

  
Geetika Anand  
Company Secretary &  
Compliance Officer

(THE COMPANIES ACT, 1956)

Public Company Limited By Shares



Memorandum

AND

Articles of Association

of

**HINDALCO INDUSTRIES LIMITED**

**(As Amended upto 24th September, 2014)**

Registered and Incorporated

as a Public Limited Company  
on the 15th day of December, 1958.

*Geetika Arora*  
Geetika Arora

Company Secretary &  
Compliance Officer

**Certificate for Commencement  
of Business**

Pursuant to Section 149(3) of the Companies Act, 1956

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**I hereby Certify** that the **Hindustan Aluminium Corporation Limited** which was incorporated under the Companies Act, 1956, on the Fifteenth day of December, 1958, and which has this day filed a duly verified declaration in the prescribed form that the conditions of Section 149(2) (a) to (c) of the said Act, have been complied with is entitled to commence business.

Given under my hand at Bombay this Twenty Seventh day of April One Thousand Nine Hundred and Fifty Nine (7th Vaisakh, 1881).



(Sd.) S. VENKATARAMAN  
Registrar of Companies,  
BOMBAY

For Hindalco Industries Limited

*Ceetika*  
Ceetika Mand  
Company Secretary &  
Compliance Officer



FORM I. R.

## Certificate of Incorporation

No. 11238 of 1958/59.

I hereby Certify that **Hindustan Aluminium Corporation Limited** is this day incorporated under the Companies Act, 1956 (No. 1 of 1956) and that the Company is Limited.

Given under my hand at Bombay this Fifteenth day of December One Thousand Nine Hundred and Fifty Eight. (24th Agrahayana, 1880).

(Sd.) S. VENKATARAMAN  
Registrar of Companies,  
BOMBAY

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Geeta Anand  
Company Secretary &  
Compliance Officer

No. 11-11238

**Fresh Certificate of Incorporation Consequent on  
Change of Name**

In the office of the Registrar of Companies, Maharashtra, Bombay.

In the matter of \*HINDUSTAN ALUMINIUM CORPORATION LIMITED

I hereby approve and signify in writing under Section 21 of the Companies Act, 1956 (Act I of 1956) read with the Government of India, Department of Company Affairs, Notification No. GS.R. 507E dated the 24th June, 1985, the change of name of the Company from

**HINDUSTAN ALUMINIUM CORPORATION LIMITED**

to

**HINDALCO INDUSTRIES LIMITED**

and I hereby certify that **HINDUSTAN ALUMINIUM CORPORATION LIMITED** which was originally incorporated on FIFTEENTH day of DECEMBER, 1958 under the \*\*COMPANIES Act, 1956 and, under the name **HINDUSTAN ALUMINIUM CORPORATION LIMITED**, having duly passed the necessary resolution in terms of Section 21 of the Companies Act, 1956, the name of the said Company is this day changed to

**HINDALCO INDUSTRIES LIMITED**

and this certificate is issued pursuant to Section 23(1) of the said Act.

GIVEN UNDER MY HAND AT BOMBAY THIS NINTH DAY OF OCTOBER 1989 (ONE THOUSAND NINE HUNDRED EIGHTY NINE).



(R. AGHORAMURTHY)  
Registrar of Companies,  
Maharashtra, Bombay.

Notes:

1\* Here give the name of the Company as existing prior to change.

2\*\* Here give the name of the Act(s) under which the Company was originally registered and incorporated.

MEMORANDUM  
&  
ARTICLES OF ASSOCIATION  
OF  
**HINDALCO INDUSTRIES LIMITED**

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MEMORANDUM OF ASSOCIATION  
OF  
**HINDALCO INDUSTRIES LIMITED**

- I. The name of the Company is "HINDALCO INDUSTRIES LIMITED."
  - II. The Registered Office of the Company will be situated in the State of Bombay, India.
  - III. The objects for which the Company is established are :
    - (1) To manufacture and/or produce and/or otherwise engage generally in the manufacture or production of or dealing in alumina, aluminium and aluminium products and by-products and the sale dealing or other disposition of alumina, aluminium and aluminium products and by-products and to do all acts and things necessary or required in the premises.
    - (2) To conduct and carry on any business relating to electro-chemical products and metals, including aluminium and sodium, and their alloys, including the production or manufacture of and trading and/or sale or dealing in such products and metals.
    - (3) Without prejudice to the generality of the other powers of the Company:
      - (a) to mine, quarry, smelt, refine, manufacture, process, fabricate, purchase, or otherwise acquire, sell or otherwise dispose of or deal in bauxite and other aluminium-bearing ores, alumina, aluminium, aluminium alloys and compounds, aluminium goods, wares and products of all kinds, chemicals, chemical compounds and metals, minerals or other materials of every kind needed for or resulting from the mining, production or processing of bauxite or other aluminium-bearing ores, alumina, aluminium and aluminium products of every kind.
      - (b) to search for, inspect, prospect, examine, explore, mine, quarry, purchase or otherwise acquire in the Union of India, or elsewhere in the world, bauxite or other aluminium bearing ores, feldspar, fluorspar and all other metals, minerals and mineral substances of every kind which may be of direct or indirect use in the production of alumina, aluminium and aluminium products or which may result as an incident to or by-product of any of the foregoing.
      - (c) to make or cause to be made studies, reports and tests to determine the desirability and feasibility of establishing an integrated aluminium business in the Union of India or to determine the desirability and feasibility of establishing plants, factories, mines and other facilities at various locations to serve such an aluminium business.
    - (4) To buy, sell, smelt, refine, manufacture, and deal in minerals and metals of all kinds.
    - (5) To buy, sell, manufacture and/or deal in machinery plant, implements, rolling stock, hardware, and other articles and things which may be of use in connection with the business of the Company including metallurgical or other operations which may be required by those employed in or about the business of the Company.
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- (6) To search for, get, work, raise, make merchantable, sell and deal in iron, coal, stone, brick-earth, bricks and any other metals, minerals or substances.
  - (7) To purchase, take on lease or on royalty basis or otherwise, acquire mines, mining rights and lands or any interest therein.
  - (8) To search for, inspect, prospect, examine and explore, take on licence, lease, purchase, or otherwise, acquire any territories, lands and places in India or elsewhere for the purpose or extracting, drawing, purifying, refining, smelting, manufacturing, or otherwise, producing and dealing in or quarrying any ores, metals or other minerals and substances or for the purpose of carrying on any of the businesses of the Company, and to employ and equip expeditions, commissions, experts or other agents for any purpose connected with such business.
  - (9) To introduce, buy or sell in the Union of India or elsewhere in the world as importers, exporters, merchants, manufacturers, agents or otherwise, any metals, minerals, mineral substances, chemicals, goods and materials, articles, or appliances and generally to purchase, sell, deal in and supply as manufacturers, distributors, merchants, agents, or otherwise all kinds of metals, minerals, mineral substances, chemicals, goods, products, appliances or things which can be advantageously dealt in by the Company to attain the foregoing objects, and to carry on operations or business of any nature which the Company from time to time may deem fit or expedient to carry on in connection with its main business at any time being conducted and which may seem calculated or capable of being conducted so as to directly or indirectly benefit the Company.
  - (10) To carry on the business of the waterworks Company in all its branches, and to sink wells and shafts, and to make, build and construct, lay down and maintain, reservoirs, waterworks, cisterns, culverts, filter-beds, main and other pipes and appliances, and to execute and do all other works and things necessary or convenient for obtaining, storing, selling, delivering, measuring and distributing water, or otherwise, for the purposes of the Company.
  - (11) To carry on either in connection with the aforesaid business or as distinct and separate business the trades or business of :
    - (a) general metal founders, casters, spinners, rollers and workers of and in metals and their alloys including aluminium and sodium and their alloys, and metallic combinations of all kinds,
    - (b) electrical, civil and/or mechanical engineers,
    - (c) metal and mineral merchants,
    - (d) miners,
    - (e) carriers, merchants and contractors,
    - (f) iron masters, steel makers, steel converts, colliery and mine proprietors, coke manufacturers, smelters, refiners, tinplate makers and iron founders, in all their respective branches,
    - (g) boiler makers, millwrights, machinists and smiths in all their respective branches,
    - (h) chemicals, in all their different branches, manners and distilles,
    - (i) gas makers,
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- (j) manufactures of machinery, tool-makers, brass founders, metal workers, woodworkers, and to buy, sell, manufacture, repair, convert, alter, let on hire and deal in machinery, implements, rolling stock and hardware of all kinds,
  - (k) metallurgists and chemists,
  - (l) manufacturing and dealing in all kinds of industrial and other preparations and articles and compounds,
  - (m) dye-making, paints including oilpaint, pigments and varnishes,
  - (n) electrical, chemical, photographic and scientific apparatuses and materials,
  - (o) an Electric Power, Light and Supply Company in all its branches, in accordance with the law in force for the time being and, in particular, to construct, lay down, establish, fix and carry out all necessary power stations, cables, wires, lines, accumulators, lamps and works, and to generate, acquire by purchase in bulk, accumulate, distribute and supply by sale, exchange, or otherwise, electricity, and to light cities, towns, streets, and buildings and places, both public and private,
  - (p) electricians, mechanical engineers, suppliers of electricity for the purposes of light, heat motive power, or otherwise and manufacturers of and dealers in all kinds of electrical machinery and apparatus and things required for or capable of being used in connection with the generation, distribution, supply, accumulation and employment of electricity, galvanism, magnetism, or otherwise,
  - (q) quarry masters and stone merchants, and to buy, sell, get, work, shape, hew, carve, polish, crush, and prepare for market or use stone of all kinds, and
  - (r) road and pavement makers and repairers and manufacturers of and dealers in lime, cement, mortar, concrete and building materials of all kinds, and as builders and contractors for the execution of works and buildings of all kinds in the construction of which stone is required.
- (12) To build, construct, maintain, enlarge, pull down, remove or replace, improve or develop and to work, manage and control any buildings, offices, factories, mills foundries, refineries, furnaces, godowns, warehouses, shops, machinery, engines, roadways, railways, tramways or other means of transport, siding bridges, reservoirs, dams, watercourses, water systems, wharves, electric works, gas works, or works operated by any other kind of power and also such other machinery equipment conveyances, works and conveniences which may seem calculated directly or indirectly to advance the interests of the Company and to subsidise, contribute to, or otherwise, assist or take part in doing any of those things and/or to join with any other person or company or with any Government or Governmental authority in doing any of these things.
- (13) To apply for, purchase, or otherwise acquire, and protect and renew in any part of the world, any patents, patent rights, brevets d'invention, trade marks, designs, licences, concessions, and the like, conferring any exclusive or non-exclusive or limited rights to their use, or any secret or other information as to any invention which may seem capable of being used for any of the purposes of the Company or the acquisition of which may seem calculated directly or indirectly to benefit the Company, and to use, exercise, develop, or grant licences in respect of, or otherwise, turn to account the property, rights or
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information so acquired, and to expend money in experimenting upon testing or improving any such patents, inventions or rights, and without prejudice to the generality of the above any contracts, monopolies or concessions for or in relation to the supply and sale of any minerals, metals, products or other substances, materials, articles or things or for or in relation to the construction, execution, carrying out equipment improvement, management, administration, or control of any works and conveniences required for the purpose of carrying out any of the aforesaid business and to undertake, execute, carry out, dispose of, or otherwise, turn to account such contracts, monopolies or concessions.

