from the beginning of the comparative preceding period of the financial statements;
- (e) Inter-Company holdings and balances, if any, between the Transferor Company and the Transferee Company shall stand cancelled;
- (f) The equity share capital of the Transferor Company and the corresponding investment in the equity shares of the Transferor Company made by the Transferee Company shall be cancelled and the difference, if any, shall be transferred to Capital Reserve of the Transferee Company which shall be presented separately from other capital reserves of the Transferee Company.

17. Scheme Conditional On

- (a) The Scheme is conditional upon, and subject to:
  - (i) the Scheme being approved by the requisite majorities of members of the Transferor Company and the Transferee Company as required under the Act, and the requisite orders of the National Company Law Tribunal being obtained in this regard;
  - (ii) the National Company Law Tribunal having accorded its sanction to the Scheme;
  - (iii) such other approvals and sanctions including sanction of any Governmental Authority or contracting party as may be required by law or contract in respect of the Scheme being obtained; and
  - (iv) the certified copies of the order of the National Company Law Tribunal approving the Scheme being filed with the Registrar of Companies, Maharashtra.
- (b) On the approval of the Scheme by the shareholders of the Transferor Company and the Transferee Company, in accordance with Section 230 of the Act, the shareholders of the Transferor Company and Transferee Company,

respectively, shall be deemed to have also resolved and accorded all relevant consents under the Act to the extent the same may be considered applicable in relation to the amalgamation set out in this Scheme and related matters.

18. Dividends

- (a) The Transferor Company and the Transferee Company shall be entitled to declare and pay dividends, whether interim or final, to their respective shareholders, in respect of the accounting period prior to the Effective Date.
- (b) Prior to the effectiveness of the Scheme, the holders of the 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 Articles of Association including the right to receive dividends.
- (c) It is clarified that the aforesaid provisions in respect of declaration of dividends are enabling provisions only and shall not be deemed to confer any right on any shareholder of the Transferor Company and/or the Transferee Company to demand or claim any dividends which, subject to the provisions of the Act, shall be entirely at the discretion of the respective Board of Directors of the Transferor Company and the Transferee Company respectively, and subject to the approval, if required, of the shareholders of the Transferor Company and the Transferee Company respectively.

19. Applications

- (a) The Transferor Company and the Transferee Company (if required) shall make necessary applications and petitions before the National Company Law Tribunal for the sanction of this Scheme under Sections 230 and 232 of the Act and any other applicable provisions of law, for sanction of the Scheme under the provisions of applicable law and obtain such other approvals, as required by law.
- (b) The Companies shall be entitled, pending the effectiveness of the Scheme, to apply to any authority, if required, under any applicable law for such consents and approvals, as agreed between the Companies, which the Companies may require to effect the transactions contemplated under the Scheme, subject to the terms as may be mutually agreed between the Companies.

20. Resolutions

- (a) Upon the coming into effect of the Scheme, the resolutions, if any, of the Transferor Company, relating to any powers to borrow, make investments, give loans, give guarantees, etc. approved under the provisions of the Act or any other applicable statutory provisions, 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 the amounts under such resolutions shall be added to the amounts under like resolutions passed by the Transferee Company or shall become the amounts available to the Transferee Company, as if the resolutions were passed by the Transferee Company.



- (b) It is clarified that the consent of the members of the Companies to the Scheme shall be deemed to be sufficient for the purposes of effecting the transactions contemplated under the Scheme, and no further resolution under any other applicable provisions of the Act would be required to be separately passed.

21. Modifications or Amendments to the Scheme

The Transferor Company (by its Board of Directors) and the Transferee Company (by its Board of Directors) may, in their full and absolute discretion, jointly and as mutually agreed in writing:

- (a) assent to any alteration(s) or modification(s) to this Scheme which the National Company Law Tribunal and/or any other Governmental Authority may deem fit to approve or impose and to do all acts, deeds and things as may be necessary, desirable or expedient for the purposes of this Scheme;
- (b) give such directions (acting jointly) as they may consider necessary to settle any question or difficulty arising under this Scheme, or in regard to, and of the meaning or interpretation of this Scheme or implementation thereof, or in any matter whatsoever connected therewith, or to review the position relating to the satisfaction of various conditions of this Scheme and if necessary, to waive any of those (to the extent permissible under applicable law);
- (c) jointly modify, vary or withdraw this Scheme prior to the Effective Date in any manner at any time;
- (d) determine jointly whether any asset, liability, legal or other proceedings pertains to the Transferor Company or not, on the basis of any evidence that they may deem relevant for this purpose; and
- (e) make any modification to the Scheme by the Transferor Company and/or the Transferee Company, after receipt of sanction by the National Company Law Tribunal only with the prior approval of the National Company Law Tribunal.

22. 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 hold investments, assets etc. as may be required of the Transferor Company.

23. Severability

- (a) The provisions contained in this Scheme are inextricably inter-linked with the other provisions and the Scheme constitutes an integral whole. The Scheme would be given effect to only if it is approved in its entirety, unless specifically agreed otherwise by the respective Board of Directors of the Transferor Company and the Transferee Company.
- (b) If any part of this Scheme is found to be unworkable for any reason whatsoever, the same shall not, subject to the decision of the Transferor Company and the Transferee Company, affect the validity or implementation of the other parts and/or provisions of this Scheme.

24. Upon this Scheme becoming effective, the accounts of the Transferee Company shall be reconstructed in accordance with the terms of this Scheme.
25. The Transferee Company shall be entitled to file/revise its income tax returns, TDS certificates, TDS returns, and other statutory returns, if required, and shall have the right to claim refunds, advance tax credits, credit of tax under Section 115JB of the Income Tax Act, 1961, credit of tax deducted at source, credit of taxes paid/ withheld etc., if any, as may be required consequent to implementation of this Scheme.
26. Costs

All costs, charges and expenses (including, but not limited to, any taxes and duties, stamp duty, registration charges, etc.) payable by the Transferor Company and the Transferee Company in relation to or in connection with the Scheme and incidental to the completion of the amalgamation of the Transferor Company with the Transferee Company, in pursuance of the Scheme shall be borne and paid by the Transferee Company.

### **Annexure 1: Details of Land and Premises**

1. All that leasehold right, title and interest in the land situated on the Apollo Reclamation within the Fort and in the Island and Registration Sub-District of Bombay, admeasuring 1164 square yards (equivalent to 973.25 square meters) or thereabouts together with the erection and buildings now standing and being thereon known as 'Abbas Building' ("Building"), including units at flat no. 3, flat no. 4 and flat no.7 in the Building, bounded in the following manner: (a) towards east by land belonging to the Trustees of the Port of Bombay leased partly to Shocker Abraham and partly to Temulji Bhicaji Nariman; (b) towards west by Mereweather Road; (c) towards north by land belonging to the Trustees of the Port of Bombay leased to Jamshedji Nasserwanji Tata; and (d) towards south by land belonging to the Trustees of the Port of Bombay then leased to Sophia David;
2. All that leasehold right title and interest in the residential-cum-commercial plot duly fenced bearing No. 268 of Scheme No. 78 Part II admeasuring 180 square meters Taluka Indore, District Indore, and bounded in the following manner: (a) towards south-east: 30.00 meter wide road; (b) towards north – west : 9.00 meter wide road; (c) towards north-east- Plot No. 267 of Scheme No. 78 Part II; (d) towards south-west- Plot No. 269 of Scheme No. 78 Part II, for the term of 30 plus 30 years and subsequent renewal thereof.