- (14) To acquire from any Government, Central, State, Local or Foreign or public body, or persons or authority, or from any private individual any concessions, grants, decrees, rights, powers and privileges whatsoever which may seem to the Company capable of being turned to account, or which the Company may think directly or indirectly conducive to any of its objects or capable of being carried on in connection with its business, and to work, develop, carry out, exercise and turn to account the same.
  - (15) To apply for, promote and obtain any Act of Parliament, charter privilege, concession, licence or authorisation of any Government, State or Municipality, provisional order or licence from any authority for enabling the Company to carry any of its objects into effect or for extending any of the powers of the Company or for effecting any modification of the constitution of the Company or for any other purpose which may seem expedient, and to oppose any proceedings or applications which may seem calculated directly or indirectly to prejudice the interests of the Company.
  - (16) To provide clean, comfortable and inexpensive residential and/or sleeping accommodation for workmen and others, and in connection therewith to afford to such persons facilities and conveniences for washing, bathing, cooking, reading, writing and finding employment and for the purchase, sale and consumption of provisions, both liquid and solid and for the safe custody of goods.
  - (17) For any of the purposes of the Company to carry on all or any of the business of importers, exporters, refrigerators, shipowners, charterers of ships or other vessels, warehousemen, merchants, carriers, forwarding agents and wharfingers.
  - (18) To carry on any business relating to the winning and working of minerals, the production and working of metals and the production, manufacture, and preparation of any other materials, which may be usefully or conveniently combined with the manufacturing or engineering business of the Company, or any contracts undertaken by the Company, and either for the purpose only of such contracts or as an independent business.
  - (19) To carry on any other business or any business of any other kind or quality whether manufacturing, or otherwise, which may seem to the Company capable of being conveniently carried on in connection with the above or calculated directly or indirectly to enhance the value of or render profitable any of the Company's properties or rights.
  - (20) To experiment and to incur expenses, necessary for the purpose, with a view to improve on the present method and process of working the several business, which the Company is authorised to carry on and to carry on research for improving, developing or effecting economy and greater efficiency in the processes for the production, manufacture and working of or trading or dealing in the various substances, materials and articles and things or with any of the businesses for which the Company is established.
  - (21) To purchase, take on lease or licence or in exchange hire, or otherwise, any real and/or
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personal property and any rights or privileges which the Company may think necessary or convenient for the purposes of its business or may enhance the value of any other property of the Company and in particular any land (freehold, leasehold or other tenure) buildings, easements, machinery plant and stock-in-trade and on any such lands to erect buildings, factories, sheds, godowns, or other structures for the works, and purposes of the Company and also for the residence and amenity of its employees, staff and other workmen and erect and install machinery and plant and other equipments deemed necessary or convenient or profitable for the purposes of the Company.

- (22) To exchange, sell, convey, assign or lend on lease or grant licence for the whole or any part of the Company's immovable properties and to accept as consideration or in lieu thereof other land or cash or Government Securities or securities guaranteed by Government or shares in Joint Stock Companies or partly the one and partly the other or such other property or securities as may be determined by the Company and to take back or re-acquire any property so disposed of by repurchasing or leasing the same or obtaining a licence for such price or prices and on such terms and conditions as may be agreed upon.
  - (23) To enter into any agreements with the Government of India or any other Government or with any authorities, public, Municipal, local, railway or otherwise, with any other person, that may seem conducive to the objects of the Company or any of them, and to obtain from any such Government, authority or person's any rights, privileges, charities, contracts, licences and concessions which the Company may think it desirable to obtain and to carry out, exercise and comply therewith and dispose of or turn to account the same.
  - (24) To amalgamate, enter into partnership or into any arrangement for sharing profits, union of interests, co-operation, joint adventure or reciprocal concession or for limiting competition with any person or Company carrying on or engaged in, or about to carry on or engage in, any business or transaction which the Company is authorised to carry on or engage in, or which can be carried on in conjunction therewith or which is capable of being conducted so as directly or indirectly to benefit the Company.
  - (25) To purchase, or otherwise, acquire and undertake the whole or any part of the business, property, rights and liabilities of any person, firm or company carrying on or proposing to carry on any business which this Company is authorised to carry on or possessed or property or rights suitable for any of the purposes of the Company, or which can be carried on in conjunction therewith or which is capable of being conducted so as directly or indirectly to benefit the Company and to purchase, acquire, sell and deal in property, share stocks, debenture-stock of any such person firm or company and to conduct, make or to carry into effect any arrangements in regard to the winding up of the business of any such person, firm or company.
  - (26) To improve, manage, develop, grant rights or privileges in respect of, or otherwise, deal with, all or any part of the property and rights of the Company.
  - (27) To promote and form and to be interested in and take, hold and dispose of shares in other companies and to transfer to any such company any property of this Company, and to take, or otherwise acquire, hold and dispose of shares, debentures and other securities in or of any such company and to subsidise, or otherwise, assist any such company.
  - (28) To take or concur in taking all such steps and proceedings as may seem best calculated to uphold and support the credit of the Company and to obtain and justify public confidence and to avert or minimise financial disturbances which might affect the Company.
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- (29) To sell, lease, mortgage or otherwise dispose of or transfer the business, property assets or undertaking of the Company or any part thereof for such consideration as the Company may think fit and, in particular, for shares, stocks, debentures or other securities of any other company whether or not having objects altogether or in part similar to those of the Company.
- (30) To pay for any rights or property acquired by the Company, and to remunerate any person or company whether by cash payment or by allotment of shares, debentures or other securities of the Company credited as paid up in full or in part or otherwise.
- (31) To execute an agreement (a draft whereof has been subscribed by the Secretary, Shri K.N. Srivastava, for the purposes of identification only) with Kaiser Engineers Overseas Corp. to perform the preliminary investigations and engineering studies to determine the economics in relation to an aluminium project and to reimburse all expenses incurred or to be incurred pursuant to the said agreement as specified therein.
- (32) To pay out of the funds of the Company all costs, charges and expenses which the Company may lawfully pay with respect to the promotion, formation and registration of the Company and/or the issue of its capital or which the Company shall consider to be preliminary, including therein the cost of advertising, printing & stationery and commission for obtaining application for taking, placing or underwriting or procuring the underwriting of shares, debentures or other securities of the Company, expenses attendant upon the formation of agencies, branches and local boards.
- (33) Upon any issue of shares, debentures or other securities of the Company, to employ brokers, commission agents and under-writers and to provide for the remuneration of such persons for their services by payment in cash or by the issue of shares, debentures or other securities of the Company or by the granting of options to take the same, or in any other manner allowed by law.
- (34) To borrow or raise money, or to receive money on deposit or loan at interest, or otherwise, in such manner as the Company may think fit and in particular by the issue of debentures or debenture-stock perpetual or otherwise and convertible into shares of this or any other company or not and to secure the repayment of any such money borrowed, raised, or received, or owing by mortgage, pledge, charge or lien upon all or any of the property, assets or revenue of the Company (both present and future) including its uncalled Capital and to give the lenders or creditors the power of sale and other powers as may seem expedient and to purchase, redeem or pay off any such securities and also by a similar mortgage, charge or lien to secure and guarantee the performance by the Company or any other person, firm or company of any obligation undertaken by the Company or any other person, firm or company as the case may be.
- (35) To confer upon any encumbrancer or trustee for any encumbrances of uncalled capital, such powers of making and enforcing calls and of vetoing the transfer of shares not fully paid up as may be thought fit.
- (36) To issue or guarantee the issue of or the payment of interest on the shares, debentures, debenture-stock or other security or obligations of any company or association and to pay or provide for brokerage, commission and underwriting in respect of any such issue.
- (37) To draw, make, accept, endorse, discount, execute and issue and negotiate bills of exchange, hundies, promissory notes, bills of lading, warrants, debentures and other negotiable or transferable instruments.
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- (38) To receive money on deposit with or without allowance of interest thereupon and to guarantee the debts and the contracts of customers and others provided that the Company shall not carry on business of Banking as defined by the Banking Companies Act, 1949.
  - (39) To advance and lend money upon such security as may be thought proper or without taking any security therefor.
  - (40) To subsidize, assist and guarantee the payment of money by, or by the performance of any contract, engagement or obligation by any persons or companies and, in particular, customers of the Company or any persons or companies with whom the Company may have or intend to have, business relations.
  - (41) To invest and deal with moneys of the Company not immediately required in any manner.
  - (42) To procure the incorporation, registration or other recognition of the Company in any country, State or place and to establish and regulate agencies for the purpose of the Company's business and to apply, or join in applying in any Parliament, Government, Local, Municipal or other authority or body for any Acts of Parliament, Law, decree, concessions, orders, rights, or privilege that may seem conducive to the Company's objects or any of them, and to oppose any proceedings or applications, which may be calculated directly or indirectly to prejudice the Company's interests.
  - (43) To open and keep a register or registers in any country or countries where it may be deemed advisable to do so, and to allocate any number of shares in the Company to such register or registers.
  - (44) To establish and maintain or procure the establishment and maintenance of any contributory or non-contributory pension or superannuation funds for the benefit of, and give or procure the giving of donations, gratuities, pension, allowances or emoluments to any persons who are or were at any time in the employment or service of the Company, or of any company which is a subsidiary of the Company or is allied to or associated with the Company or with any such subsidiary company, or who are or were at any time the Directors or Officers of the Company or of any such other company as aforesaid, and the wives, widows, families and dependants of any such persons, and also establish and subsidize and subscribe to any institutions, associations, clubs or funds calculated to the benefit of or to advance the interests and well-being of the Company or of any such other company as aforesaid, and make payments to or towards the insurance of any such person as aforesaid and to any of the matters aforesaid either alone or in conjunction with any such other company as aforesaid.
  - (45) To subscribe or contribute or otherwise to assist or to guarantee money to charitable, benevolent, religious, scientific, national, public, political or any other useful institutions, objects or purposes, or for any exhibition or towards the funds of any political parties.
    - (a) to undertake, carry out, promote and sponsor rural development including any programme for promoting the social and economic welfare of or the uplift of the public in any rural area and to incur any expenditure on any programme of rural development and to assist execution and promotion thereof either directly or through an independent agency or in any other manner. Without prejudice to the generality of the foregoing, "programme of rural development" shall also include any programme of promoting the social and economic welfare of or the uplift of the public in any rural area likely to promote and assist rural development, and that the words, "rural area" shall include such areas as may be regarded as rural areas under Section 35CC of the Income-tax Act, 1961, or any other Law relating to rural development for the time
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being in force and in order to implement any of the above mentioned objects or purposes transfer without consideration or at a fair or concessional value and divest the ownership of any property of the Company to or in favour of any Public or Local Body or Authority or Central or State Government or any Public Institutions or Trusts or Funds engaged in the programme of rural development.

- (b) To undertake, carry out, promote and sponsor or assist any activity for the promotion and growth of national economy and for discharging social and moral responsibilities of the Company to the public or any section of the public as also any activity to promote national welfare or social, economic or moral uplift of the public or any section of the public and undertake, carry out, promote and sponsor any activity for publication of any books, literatures, newspapers for organising lectures or seminars likely to advance these objects or for giving merit awards, for giving scholarships, loans or any other assistance to deserving students or other scholars or persons to enable them to prosecute their studies or academic pursuits or researches and for establishing, conducting or assisting any institution, trust having anyone of the aforesaid objects as one of its objects. by giving donations or otherwise in any other manner and in order to implement any of the above mentioned objects or purposes transfer without consideration or at a fair or concessional value and divest the ownership of any property of the Company to or in favour of any Public or Local Body or Authority or Central or State Government or any Public Institutions or Trusts or Funds established or operating under, by virtue of, or pursuant to any law for the time being in force.
- (c) To give donations and to advance and lend money to any person, institution, organisation, trust, on such terms and conditions and with or without interest or at concessional rate of interest as may seem expedient for the fulfilment of the objects contained in the above sub-clauses (a) and (b).

(Inserted by Special Resolution passed on 9th April, 1979 and confirmed by the Company Law Board by its Order dated 14th March, 1980. Certified copy of the order obtained on 16th May, 1980.)

- (46) To distribute in specie or otherwise as may be resolved any property or assets of the Company or any proceeds of sale or disposal of any property or assets of the Company including the shares, debentures, or other securities of any other Company formed to take over the whole or any part of the assets or liability of the Company so that no distribution amounting to a reduction of capital be made except with the sanction (if any) for the time being required by law.
  - (47) To give to any officers, servants or employees of the Company any share or interest in the profits of the Company's business or any branch thereof, and whether carried on by means or through the agency of any subsidiary company or not, and for that purpose to enter into any arrangements the Company may think fit.
  - (48) To vest any real or personal property, rights or interests acquired by or belonging to the Company in any person or Company on behalf of or for the benefit of the Company and with or without any declared trust in favour of the Company.
  - (49) To act as agents or brokers and as trustees for any person or Company and to undertake and perform sub-contracts and to do all or any of the above things in any part of the world and as principals, agents, contractors, trustees, or otherwise and by or through agents, sub-contractors or trustees, or otherwise, and either alone or jointly with others.
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- (50) To train or pay for the training in India or abroad of any of the Company's employees or any candidate in the interest of or for furtherance of the Company's objects.
- (51) To carry on any business or branch or a business which this Company is authorised to carry on by means or through the agency of any subsidiary Company or Companies, and to enter into any arrangement with any such subsidiary company for taking the profits and bearing the losses of any business or branch so carried on, or for financing any such subsidiary company or guaranteeing its liabilities, or to make any other arrangements, which may seem desirable with reference to any business or branch so carried on, including power at any time either temporarily or permanently to close any such business or branch and to act as Managers or to appoint Directors or Managers of any such subsidiary company.
- (52) To the extent directly or indirectly conducive to or incidental to the attainment of the above objects to make and perform contracts, leases and other commitments of every kind.
- (53) Generally to do all such other things as may be deemed incidental or conducive to the attainment of the above objects or any of them.

And it is hereby declared that

- (a) the word "Company" in this clause, except where used in reference to this company, shall be deemed to include any partnership or other body of persons, whether corporate or unincorporate, and whether domiciled in India or elsewhere, and
- (b) the objects specified in each of the paragraphs of this clause shall be regarded as independent objects, and accordingly shall in no wise be limited or restricted (except where otherwise expressed in such paragraphs) by reference to or inference from the terms to any other paragraph or the name of the Company, but may be carried out in as full and ample a manner and construed in as wide a sense as if each of the said paragraphs defined the objects of a separate and distinct company.

IV. The liability of the members is limited.

@s#++ V. The Authorised Share capital of the Company is Rs. 2,55,00,00,000/- (Rupees Two Hundred fifty five Crores only) divided into 2,50,00,00,000 (Two Hundred Fifty Crores) Equity Shares of Re. 1/- (Rupee One) each and 2,50,00,000 (Two crores and Fifty Lacs) Redeemable cumulative Preference Shares of Rs. 2/- (Rupees Two) each carrying an appropriate rate of dividend as may be determined by the Articles of Association of the Company (free of company's tax but subject to deduction of tax as required under the provisions of the Income Tax Act, 1961, for the time being in force), subject to be increased or decreased in accordance with the Company's regulations and legislative provisions for the time being in force in this behalf, and with power to divide the Shares in the Capital for the time being into Equity Share Capital and/or Preference Share capital, with or without voting rights as may be permissible at law, and to attach thereto respectively, any preferential, qualified or special rights, privileges or conditions as may be determined by or in accordance with the provisions of the Companies Act, 1956, and the regulations of the Company, and to vary, modify or abrogate any such rights, privileges or conditions in such manner as may for the time being be provided by the regulations of the Company."

@ (Amended by passing Special Resolution passed on 14th August, 2014)

s (Amended by passing Special Resolution through Postal Ballot on 6th August, 2008)

# (Amended under Scheme of Arrangement U/S 391 to 394 of the Companies Act between Hindalco Industries Limited and Indian Aluminium Company Limited), w.e.f. 25th March, 2008

+ (Amended by Special Resolutions passed on 21.5.1986, 31.8.1989, 5.8.1992, 2.8.1995 and 6.8.2005)

+ (Amended by Special Resolution passed on 18.09.2009)

We the several persons whose names and addresses are subscribed hereto are desirous of being formed into a Company in pursuance of this Memorandum of Association, and respectively agree to take the number of shares in the capital of the Company set opposite our respective names;

Name, address descriptions and occupations of subscribers	Number of shares taken by each subscriber	Name, address description and occupation of witnesses to the signatures of subscribers
G. D. Birla, Industrialist, Birla House, New Delhi.	10 shares	Witness to all the signatures Gangadhar Makharia, Chief Accountant of Birla Brothers Private Ltd., 8, India Exchange Place, Calcutta.
M. P. Birla Businessman 8, India Exchange Place. Calcutta.	10 shares	
B. K. Birla Merchant, 8, India Exchange Place, Calcutta.	10 shares	
L. N. Birla Industrialist, 8, India Exchange Place, Calcutta.	10 shares	
S. Kumar Merchant, 8, India Exchange Place, Calcutta - 1	10 shares	
C. A. Groves, Solicitor, M/s. Orr Dignam & Co., 29, Netaji Subhas Road, Calcutta - 1	10 shares	
K. K. Birla Businessman 8, India Exchange Place, Calcutta.	10 shares	
Total	70 shares	

Dated the Sixth day of December, 1958.

**ARTICLES OF ASSOCIATION  
OF HINDALCO INDUSTRIES LIMITED**

**I. PRELIMINARY**

The regulations contained in Table F in the Schedule I to the Companies Act, 2013, except so far as they are specifically embodied herein, shall not apply to this Company, but the regulations for the management of the Company and for the observance of the Members thereof and their representatives shall, subject to any exercise of the statutory powers of the Company in reference to the repeal or alteration of, or addition to, its regulations by Special Resolution, as prescribed by the said Companies Act, 2013, be such as are contained in these Articles.

Table F Not to Apply Unless Specifically Included

1. In the interpretation of these Articles the following expressions shall have the following meanings, unless repugnant to the subject or context:
- Definitions and Interpretation
- (a) "the Act" means the Companies Act, 2013, as amended upto date or other Act or Acts for the time being in force in India containing the provisions of the Legislature in relation to Companies.
  - (b) "the seal" means the common seal of the company.
  - (c) "Beneficial Owner" means the Beneficial Owner as defined in Clause (a) of Sub- Section (I) of Section 2 of the Depositories Act, 1996.
  - (d) "Board" means the collective body of Directors of the Company.
  - (e) "The Company" or "this Company" means Hindalco Industries Limited.
  - (f) "Depositories Act", means the Depositories Act, 1996, and includes where the context so admits, any re-enactment or statutory modification thereof, for the time being in force.
  - (g) "Depository" means a Depository as defined under Clause (c) of Sub-Section (1) of Section 2 of the Depositories Act.
  - (h) "Directors" means the Directors for the time being of the Company or, as the case may be, the Directors assembled at a Board Meeting.
  - (i) "Articles" or "these Regulations" or "these presents" means these Articles of Association as originally framed or as altered from time to time in accordance with the provisions of the Act.
  - (j) Words importing the masculine gender also includes the feminine gender.
  - (k) "Month" means a calendar month.
  - (l) "In writing" means written or printed or partly written and partly printed or lithographed, or type-written or other substitute for writing or any other mode or modes of representing or reproducing words in visible form.
  - (m) "Members" shall have the meaning as set forth in the Companies Act, 2013.
  - (n) "The Office" means the Registered Office for the time being of the Company.
  - (o) "Persons" include corporations (and firms) as well as individuals.
  - (p) "Proxy" means an instrument whereby any person is authorised to attend the Meeting for a member and to vote in the event of poll and also includes attorney duly constituted under a power of attorney.
  - (q) "Register" or "Register of Members" means the Register of Members to be kept pursuant to the Act.
  - (r) "Shares" mean the shares into which the share capital is divided, and includes stock.
  - (s) Words importing the singular number include, where the context admits or requires, the plural number and vice versa.
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- (t) Year means a calendar year and financial year shall have the meaning assigned thereto by the Act.

Unless the context otherwise requires, words or expressions contained in these regulations shall bear the same meaning as in the Act and the Rules made thereunder, or any statutory modification thereof in force at the date at which these regulations become binding on the company.

The bold typeface, headings and titles herein are used for convenience of reference only and shall not affect the construction of these Articles.

## II. SHARE CAPITAL

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|----|--|---|
| 2. | (a) The Authorised share capital of the Company is Rs. 255,00,00,000 (Rupees Two Hundred and Fifty Five Crores only) divided into 250,00,00,000 (Two Hundred and Fifty Crores) equity shares of Re. 1 (Rupee One) each and 2,50,00,000 (Two Crores and Fifty Lakhs) Redeemable Cumulative Preference Shares of Rs. 2 (Rupees Two) each issued on terms as fixed by the Board at the time of issue in accordance with the applicable provisions of law.   | Authorised<br>Share Capital                       |
|    | (b) Subject to the provisions of the Act and these Articles, the shares in the capital of the company shall be under the control of the Directors who may issue, allot or otherwise dispose of the same or any of them to such persons, in such proportion and on such terms and conditions and either at a premium or at par and at such time as they may from time to time think fit.  | Shares under<br>Control of<br>Directors           |
|    | (c) Subject to the provisions of the Act, the Directors may at any time as may be determined by them, but not later than twenty years from the date of issue and allotment of the preference shares, apply the net profits or the moneys of the Company, which may be lawfully applied for the purpose, including any proceeds of a fresh issue of shares made for the purpose of redemption, in redemption of the whole or any part of the preference shares for the time being issued and outstanding at par, together with a sum equal to the arrears of fixed dividend thereon, (whether earned or declared or not) down the date of redemption. | Application of<br>Amounts for<br>Redemption       |
|    | (d) At the time of redemption, each such holder shall be bound to surrender to the Company the certificate or certificates for his shares to be redeemed, and the Company shall pay to him the amount payable in respect of such redemption and where any such certificate comprises any shares which have not been drawn for redemption the Company shall issue to the holder thereof, a fresh certificate therefor.  | Procedure for<br>Redemption                       |
|    | (e) Any of the preference shares not previously redeemed under the foregoing provisions shall be redeemable not later than expiry of twenty years from the date of its issue and allotment at par together with all arrears of the fixed dividend thereon, (whether earned or declared or not) upto the date.  | Period of<br>Redemption                           |
|    | (f) The Company shall be at liberty, without prejudice to its other rights, from time to time to create and issue further preference shares, with or without the right of redemption, ranking in all respects pari-passu with the existing preference shares.  | Issuance of<br>Preference<br>Shares               |
| 3. | Subject to the provisions of the Act and all other applicable provisions of law, the Company may issue (i) securities on a preferential allotment basis; and (ii) equity shares with differential rights as to dividend, voting or otherwise.  | Issuance of<br>Shares with<br>Differential Rights |
| 4. | (a) Every person whose name is entered as a member in the register of members shall be entitled to receive within two months after incorporation, in case of subscribers to the memorandum or after allotment or within one month after the application for the registration of transfer or transmission or within such other period as the conditions of issue shall be provided,-<br>(i) one certificate for all his shares without payment of any charges; or<br>(ii) several certificates, each for one or more of his shares, upon payment of twenty rupees for each certificate after the first.   | Share<br>Certificates                             |

@ (Amended by passing Special Resolution passed on 14th August, 2014)

s (Amended by passing Special Resolution through Postal Ballot on 6th August, 2008)

# (Amended under Scheme of Arrangement U/S 391 to 394 of the Companies Act between

Hindalco Industries Limited and Indian Aluminium Company Limited), w.e.f. 25th March, 2008

+ (Amended by Special Resolutions passed on 21.5.1986, 31.8.1989, 5.8.1992, 2.8.1995 and 6.8.2005)

+ (Amended by Special Resolution passed on 18.09.2009)

- (b) Every certificate shall be under the seal and shall specify the shares to which it relates and the amount paid-up thereon.
- (c) In respect of any share or shares held jointly by several persons, the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all such holders.
- (d) If any share certificate be worn out, defaced, mutilated or torn or if there be no further space on the back for endorsement of transfer, then upon production and surrender thereof to the company, a new certificate may be issued in lieu thereof, and if any certificate is lost or destroyed then upon proof thereof to the satisfaction of the company and on execution of such indemnity as the company deem adequate, a new certificate in lieu thereof shall be given. Every certificate under this Article shall be issued on payment of twenty rupees for each certificate.
- (e) The Company shall not be bound to register more than three persons as the Jointholders of any share.
5. Notwithstanding anything contained in these Articles, the Company shall be entitled in accordance with the provisions of the depositories Act, to dematerialise any or all of its shares, debentures and other marketable securities and to offer the same for subscription in a dematerialised form and on the same being done, the Company shall further be entitled to maintain a Register of Members with the details of Members holding shares both in material and dematerialised form in any media as permitted by law including any form of electronic media, either in respect of the existing shares or any future issue. Dematerialisation
6. The provisions of Articles 4 and 5 shall mutatis mutandis apply to debentures of the company. Provisions to Apply to Debentures
7. Except as required by law, no person shall be recognised by the company as holding any share upon any trust, and the company shall not be bound by, or be compelled in any way to recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any share, or any interest in any fractional part of a share, or (except only as by these regulations or by law otherwise provided) any other rights in respect of any share except an absolute right to the entirety thereof in the registered holder. No Recognition of Equitable Interest
8. (a) The company may exercise the powers of paying commissions conferred by sub-section (6) of section 40, provided that the rate per cent. or the amount of the commission paid or agreed to be paid shall be disclosed in the manner required by that section and rules made thereunder. Commission and Brokerage
- (b) The rate or amount of the commission shall not exceed the rate or amount prescribed in rules made under sub-section (6) of section 40.
- (c) The commission may be satisfied by the payment of cash or the allotment of fully or partly paid shares or partly in the one way and partly in the other.
- (d) The Company may also on issue of shares, pay reasonable brokerage as may be lawful.
9. (a) If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may, subject to the provisions of section 48, and whether or not the company is being wound up, be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of a special resolution passed at a separate meeting of the holders of the shares of that class. Variation of Class Rights
- (b) To every such separate meeting, the provisions of these regulations relating to general meetings shall mutatis mutandis apply, but so that the necessary quorum shall be at least two persons holding at least one-third of the issued shares of the class in question. Process at Class Meetings
10. The rights conferred upon the holders of the shares of any class issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further shares ranking *pari passu* therewith. Rights not to be Deemed Varied
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### III. LIEN

11. (a) The company shall have a first and paramount lien-
- (i) on every share (not being a fully paid share), for all monies (whether presently payable or not) called, or payable at a fixed time, in respect of that share; and
  - (ii) on all shares (not being fully paid shares) standing registered in the name of a single person, for all monies presently payable by him or his estate to the company:
- Provided that the Board of directors may at any time declare any share to be wholly or in part exempt from the provisions of this clause.
- (b) The company's lien, if any, on a share shall extend to all dividends payable and bonuses declared from time to time in respect of such shares.
12. The company may sell, in such manner as the Board thinks fit, any shares on which the company has a lien:
- Provided that no sale shall be made-
- (i) unless a sum in respect of which the lien exists is presently payable; or
  - (ii) until the expiration of fourteen days after a notice in writing stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share or the person entitled thereto by reason of his death or insolvency.
13. (a) To give effect to any such sale, the Board may authorise some person to transfer the shares sold to the purchaser thereof.
- (b) The purchaser shall be registered as the holder of the shares comprised in any such transfer.
- (c) The purchaser shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.
- (d) The proceeds of the sale shall be received by the company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable.
- (e) The residue, if any, shall, subject to a like lien for sums not presently payable as existed upon the shares before the sale, be paid to the person entitled to the shares at the date of the sale.

### IV. CALLS ON SHARES

14. (a) The Board may, from time to time, make calls upon the members in respect of any monies unpaid on their shares (whether on account of the nominal value of the shares or by way of premium) and not by the conditions of allotment thereof made payable at fixed times:
- Provided that no call shall exceed one-fourth of the nominal value of the share or be payable at less than one month from the date fixed for the payment of the last preceding call.
- (b) Each member shall, subject to receiving at least fourteen days' notice specifying the time or times and place of payment, pay to the company, at the time or times and place so specified, the amount called on his shares.
- (c) A call may be revoked or postponed at the discretion of the Board.
15. A call shall be deemed to have been made at the time when the resolution of the Board authorising the call was passed and may be required to be paid by instalments.
16. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

17. (a) If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest thereon from the day appointed for payment thereof to the time of actual payment at a rate not exceeding 9% per annum or at such lower rate as the Board may determine. Interest on Default in Payment
- (b) The Board shall be at liberty to waive payment of any such interest wholly or in part.
18. (a) Any sum which by the terms of issue of a share becomes payable on allotment or at any fixed date, whether on account of the nominal value of the share or by way of premium, shall, for the purposes of these regulations, be deemed to be a call duly made and payable on the date on which by the terms of issue such sum becomes payable. Payments Deemed to be Call
- (b) In case of non-payment of such sum, all the relevant provisions of these regulations as to payment of interest and expenses, forfeiture or otherwise shall apply as if such sum had become payable by virtue of a call duly made and notified.
19. The Board-
- (a) may, if it thinks fit, receive from any member willing to advance the same, all or any part of the monies uncalled and unpaid upon any shares held by him; and Advances of Uncalled Monies
- (b) upon all or any of the monies so advanced, may (until the same would, but for such advance, become presently payable) pay interest at such rate not exceeding, 12% per annum, or such rate as may be determined by the Board. No voting rights in respect of the moneys so paid in advance shall be exercisable until the moneys shall have become payable. Money so paid in excess of the amount of calls shall not rank for dividend and until appropriated towards satisfaction of any call shall be treated as a loan to the Company and not as a part of its capital and shall be repayable to the member at any time without notice if the Directors so decide.
20. On the trial or hearing of any action or suit brought by the Company against any member or his representative to recover any debt or money claimed to be due to the Company in respect of his shares, it shall be sufficient to prove that the name of the members is, or was, when the claim arose, on the register of members of the Company as a holder or one of the holders of shares in respect of which such claim is made, that the resolution making the call is duly recorded in the minute book and that notice of such call was duly given in pursuance of these presents and it shall not be necessary to prove the appointment of the directors who made such call nor any other matter whatsoever, but the proof of the matters aforesaid shall be conclusive evidence of the debt. Proof of Claim
- V. TRANSFER OF SHARES**
21. (a) The instrument of transfer of any share in the company shall be executed by or on behalf of both the transferor and transferee. Process of Transfer
- (b) The transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of members in respect thereof.
22. The Board may, subject to the right of appeal conferred by Section 58, decline to Register or acknowledge any transfer of shares in any case in which the Company has lien upon the shares of any of them or whilst any moneys in respect of the shares desired to be transferred or any of them remain unpaid. Transfer of Shares Subject to Lien
23. The Board may decline to recognise any instrument of transfer unless-
- (a) the instrument of transfer is in the form as prescribed in rules made under sub-section (1) of section 56; Instrument of Transfer
- (b) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such
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other evidence as the Board may reasonably require to show the right of the transferor to make the transfer; and

- (c) the instrument of transfer is in respect of only one class of shares.
24. On giving not less than seven days' previous notice in accordance with Section 91 and the rules made thereunder, the Transfer Books and Register of Members may be closed during such time as the Directors think fit not exceeding in the whole forty five days in each year, but not exceeding thirty days at a time. Closure of Transfer Books
25. No transfer shall be made to a minor or person of unsound mind. Transfer to Minor/ Person of Unsound Mind
26. All instruments of transfer which shall be registered shall be retained by the Company, but any instrument of transfer which the Directors may decline to register shall be returned to the person depositing the same. Retention of Instruments of Transfer
27. The Company shall incur no liability or responsibility whatever in consequence of its registering or giving effect to any transfer of shares, made or purporting to be made by any apparent legal owner thereof (as shown or appearing in the Register of Members) to the prejudice of persons having or claiming any equitable right, title or interest to or in the same shares. Persons Claiming Equitable Rights

## VI. TRANSMISSION OF SHARES

28. The executors or administrators or the holder of a succession certificate in respect of shares of a deceased member (not being one of several joint-holders) shall be the only person whom the Company shall recognise as having any title to the shares registered in the name of such member and in case of the death of anyone or more of the joint-holders of any registered shares, the survivors shall be the only persons recognised by the Company as having any title to or interest in such shares, but nothing herein shall be taken to release the estate of a deceased joint-holder from any liability on shares held by him jointly with any other person. Before recognising any executors or administrator or legal heir, the Directors may require him to obtain a grant of probate or letters of administration or succession certificate or other legal representation, as the case may be, from some competent Court: Provided that in any case where the Directors in their absolute discretion think fit, it shall be lawful for the Directors to dispense with the production of probate or letters of administration or a succession certificate or such other legal representation upon such terms as to indemnity, or otherwise as the Directors may consider desirable. Provided also that the holder of a succession certificate shall not be entitled to receive any dividends already declared but not paid to the deceased member unless the succession certificate declares that the holder thereof is entitled to receive such dividends; provided also that if the member was a member of a Joint Hindu Family, the Directors on being satisfied to that effect and on being satisfied that the shares standing in his name in fact belonged to the joint family, may recognise survivors thereof as having title to the shares registered in the name of such member, but this proviso shall in no way be deemed to modify or nullify the provisions contained in Article 7 hereof. Recognition of Survivors and Heirs
29. (a) Any person becoming entitled to a share in consequence of the death or insolvency of a member may, upon such evidence being produced as may from time to time properly be required by the Board and subject as hereinafter provided, elect, either- Registration/ Transfer of Transmitted Share
- (i) to be registered himself as holder of the share; or
- (ii) to make such transfer of the share as the deceased or insolvent member could have made.
- (b) The Board shall, in either case, have the same right to decline or suspend registration as it would have had, if the deceased or insolvent member had transferred the share before his death or insolvency.
- (c) If the person so becoming entitled shall elect to be registered as holder of the share himself, he shall
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deliver or send to the company a notice in writing signed by him stating that he so elects.

(d) If the person aforesaid shall elect to transfer the share, he shall testify his election by executing a transfer of the share.

(e) All the limitations, restrictions and provisions of these regulations relating to the right to transfer and the registration of transfers of shares shall be applicable to any such notice or transfer as aforesaid as if the death or insolvency of the member had not occurred and the notice or transfer were a transfer signed by that member.

30. A person becoming entitled to a share by reason of the death or insolvency of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company:
- Provided that the Board may, at any time, give notice requiring any such person to elect either to be registered himself or to transfer the share, and if the notice is not complied with within ninety days, the Board may thereafter withhold payment of all dividends, bonuses or other monies payable in respect of the share, until the requirements of the notice have been complied with.
31. Notwithstanding anything contained in the foregoing Articles on transmission of shares, every holder(s) of shares or holder(s) of debentures of the Company, holding either singly or jointly, may, at any time, nominate a person in the prescribed manner to whom the shares and/or the interest of the member in the shares of the Company or debentures of the Company shall vest in the event of his/her death. Such member may revoke or vary his/her nomination, at any time, by notifying the same to the Company to that effect. Such nomination shall be governed by the provisions of the Act or such other regulations governing the matter from time to time.
- VII. FORFEITURE OF SHARES**
32. If a member fails to pay any call, or instalment of a call, on the day appointed for payment thereof, the Board may, at any time thereafter during such time as any part of the call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued. The notice aforesaid shall-
- (a) name a further day (not being earlier than the expiry of fourteen days from the date of service of the notice) on or before which the payment required by the notice is to be made; and
- (b) state that, in the event of non-payment on or before the day so named, the shares in respect of which the call was made shall be liable to be forfeited.
33. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may, at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the Board to that effect.
34. When any share shall have been so forfeited, notice of the forfeiture shall be given to the member in whose name it stood immediately prior to the forfeiture, and an entry of the forfeiture, with the date thereon shall forthwith be made in the Register, but no forfeiture shall be in any manner invalidated by any omission or neglect to give such notice or to make such entry.
35. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the Board thinks fit. At any time before a sale or disposal as aforesaid, the Board may cancel the forfeiture on such terms as it thinks fit.
36. (a) A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding the forfeiture, remain liable to pay to the company all monies which, at the date of forfeiture, were presently payable by him to the company in respect of the shares.

Rights in  
Respect of  
Transmitted  
Share

Nominee

Failure to Pay  
Amount Called

Forfeiture of  
Shares

Notice of  
Forfeiture

Cancellation of  
Forfeited Share

Effect of  
Forfeiture

- (b) The liability of such person shall cease if and when the company shall have received payment in full of all such monies in respect of the shares.
- (c) The forfeiture of a share shall involve the extinction of all interest in and also of all claims and demands against the Company in respect of the share, and all other rights incidental to the share, except only such of those rights as by these Articles or applicable law are expressly saved.
37. (a) A duly verified declaration in writing that the declarant is a director, the manager or the secretary, of the company, and that a share in the company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share;
- (b) The company may receive the consideration, if any, given for the share on any sale or disposal thereof and may execute a transfer of the share in favour of the person to whom the share is sold or disposed of;
- (c) The transferee shall thereupon be registered as the holder of the share; and
- (d) The transferee shall not be bound to see to the application of the purchase money, if any, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.
38. The provisions of these regulations as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the nominal value of the share or by way of premium, as if the same had been payable by virtue of a call duly made and notified.
39. The Directors may at any time subject to the provisions of Act, accept surrender of any share from or by any member desirous of surrendering on such terms as directors may think fit.

Transfer of  
Forfeited ShareNon payment of  
Sums Liable to  
Attract  
ForfeitureSurrender of  
Shares

### VIII. ALTERATION OF SHARE CAPITAL

40. The company may, from time to time, increase the share capital by such sum, to be divided into shares of such amount, as may be specified in the resolution.
41. Subject to the provisions of section 61, the company may, by ordinary resolution,-
- (a) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;
- (b) convert all or any of its fully paid-up shares into stock, and reconvert that stock into fully paid-up shares of any denomination;
- (c) sub-divide its existing shares or any of them into shares of smaller amount than is fixed by the memorandum;
- (d) cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person.
42. Where shares are converted into stock,-
- (a) the holders of stock may transfer the same or any part thereof in the same manner as, and subject to the same regulations under which, the shares from which the stock arose might before the conversion have been transferred, or as near thereto as circumstances admit:
- Provided that the Board may, from time to time, fix the minimum amount of stock transferable, so, however, that such minimum shall not exceed the nominal amount of the shares from which the stock arose.
- (b) the holders of stock shall, according to the amount of stock held by them, have the same rights, privileges and advantages as regards dividends, voting at meetings of the company, and other matters, as if they held the shares from which the stock arose; but no such privilege or advantage (except

Increase of  
Share CapitalChanges to  
Share CapitalConversion of  
Shares to Stock

participation in the dividends and profits of the company and in the assets on winding up) shall be conferred by an amount of stock which would not, if existing in shares, have conferred that privilege or advantage.

(c) such of the regulations of the company as are applicable to paid-up shares shall apply to stock and the words "share" and "shareholder" in those regulations shall include "stock" and "stock-holder" respectively.

43. The company may, by special resolution, reduce in any manner and with, and subject to, any incident authorised and consent required by law,-
- (i) its share capital;
  - (ii) any capital redemption reserve account; or
  - (iii) any share premium account.
- Reduction of  
Share Capital,  
Reserve and  
Premium  
Accounts

### IX. CAPITALISATION OF PROFITS

44. (a) The company in general meeting may, upon the recommendation of the Board, resolve-
- (i) that it is desirable to capitalise any part of the amount for the time being standing to the credit of any of the company's reserve accounts, or to the credit of the profit and loss account, or otherwise available for distribution; and
  - (ii) that such sum be accordingly set free for distribution in the manner specified in clause (b) amongst the members who would have been entitled thereto, if distributed by way of dividend and in the same proportions.
- (b) The sum aforesaid shall not be paid in cash but shall be applied, subject to the provision contained in clause (c), either in or towards-
- (i) paying up any amounts for the time being unpaid on any shares held by such members respectively;
  - (ii) paying up in full, unissued shares of the company to be allotted and distributed, credited as fully paid-up, to and amongst such members in the proportions aforesaid;
  - (iii) partly in the way specified in sub-clause (i) and partly in that specified in sub-clause (ii).
- (c) A securities premium account and a capital redemption reserve account may, for the purposes of this regulation, be applied in the paying up of unissued shares to be issued to members of the company as fully paid bonus shares.
- (d) The Board shall give effect to the resolution passed by the company in pursuance of this regulation.
45. (a) Whenever such a resolution as aforesaid shall have been passed, the Board shall-
- (i) make all appropriations and applications of the undivided profits resolved to be capitalised thereby, and all allotments and issues of fully paid shares if any; and
  - (ii) generally do all acts and things required to give effect thereto.
- (b) The Board shall have power-
- (i) to make such provisions, by the issue of fractional certificates or by payment in cash or otherwise as it thinks fit, for the case of shares becoming distributable in fractions; and
  - (ii) to authorise any person to enter, on behalf of all the members entitled thereto, into an agreement with the company providing for the allotment to them respectively, credited as fully paid-up, of any further shares to which they may be entitled upon such capitalisation, or as the case may require, for the payment by the company on their behalf, by the application thereto of their respective proportions of profits resolved to be capitalised, of the amount or any part of the amounts remaining unpaid on their existing shares;
- Capitalisation of  
Profits
- Actions  
Ancillary to  
Capitalisation of  
Profits

(c) Any agreement made under such authority shall be effective and binding on such members.

#### **X. BUY-BACK OF SECURITIES**

46. Notwithstanding anything contained in these Articles but subject to the provisions of Sections 68 to 70 and any other applicable provision of the Act or any other law for the time being in force, the company may purchase its own shares or other specified securities. Buy-back of Securities

#### **XI. GENERAL MEETINGS**

47. All general meetings other than annual general meeting shall be called extraordinary general meeting. The Board may, whenever it thinks fit, call an extraordinary general meeting. General Meetings
48. (a) Notice of every meeting shall be given to every member of the Company in any manner authorised by sub-sections (1) and (2) of Section 20 of the Act.
- (b) The accidental omission to give notice of any meeting to or the non-receipt of such notice by any of the members shall not invalidate the proceedings at any such meeting. Notice of Meeting
49. (a) No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.
- (b) Save as otherwise provided herein, the quorum for the general meetings shall be as provided in Section 103. Quorum at General Meetings
50. (a) The chairperson, if any, of the Board shall preside as Chairperson at every general meeting of the company.
- (b) If there is no such Chairperson, or if he is not present within fifteen minutes after the time appointed for holding the meeting, or is unwilling to act as chairperson of the meeting, the directors present shall elect one of their members to be Chairperson of the meeting. Chairperson at General Meeting
- (c) If at any meeting no director is willing to act as Chairperson or if no director is present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose one of their members to be Chairperson of the meeting.
51. (a) If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon a requisition of members under Section 100 of the Act shall be dissolved, but in any other case it shall stand adjourned to the same day in the next week at the same time and place, unless the same shall be a public holiday when the meeting shall stand adjourned to the next day not being a public holiday at the same time and place or to such other day and at such other time and place as the Directors may determine, and if at such adjourned meeting a quorum be not present within half an hour from the time appointed for the meeting, those members who are present, and not being less than two persons, shall be a quorum and may transact the business for which the meeting was called. Adjournment of General Meeting
- (b) The Chairperson may, with the consent of any meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place. No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- (d) Save as aforesaid, and as provided in Section 103 of the Act, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
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| 52. The books containing the minutes of the proceedings of any general meeting of a company or of a resolution passed by postal ballot, shall be kept at the registered office of the company, and be open, during business hours, to the inspection by any member without charge, in each case between 2.00 pm and 4.00 pm on each business day.  | Inspection of Minutes Book of General Meeting |
| 53. Any member shall be entitled to be furnished, within seven working days after he has made a request in that behalf to the company, with a copy of any minutes of any general meeting, on payment of fee not exceeding the maximum rate prescribed under Rule 26 of Companies (Management & Administration) Rules 2014 or any amendment thereof for each page or such other reasonable fee as may be prescribed by the Board. | Copy of Minutes of General Meeting            |
| 54. Subject to any rights or restrictions for the time being attached to any class or classes of shares,-<br>(a) on a show of hands, every member present in person shall have one vote; and<br>(b) on a poll, the voting rights of members shall be in proportion to his share in the paid-up equity share capital of the company.  | Voting Rights                                 |
| 55. A member may exercise his vote at a meeting by electronic means in accordance with Section 108 and shall vote only once.   | Voting by Electronic Means                    |
| 56. In the case of joint holders, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders. For this purpose, seniority shall be determined by the order in which the names stand in the register of members.  | Voting in case of Joint Holders               |
| 57. A member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll or by electronic means, by his legal guardian and any such legal guardian may, on a poll, vote by proxy.  | Voting by Members of Unsound Mind             |
| 58. Any business other than that upon which a poll has been demanded may be proceeded with, pending the taking of the poll.  | Business Pending Poll                         |
| 59. No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the company have been paid.   | Voting Rights subject to Payment of Calls     |
| 60. (a) No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes.<br>(b) Any such objection made in due time shall be referred to the Chairperson of the meeting, whose decision shall be final and conclusive.                               | Qualification of Voter                        |
| 61. In case of an equality of votes, whether on show of hands or on poll the Chairman of meeting at which the show of hands takes place or at which the poll is demanded, shall be entitled to a casting vote in addition to his own vote or votes to which he may be entitled as a member.  | Casting Vote                                  |

## XII. PROXIES AND REPRESENTATIVES OF BODIES CORPORATE

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| 62. (a) A body corporate (whether a Company within the meaning of the Act or not) may, if it is a member of the Company, by resolution of its Board of Directors or other Governing Body, authorise such person as it thinks fit, to act as its representative at any meeting of the Company or at any meeting of any class of members of the Company. If such body corporate be a creditor (including a holder of debentures) of the Company, it may by resolution of the Board of Directors or other Governing Body, authorise such person as it thinks fit, to act as its representative at any meeting of any creditor of the Company held in pursuance of the Act or any rules made thereunder, or in pursuance of the provisions contained in any Debenture or Trust Deed, as the case may be.<br>(b) A person authorised by a resolution as aforesaid, shall be entitled to exercise the same rights and powers (including the right to vote by proxy) on behalf of the body corporate which he represents as that | Authorised Representative of Bodies Corporate |
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body could exercise if it were a member, creditor or holder of debentures of the Company. He shall be counted for the purpose of ascertaining whether a quorum of members is present.

(c) The production at the meeting of a copy of such resolution duly signed by one Director of such body corporate the Company or by the Managing Director/Manager or other duly authorised officer thereof and certified by him or them as being a true copy of the resolution may, on production at the meeting, be accepted by the Company as sufficient evidence of the validity of his appointment.

63. (a) The instrument appointing a proxy and the power-of-attorney or other authority, if any, under which it is signed or a notarised copy of that power or authority, shall be deposited at the registered office of the company not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll; and in default the instrument of proxy shall not be treated as valid. Proxy
- (b) An instrument appointing a proxy shall be in the form as prescribed in the rules made under section 105.
- (c) A vote given in accordance with the terms of an instrument of proxy shall be valid, notwithstanding the previous death or insanity of the principal or the revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the shares in respect of which the proxy is given:
- Provided that no intimation in writing of such death, insanity, revocation or transfer shall have been received by the company at its office before the commencement of the meeting or adjourned meeting at which the proxy is used

### XIII. BOARD OF DIRECTORS

64. Subject to the provisions of the Act, the number of directors shall not be less than three and not more than fifteen. Number of Directors
65. The first Directors of the Company were: (i) Mr. G.D. Birla (Chairman); (ii) Mr. Edgar F. Kaiser; (iii) Mr. T.K. McCarthy; and (iv) Mr. M.P. Birla. First Directors
66. (a) The Company shall, subject to the provisions of the Act, be entitled to agree with any person, firm, body corporate, corporation that he or it shall have the right to appoint/remove his or its nominee on the Board of directors of the Company upon such terms and conditions as the Company may deem fit. Such nominee and their successors in office appointed under this Article shall be called Nominee Directors of the Company. Nominee Directors
- (b) The Nominee Directors as appointed above shall be entitled to hold office until required to retire by rotation or requested to retire by the person, firm, body corporate, corporation who may have appointed him/them. If required to retire by rotation, the Nominee Directors will be entitled to stand for re-election. As and whenever a Nominee Director vacates office whether upon request as aforesaid or by death, resignation or otherwise the person, firm, body corporate, corporation who appointed such Nominee Director may appoint any other Director in his place. The Nominee Director may at any time by notice in writing to the Company resign his office. Subject as aforesaid, a Nominee Director shall be entitled to the same, rights and privileges and be subject to the same obligation as any other director of the Company.
67. The Directors shall have power at a meeting of the Board at any time and from time to time (including if there is vacancy in the Board) to appoint any person other than a person who has been removed from office of a Director of the Company to be a Director of the Company as an addition to the Board but so that the total number of Directors shall not at any time exceed the maximum number fixed. Any Director so appointed shall hold office only upto the date of the next following Annual General Meeting of Company or the last date on which such annual general meeting should have been held, whichever is earlier. Additional Directors
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68. The Board of Directors may appoint an alternate Director to act for a Director (hereinafter called the 'Original Director') during his absence for a period of not less than three months from India. Alternate Directors
69. (a) Subject to the provisions of the Act, the remuneration of the Directors shall be as fixed by the Company in General Meeting and may be by way of fees for meetings attended or monthly payments, or otherwise, as may be fixed by the General Meeting. Directors Remuneration
- (b) The fees payable to a Director for attending a Meeting of the Board or Committee thereof or a General Meeting shall be decided by the Board of Directors from time to time within the maximum limits of such fees that may be prescribed by the Act or the Central Government, or if not so prescribed, in such manner as the Directors may decide from time to time in conformity with the provisions of law.
- (c) In addition to the remuneration payable to them in pursuance of the Act, the directors may be paid all travelling, hotel and other expenses properly incurred by them, in attending and returning from meetings of the Board of Directors or any committee thereof or general meetings of the company, or in connection with the business of the company.
- (d) The Directors shall be paid such further remuneration (if any) either on the basis of percentage on the net profit of the Company or otherwise as the Company in General Meeting may from time to time determine and such further remuneration shall be divided amongst the directors in such proportion and manner as the Board may from time to time determine.
70. The quorum for a meeting of the Board shall be one-third of its total strength or two directors, whichever is higher, and the participation of the directors by video conferencing or by other audio visual means shall also be counted for the purposes of quorum. Quorum
71. The continuing Directors may act notwithstanding any vacancy in their body; but, if and so long as their number falls below the minimum quorum fixed, the continuing Directors shall not except for the purpose of filling vacancies to increase the number of directors to that fixed for the quorum or of summoning a General Meeting, act for any other purpose. Increase of Directors to Quorum
72. Subject to the provisions of the Act, the Directors, including a Managing Director and the Manager, shall not be disqualified by reason of his or their office, as such from contracting with the Company either as vendor, purchaser, lender, agent, broker, lessor or lessee or otherwise, nor shall any such contract or any contract or arrangement entered into by or on behalf of the Company with any Director or the Manager or with any company or partnership of or in which any Director or the Manager shall be a member, or otherwise interested, be avoided nor shall any Director, or the Manager so contracting or being such member or so interested, be liable to account to the Company for any profit realised by such contract or arrangement by reason only of such Director or the Manager holding that office or of the fiduciary relation thereby established, but the nature of the interest must be disclosed by him or them at the meeting of Directors at which the contract or arrangement is determined on, if the interest then exists or in any other case at the first meeting of Directors after the acquisition of the interest; Provided nevertheless that no Director shall vote as a Director in respect of any contract or arrangement in which he is so interested as aforesaid, and if he does so, his vote shall not be counted but he shall be entitled to be present at the meeting during the transaction of the business in relation to which he is precluded from voting although he shall not be counted for the purpose of ascertaining whether there is a quorum of Directors present. This proviso shall not apply to any contract by or on behalf of the Company to give the Directors or any of them any security by way of indemnity against any loss which they or any of them may suffer by becoming or being sureties for the Company. Contracts in which Interested
73. A Director of this Company may be or become a Director of any Company promoted by this Company or in which it may be interested as a vendor, shareholder, or otherwise, and no such Director shall be accountable for any benefits received as a Director or member of such company. Benefits Received from Companies Promoted



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| 74. A retiring Director shall be eligible for re-election and shall act as a Director throughout the meeting at which he retires.  | Rotation of Directors                |
| 75. The Board may pay all expenses incurred in getting up and registering the company.   | Pre-incorporation Expenses           |
| 76. The Company may exercise the powers conferred on it by section 88 with regard to the keeping of a foreign register; and the Board may (subject to the provisions of that section) make and vary such regulations as it may think fit respecting the keeping of any such register.  | Foreign Register                     |
| 77. All cheques, promissory notes, drafts, hundis, bills of exchange and other negotiable instruments, and all receipts for monies paid to the company, shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, by such person and in such manner as the Board shall from time to time by resolution determine.   | Execution of Negotiable Instruments  |
| 78. Every director present at any meeting of the Board or of a committee thereof shall sign his name in a book to be kept for that purpose.  | Directors to sign                    |
| 79. Subject to the provisions of the Act and these Articles the Board of directors of the Company shall be entitled to exercise all such powers, and to do all such acts and things as the Company is authorised to exercise provided that the Board shall not exercise any power or do any act or thing which is directed or required whether by the Act or by the memorandum or these Articles or otherwise to be exercised or done by the Company in General Meeting Provided Further that in exercising any such power or doing any such act or thing the Board shall be subject to the provisions contained in that behalf in the Act or in the memorandum or in these Articles or in any regulations not inconsistent therewith and duly made thereunder including regulations made by the Company in general meeting.No regulation made by the Company in general meeting shall invalidate any prior act of the Board which would have been valid if that Regulation had not been made. | Power of Board                       |
| 80. (a) The Board of Directors may meet for the conduct of business, adjourn and otherwise regulate its meetings, as it thinks fit.<br>(b) A director may, and the manager or secretary on the requisition of a director shall, at any time, summon a meeting of the Board.  | Convening Board Meeting              |
| 81. (a) Save as otherwise expressly provided in the Act, questions arising at any meeting of the Board shall be decided by a majority of votes.<br>(b) In case of an equality of votes, the Chairperson of the Board, if any, shall have a second or casting vote.   | Resolutions to be Passed by Majority |
| 82. (a) The Board may elect a Chairperson and a Vice-Chairman to preside at its meetings and to exercise the powers and perform the duties ordinarily vested in a Chairman.<br>(b) If at any meeting the Chairman is not present within fifteen minutes after the time appointed for holding the meeting, the Vice-Chairman shall take the chair and exercise the power and perform the duties vested in a Chairman. If such Vice-Chairman also be not present at the meeting, the directors present may choose one of their number to be the Chairman of the meeting.   | Chairperson of Board                 |
| 83. (a) The Board may, subject to the provisions of the Act, delegate any of its powers to committees consisting of such member or members of its body as it thinks fit.<br>(b) Any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the Board.<br>(c) Articles 70, 80, 81, 82 and 85 shall mutatis mutandis be applicable to meetings of committees.  | Delegation to Committees             |
| 84. All acts done in any meeting of the Board or of a committee thereof or by any person acting as a director, shall, notwithstanding that it may be afterwards discovered that there was some defect in the appointment of any one or more of such directors or of any person acting as aforesaid, or that they or  | Defect not to Invalidate Acts        |
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any of them were disqualified, be as valid as if every such director or such person had been duly appointed and was qualified to be a director.

85. The Board may pass a circular resolution in writing in accordance with the provisions of Section 175 of the Act. Resolution by Circulation

#### XIV. INSPECTION AND COPIES

86. The Company shall maintain all Registers, Books and Documents as required to be maintained by the Company under the Act from time to time. The said Registers, Books and Documents shall be kept open for inspection by such persons as may be entitled thereto respectively, under the Act during business days during 2.00 p.m to 4.00 p.m or as otherwise may be determined by the Company in General Meeting. A company may on payment of fee not exceeding the maximum rate prescribed under Rule 10 of Companies (Management & Administration) Rules 2014 or any amendment thereof for each page or such other reasonable fee as may be prescribed by the Board provide a copy of each of the above documents. Inspection of Registers
87. A company shall on payment of fee not exceeding the maximum rate prescribed under Rule 10 of Companies (Management & Administration) Rules 2014 or any amendment thereof for each page or such other reasonable fee as may be prescribed by the Board in compliance with Section 17 of the Act, send a copy of each of the following documents to a member within seven days of the request being made by him- Copies of Documents
- (a) the Memorandum of Association of the Company;
- (b) these Articles;
- (c) every agreement and every resolution referred to in sub-section (1) of section 117, if and so far as they have not been embodied in the memorandum and these Articles.
88. The register of charges and the instrument of charges kept by the company shall be open for inspection (i) by any member or creditor of the company without fees; Inspection of Register of Charges
- (ii) by any other person on payment of fees not exceeding fifty rupees for each inspection on a day.
89. (a) The Board shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations, the accounts and books of the company, or any of them, shall be open to the inspection of members not being directors. Accounts
- (b) No member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by law or authorised by the Board or by the company in general meeting.

#### XV. MANAGING DIRECTOR AND WHOLE-TIME DIRECTORS

90. Subject to the provisions of the Act, the Board of Directors may from time to time appoint any one or more of their body including its Chairperson to be the Managing Director or Managing Directors in which expression shall be included Joint Managing Director/s of the Company for such term not exceeding five years at a time. If the Managing Director is liable to retire by rotation, such term shall be subject to his being reappointed at the General Meeting at which he is required to retire. Managing Director
91. Subject to the provisions of the Act and of these Articles the Managing Director, may or may not be while he continues to hold that office, be subject to retirement by rotation and he shall be subject to the same provisions as to qualifications, resignation and removal as the other Directors of the Company. The Terms of Appointment of Managing Director

remuneration of the Managing Director shall from time to time be fixed in accordance with the provisions of the Act and may be by way of a fixed salary or commission or participation in profits or by any or all of these modes or in any other form and may be in addition to the remuneration for attendance at Board Meetings as may be provided under the other provisions of these Articles and may provide for minimum remuneration in case of loss, inadequacy or absence of profits.

92. The Board of Directors may from time to time entrust to and confer upon the Managing Director for the time being, such of the powers exercisable under these Articles by the Directors as they think fit, and may confer such powers for such objects and purposes and upon such terms and conditions and with such restrictions as they think expedient, and may from time to time revoke, withdraw, alter or vary all or any of such powers. Unless and until otherwise determined by the Board of Directors, the Managing Director may exercise all powers exercisable by the Directors save such powers as by the Act or by these Articles shall be exercisable by the Directors themselves. The Board of Directors may, whenever there are more than one Managing Director, decide whether they should act jointly or severally, and may if they think fit, delegate powers separately to one or more Managing Directors. Powers of  
Managing  
Director
93. Subject to the provisions of the Act and these Articles, the Directors may from time to time appoint one or more of their body to be the Whole-time Director or Whole-time Directors of the Company, for such term and subject to such contract, as they may think fit. Whole-time  
Directors

#### XVI. MANAGER, CEO, COMPANY SECRETARY AND CFO

94. (a) Subject to the applicable provisions of the Act, the Board of Directors may from time to time after obtaining such sanctions and approvals as may be necessary appoint an individual to be a Manager of the Company for a period not exceeding five years at a time, and upon such terms and conditions as they may deem fit, and may from time to time (subject to the provisions of any contract between him and the Company) remove or dismiss him from office, and appoint another in his place. A Director may be appointed as the Manager of the Company. Manager
- (b) The remuneration of the Manager, shall from time to time be fixed in accordance with the provisions of the Act and may be by way of fixed salary or commission or participation in profits or by any or all of these modes, and partly in one way and partly in another.
- (c) A Manager so appointed shall exercise the powers and authorities conferred upon him by an agreement entered into between him and the Company and/or by a resolution of the Board or General Meeting, and shall be subject to the obligations and restrictions imposed in that behalf by the Act.
95. (a) Subject to the provisions of the Act,- CEO, Company  
Secretary and  
CFO
- (i) A Chief Executive Officer, Company Secretary or Chief Financial Officer may be appointed by the Board for such term, at such remuneration and upon such conditions as it may think fit; and any chief executive officer, company secretary or chief financial officer so appointed may be removed by means of a resolution of the Board;
- (ii) A director may be appointed as Chief Executive Officer, Company Secretary or Chief Financial Officer.
- (b) A provision of the Act or these regulations requiring or authorising a thing to be done by or to a director and Chief Executive Officer, Company Secretary or Chief Financial Officer shall not be satisfied by its being done by or to the same person acting both as director and as, or in place of, Chief Executive Officer, Company Secretary or Chief Financial Officer.
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### XVII. SEAL

96. (a) The Board shall provide for the safe custody of the seal and shall have power from time to time to destroy the same and substitute a new seal in lieu thereof. Seal

(b) The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the Board or of a committee of the Board authorised by it in that behalf, and except in the presence of at least One directors and of the Company secretary or such other person as the Board may authorise for the purpose; and those One directors and the Company secretary or other person aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence.

### XVIII. DIVIDENDS AND RESERVES

97. The Company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the Board. Declaration of Dividend

98. Subject to the provisions of Section 123, the Board may from time to time pay to the members such interim dividends as appear to it to be justified by the profits of the company. Interim Dividend

99. (a) The Board may, before recommending any dividend, set aside out of the profits of the company such sums as it thinks fit as a reserve or reserves which shall, at the discretion of the Board, be applicable for any purpose to which the profits of the company may be properly applied. Setting Aside of Reserves

(b) The Board may also carry forward any profits which it may consider necessary not to divide, without setting them aside as a reserve.

100.(a) Subject to the rights of persons, if any, entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid or credited as paid on the shares in respect whereof the dividend is paid, but if and so long as nothing is paid upon any of the shares in the company, dividends may be declared and paid according to the amounts of the shares. Dividend to be Paid in Proportion to Amount Paid-up

(b) No amount paid or credited as paid on a share in advance of calls shall be treated for the purposes of this regulation as paid on the share.

(c) All dividends shall be apportioned and paid proportionately to the amounts paid or credited as paid on the shares during any portion or portions of the period in respect of which the dividend is paid; but if any share is issued on terms providing that it shall rank for dividend as from a particular date such share shall rank for dividend accordingly.

101. The Directors may retain the dividend payable upon shares in respect of which any person is entitled to become a member or which any person under that Article is entitled to transfer until such person shall become a member in respect thereof or shall duly transfer the same. Retention of Dividend

102. A transfer of shares shall not pass the rights to any dividend declared thereon before the registration of the transfer, and, subject to the provisions of these Articles, no dividend shall be payable to any person whose name does not appear on the register of members except with the authority, special or general, of the Directors. Dividend to be Paid to Registered Member

103. The Board may deduct from any dividend payable to any member all sums of money, if any, presently payable by him to the company on account of calls or otherwise in relation to the shares of the company. Deduction of Monies Owed

104. (a) Any dividend, interest or other monies payable in cash in respect of shares may be paid by cheque or warrant sent through the post directed to the registered address of the holder or, in the case of joint holders, to the registered address of that one of the joint holders who is first named on the register of members, or to such person and to such address as the holder or joint holders may in writing direct. Payment of Dividend

(b) Every such cheque or warrant shall be made payable to the order of the person to whom it is sent.

(c) The Company shall not be liable or responsible for any cheque or warrant lost in transmission or for any dividend lost to the member or person entitled thereto, by the forged endorsement of any cheque or warrant or the fraudulent recovery thereof by any other means.

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|---|--------------------------------|
| 105. Any one of two or more joint holders of a share may give effective receipts for any dividends, bonuses or other monies payable in respect of such share. | Receipts from<br>Joint Holders |
| 106. Notice of any dividend that may have been declared shall be given to the persons entitled to share therein in the manner mentioned in the Act.           | Notice of<br>Dividend          |
| 107. No dividend shall bear interest against the company.   | No Interest                    |

### XIX. MISCELLANEOUS

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| 108. The Company shall make the requisite annual returns in accordance with Section 92 of the Act.   | Annual Return |
| 109. Subject to the provisions of Chapter XX of the Act and rules made thereunder-   | Winding-up    |
| <p>(a) If the company shall be wound up, the liquidator may, with the sanction of a special resolution of the company and any other sanction required by the Act, divide amongst the members, in specie or kind, the whole or any part of the assets of the company, whether they shall consist of property of the same kind or not.</p> <p>(b) For the purpose aforesaid, the liquidator may set such value as he deems fair upon any property to be divided as aforesaid and may determine how such division shall be carried out as between the members or different classes of members.</p> <p>(c) The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the contributories if he considers necessary, but so that no member shall be compelled to accept any shares or other securities whereon there is any liability.</p> |               |
| 110. Every officer of the company shall be indemnified out of the assets of the company against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in which relief is granted to him by the court or the Tribunal.   | Indemnity     |
| 111. Save as provided in these Articles and the Act no member or other person (not being a Director) shall be entitled to enter the property of the Company or to inspect or examine the Company's premises or properties of the Company without the permission of the Directors or to require discovery of or any information respecting any detail of the Company's trading or any matter which is or may be in the nature of a trade secret, mystery of trade, or secret process or of any matter whatsoever which may relate to the conduct of the business of the Company and which in the opinion of the Directors it will be inexpedient in the interest of the Company to communicate.   | Secrecy       |
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We the several persons whose names and addresses are subscribed hereto are desirous of being formed into a Company in pursuance of this Articles of Association, and respectively agree to take the number of shares in the capital of the Company set opposite our respective names :

Name, address, description and occupations of subscribers	Number of shares taken by each subscriber	Name, address descriptions and occupation of witnesses to the signatures of subscribers
G. D. Birla, Industrialist, Birla House, New Delhi.	10 shares	Witness to all the signatures Gangadhar Makharia, Chief Accountant, Birla Brothers Private Ltd., 8, India Exchange Place, Calcutta.
M. P. Birla, Businessman, 8, India Exchange Place, Calcutta	10 shares	
B. K. Birla, Merchant, 8, India Exchange Place, Calcutta	10 shares	
L. N. Birla, Industrialist, 8, India Exchange Place, Calcutta	10 shares	
S. Kumar, Merchant, 8, India Exchange Place, Calcutta - 1	10 shares	
C. A. Groves, Solicitor, M/s. Orr Dignam & Co., 29, Netaji Subhas Road, Calcutta - 1	10 shares	
K. K. Birla Businessman, 8, India Exchange Place, Calcutta.	10 shares	
Total	70 shares	

Dated the Sixth day of December, 1958

Copy of special resolution passed by shareholders at the Annual General Meeting held on 24th September, 2014

As Special Resolution:

“RESOLVED THAT pursuant to the provisions of Section 14 and all other applicable provisions of the Companies Act, 2013 read with the Companies (Incorporation) Rules, 2014 (including any statutory modification(s) or re-enactment thereof, for the time being in force), the existing Articles of Association of the Company be and is hereby replaced with the new Articles of Association which is placed before the members at this meeting and initialled by the Company Secretary for the sake of identification, and the new Articles of Association be and is hereby approved and adopted as the Articles of Association of the Company in place and in substitution of the existing Articles of Association.

RESOLVED FURTHER THAT the Board of Directors of the Company or any Committee thereof be and is hereby authorised to do all acts and take all such steps as may be necessary, proper or expedient to give effect to this resolution.”

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO. 128 OF 1993

CONNECTED WITH

COMPANY APPLICATION NO. 16 OF 1993

In the matter of the Companies Act, 1956

- And -

In the matter of the Schedule of Amalgamation of  
Renusagar Power Company Limited with Hindalco  
Industries Limited.

Hindalco Industries Limited, a company )  
incorporated under the Companies Act, 1956, )  
and having its registered office at Century )  
Bhavan, 3rd Floor, Dr. Annie Besant Road, )  
Worli, Mumbai 400 025, Maharashtra. )

..... Petitioner Company

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CORAM: Jhunjhunwala J.

DATED: 22nd April, 1993

Upon the Petition of Hindalco Industries Ltd., the petitioner, above named, solemnly declared on 9th day of March, 1993 and presented to this Hon'ble Court on 9th day of March, 1993 for sanctioning of an arrangement embodied in the proposed Scheme of Amalgamation of Renusagar Power Company Limited with Hindalco Industries Ltd. and for other consequential reliefs as mentioned in the Petition AND the said Petition being this day called on for hearing and final disposal AND UPON READING the said Petition and the affidavit of Mr. Anil Jhala, dated 9th day of March, 1993 in support of the Petition AND UPON READING the affidavit of Mr. Anil Jhala solemnly affirmed on 8th April, 1993 proving publication of notice of the hearing of the petition AND UPON READING the order dated 21st day of January, 1993 passed by this Hon'ble Court in Company Application No. 16 of 1993 whereby the Petitioner Company was ordered to convene a meeting of the Equity Share holders of the above Company for the purpose of considering and, if thought fit, approving, with or without modification, the said scheme of amalgamation being Exhibit 'C' to the affidavit of Mr. Anil Jhala, dated 20th day of January, 1993, in support of the said application No. 16 of 1993 AND UPON PERUSING the issues of "Indian Express", dated 30th day of January, 1993, Fress Press Journal, dated 30th day of January, 1993 "Jansatta", dated 30th day of January, 1993, and Maharashtra Government Gazette, dated 4th February, 1993 each containing the advertisement of the said notice convening the said meeting directed to be held by the said order dated 21st day of January, 1993 AND UPON READING the report, dated 1st day of March, 1993 of Mr. E. B. Desai, Chairman of the meeting as to the result of the said meeting AND UPON READING the affidavit of

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Mr. E. B. Desai dated 3rd day of March, 1993 verifying the said report AND it appearing from the said report of the Chairman of the meeting of equity shareholders of the Petitioner Company, that the proposed scheme of amalgamation has been approved by the equity shareholders of the Petitioner Company present and validly voting either in person or by proxy, by a majority of not less than three fourths in value AND UPON HEARING Shri. E. P. Bharucha instructed by M/s. Mulla & Mulla and Craigie Blunt & Caroe, Advocates for the petitioners, Mrs. Netta Masurkar, panel Counsel for the Regional Director, Department of Company Affairs, Bombay and Mr. A. V. Bajaj with Ms. Kamal Jain for the Intervenor in the Petition and no other person entitled to appear at the hearing of the said Petition appearing this day either in support of the said Petition or to show cause against the same THIS COURT DOTH HEREBY SANCTION the arrangement embodied in the Scheme of Amalgamation between Renusagar Power Company Limited, the Transferor Company with Hindalco Industries Limited, the Transferee Company as set forth in Exhibit 'A' to the Petition and in the schedule hereto AND THIS COURT DOTH HEREBY DECLARE the same to be binding on the Transferee Company and its members as also on the Transferor Company and its members AND THIS COURT DOTH FURTHER ORDER that with effect from the 1st day of April, 1992 (hereafter referred to as the Appointed day), the entire undertaking of the Transferor Company, subject to all charges, if any, then effecting the said undertaking including all its properties, movable or immovable and assets of whatever nature, such as industrial and other licences and quota rights, trade marks and other industrial property rights, leases, tenancy rights and all other interests, rights or powers of every kind, nature and description whatsoever without any further act or deed be and stand transferred to and vested in the Transferee Company pursuant to Section 394 of the Companies Act, 1956 AND THIS COURT DOTH FURTHER ORDER that all debts, liabilities, duties and obligations of every description of the Transferor Company be transferred without further act or deed to the Transferee Company pursuant to the said Section 394 of the Companies Act, 1956 so as to become the debts, liabilities, duties and obligations of the Transferee Company AND THIS COURT DOTH FURTHER ORDER that, if any, suit, appeal or other proceedings of whatsoever nature by or against the Transferor Company be pending the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the amalgamation but the same may be continued, prosecuted and enforced by or against the Transferee Company as if the Scheme herein has not been made AND THIS COURT DOTH FURTHER ORDER that as mentioned in the Scheme herein all contracts, deeds, bonds, agreements and other instruments of whatsoever nature to which the Transferor Company is party before the said Scheme becomes effective be in full force and effect against or in favour of the Transferee Company as the case may be and shall be enforced as fully and effectually as if instead of the Transferor Company the Transferee Company has been made a party thereto AND THIS COURT DOTH FURTHER ORDER that since the Transferee Company holds 100% of the subscribed, issued and paid-up share capital of the Transferor Company the entire share capital held by the Transferee Company in the Transferor Company shall stand cancelled on the effective date AND THIS COURT DOTH FURTHER ORDER that with effect from the appointed day, all officers and employees of the Transferor Company shall be deemed to be the officers and employees of the Transferee Company and the terms and conditions of service applicable to such officers and employees shall be not less favourable than those applicable to them respectively, prior to the appointed day and the services of such officers and employees shall not be treated as having broken or interrupted for the purpose of Provident Fund or Gratuity, or otherwise, and for all purposes shall be reckoned from the date of their respective appointments with the Transferor Company and the Transferee

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Company shall be liable to pay and shall pay to each of the said officers and employees such compensation in the event of the retrenchment of any of them as they may be entitled to receive according to any agreement between them and the Transferee Company as the case may be or as may be required by any law for the time being in force, such compensation to be paid to each of them on the basis that his service has been continuous and has not been interrupted by virtue of the said undertaking having been taken over by the Transferee Company under this scheme AND THIS COURT DOTH FURTHER ORDER that the Transferee Company do within a period of 30 days from the date of sealing of this Order cause a certified copy of this Order to be delivered to the Registrar of Companies, Maharashtra, Bombay, for Registration and on such certified copy being so delivered, the registrar of Companies shall place all the documents relating to the Transferor Company and register with him on the file kept by him in relation to the transferee Company and the files relating to the said two companies shall be consolidated accordingly AND THIS COURT DOTH FURTHER ORDER that the parties to the Scheme of Amalgamation sanctioned herein or any other person or persons interested therein shall be at liberty to apply to this Honourable Court for any directions of the Scheme of Amalgamation sanctioned herein or in the above matter AND THIS COURT DOTH LASTLY ORDER that the Petitioner Company do pay a sum of Rs. 500/- (Rupees Five Hundred Only) to the Regional Director, Department of Company Affairs, Bombay, towards the costs of the said Petition witness SHRI MANOJ KUMAR MUKHERJEE, Chief Justice at Bombay aforesaid this 22nd day of April, 1993.

By the Court

For Prothonotary & Senior Master

ORDER SANCTIONING THE SCHEME OF )  
 AMALGAMATION under Sections 391 to 394 )  
 of the Companies Act, 1956, drawn on the )  
 application by M/s. Mulla & Mulla and Craigie )  
 Blunt & Caroe, Advocates for the Petitioners, )  
 Jehangir Wadia Bldg., 51 Mahatma Gandhi )  
 Road, Bombay 400001. )

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**SCHEDULE**

Scheme of Amalgamation of  
Renusagar Power Company Limited  
with  
Hindalco Industries Limited

1. With effect from the commencement of business as on 1st April, 1992 (hereinafter called the appointed day) the entire undertaking of Renusagar Power Company Limited, subject to all charges, if any, then affecting the undertaking of Renusagar Power Company Limited (hereinafter called the Transferor Company) including all its properties, movables or immovables and assets, of whatsoever nature, such as industrial and other licences and quota rights, trade marks and other industrial property rights, leases, tenancy rights and all other interests, rights or powers of every kind, nature and description whatsoever (all of which undertaking, property, assets, rights and powers are hereinafter for brevity's sake referred to as "the said undertaking") shall without any further act or deed be and stand transferred to and vested in Hindalco Industries Limited (hereinafter called the Transferee Company pursuant to Section 394 of the Companies Act, 1956). Provided Always that accept as provided herein, the Scheme shall not operate to enlarge the security for any loan, deposit facility created by or available to Transferor Company and which shall vest the Transferee Company by virtue of Amalgamation and the Transferee Company shall not oblige to create any further or additional security after the Amalgamation has been effective, or otherwise, unless specification provided hereinafter.
  2. With effect from the appointed day, all debts, liabilities, duties and obligations the Transferor Company shall also be transferred without further act or deed, to the Transferee Company, pursuant to the said Section 394, so as to become the debts, liabilities, duties and obligations of the Transferee Company.
  3. With effect from the appointed day, the Transferor Company shall be deemed to have been carrying on and to be carrying on all business and activities for and on account of the Transferee Company until the said undertaking becomes transferred to and vested in the Transferee Company as aforesaid by an order of the High Court of Judicature and otherwise in accordance with the terms of this scheme and until this scheme finally takes effect in accordance with the terms hereof and until then the Transferor Company shall carry on its business with proper prudence and shall not, without concurrence of the Transferee Company alienate, change or otherwise or deal with, during the pendency of this scheme, the said undertaking or any part thereof except in the ordinary course of business or vary the terms and conditions of employment of any of its employees. Profits accruing to the Transferor Company or losses arising or incurred by it after the appointed day upto the date on which this scheme finally takes effect as aforesaid shall for all purposes be treated as the profits or losses of the Transferee Company, as the case may be.
    - (i) If any Suit, Appeal or other proceedings of whatever nature (hereinafter called "the proceedings") by or against the Transferor Company be pending, the same shall not be abate, be discontinued or be in any way prejudicially affected by reason of the transfer or the undertaking of the Transferor Company or of anything contained in
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this Scheme but the said proceedings may be continued, prosecuted and enforced by or against the Transferor Company as if this Scheme had not been made.

- (ii) Subject to the other provisions of this scheme, all contracts, bonds, agreements and other instruments of whatsoever nature to which the Transferor Company is a party, subsisting or having effect immediately before this scheme become finally effective as aforesaid, shall be in full force and effect against or in favour of the Transferee Company, as the case may be, and may be enforced as fully and effectually as if, instead of the Transferor Company the Transferee Company had been a party thereto.
5. The Authorised Capital of the Transferor Company is Rs. 3,75,00,000/- (Rupees Three Crores Seventy Five Lakhs only) divided into 3,75,000 Shares of Rs. 100/- (Rupees One Hundred) each. The Authorised Capital of the Transferee Company is Rs. 75,00,00,000/ (Rupees Seventy Five Crores only) divided into 7,00,00,000 Equity Shares of Rs. 10/- (Rupees Ten) each and 5,00,000 Preference Shares of Rs. 100/- (Rupees One Hundred) each. The issued, subscribed and paid-up capital of the Transferor Company is Rs. 3,75,00,000/- (Rupees Three Crores Seventy Five Lakhs only) divided into 3,75,000 Equity Shares of Rs. 100/- (Rupees One Hundred) each. The issued and subscribed capital of the Transferee Company is Rs. 38,77,38,640/- (Rupees Thirty Eight Crores Seventy Seven Lakhs Thirty Eight Thousand Six Hundred Forty only) divided into 3,87,73,864 Equity Shares of Rs. 10/- (Rupees Ten) each and it has paid-up capital of Rs. 38,76,78,140/- (Rupees Thirty Eight Crores Seventy Six Lakhs Seventy Eight Thousand One Hundred Forty only) divided into 3,87,67,814 Equity Shares of Rs. 10/- (Rupees Ten) each fully paid-up. Since the Transferee Company (Hindalco Industries Limited) holds 100% of the subscribed, issued and paid-up Share Capital held by the Transferee Company in the Transferor Company shall stand cancelled on the effective date.

On this scheme finally taking effect as aforesaid, all Officers and Employees of the Transferor Company shall be deemed to have become the officers and Employees of the Transferee Company with effect from the appointed day and their employment by the Transferee Company shall be on the following terms and conditions:

- (i) the terms and conditions of service applicable to such Officers and Employees shall be not less favourable than those applicable to them respectively, prior to the appointed day;
- (ii) The service of such Officers and Employees shall not be treated as having been broken or interrupted for the purpose of Provident Fund or Gratuity, or otherwise, and for all purposes will be reckoned from the date of this respective appointments with the Transferor Company;
- (iii) The Transferee Company shall be liable to pay and shall pay to each of the said Officers and Employees such compensation in the event of the retrenchment of any of them as they may be entitled to receive according to any agreement between them and the Transferor Company or between them and the Transferee Company, as the case may be, or as may be required by any law for the time being in force, such compensation to be paid to each of them on the basis that his service has been
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continuous and has not been interrupted by virtue of the said undertaking having been taken over, by the Transferee Company under this scheme.

8. The Transferor Company, with all reasonable despatch, make an application to the High Court of Judicature at Allahabad for sanctioning this Scheme of Amalgamation under Section 391 of the Act and for an order under Section 394 thereof for carrying this scheme into effect and for dissolution of the Transferor Company without winding-up. The Transferee Company shall join in the said application, and if necessary, make a similar separate application.
  9. The Transferor Company (by its Directors) and the Transferee Company (by its Directors) may assent on behalf of all persons concerned to any modifications or amendments of this scheme or of any conditions which the Court may deem fit to approve of or impose and solve all difficulties that may arise for carrying out this scheme and do all acts, deeds and things necessary for putting this scheme into effect.
  10. For the purpose of giving effect to this scheme or to any modifications thereof, the Directors of the Transferor Company (prior to its dissolution pursuant to this scheme) and of the Transferee Company may give and are authorised to give such directions and to agree to such terms and conditions as may be necessary, expedient or desirable and to settle any questions of doubt or difficulty whatsoever. This scheme is conditional on and subject to :
    - (a) The sanction or approval of the authorities (including Financial Institutions, if any) concerned being obtained and granted in respect of any of the matters in respect of which such sanction or approval be required;
    - (b) The approval of an agreement to this scheme by the requisite majority of the members of the Transferor Company and of the Transferee Company;
    - (c) The sanction by the High Court under Section 391 of the Companies Act, 1956, both on behalf of the Transferor Company and of the Transferee Company and to the necessary Order or Orders under Section 394 of the said Act being obtained and filed with the Registrar of Companies at Kanpur and Bombay respectively.
  11. This scheme shall finally take effect upon the date on which any of the aforesaid acknowledgment for filing, sanctions or approvals shall be obtained last (hereinafter referred to as "the effective date").
  12. All the costs, charges and expenses of the Transferor Company and of the Transferee Company in respect of the negotiations leading up to this scheme and to the agreement between the parties in respect thereof and of carrying out of completing the terms of this scheme and of the agreement between the parties relating thereto and incidental to the completion of the Amalgamation and Merger of the said two Companies in pursuance of this scheme shall be borne and paid on an attorney and client basis by Transferor Company alone.
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO. 896 OF 2002

CONNECTED WITH

COMPANY APPLICATION NO. 371 OF 2002

In the matter of the Companies Act, 1956;

- And -

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

- And -

In the matter of Hindalco Industries Limited, a company incorporated under the Companies Act, 1956, and having its registered office at Century Bhavan, 3rd Floor, Dr. Annie Besant Road, Worli, Mumbai - 400 025, Maharashtra.

- And -

In the matter of the Scheme of Arrangement between Indo Gulf Corporation Limited, Indo Gulf Fertilisers Limited and Hindalco Industries Limited and their respective shareholders and creditors.

Hindalco Industries Limited, a company )  
incorporated under the Companies Act, 1956, )  
and having its registered office at Century )  
Bhavan, 3rd Floor, Dr. Annie Besant Road, )  
Worli, Mumbai 400 025, Maharashtra. )

..... Petitioner Company

CORAM: R. J. Kochar J.  
DATED: 31st October, 2002

UPON the Petition of Hindalco Industries Limited, the Petitioner Company above named, presented to this Hon'ble Court on the 24th day of September, 2002 for sanctioning the Arrangement embodied in the Scheme of Arrangement between Indo Gulf Corporation Limited, (hereinafter referred to as "Demerged Company" "the Amalgamating Company"), Indo Gulf Fertilisers Limited (hereinafter referred to as "Resulting Company"), Hindalco Industries Limited (hereinafter referred to as "Petitioner Company") and their respective Shareholders and Creditors and other consequential reliefs as mentioned in the said Petition AND the said Petition being

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this day called on for hearing and final disposal **AND UPON READING** said Petition and affidavit of Mr. Anil J. Jhala, Joint President (Treasury) and Company Secretary of the Petitioner Company, affirmed on the 24th day of September, 2002, verifying the said Petition, **AND UPON READING** the affidavit of Mr. Sanjay Pulekar, clerk in the office of the Advocates for the Petitioner Company dated 3rd day of October, 2002, proving publication of notice of hearing of the Petition in the issue of newspapers "Indian Express" (Mumbai Edition) and Marathi translation thereof in the "Loksatta" both on 1st day of October, 2002 pursuant to the Order dated 27th day of September, 2002 **AND UPON READING** the affidavit of Mr. Sanjay Pulekar dated 3rd day of October, 2002 proving service of notice of hearing of the Petition upon the Regional Director, Department of Company Affairs, Maharashtra, Mumbai **AND UPON READING** the Order dated 27th September, 2002 whereby service of individual notice of hearing of the Petition to Creditors of the Petitioner Company was dispensed with in view of the averments made in para 28 of the Petition **AND UPON READING** the Order dated 9th day of August, 2002, passed by the Hon'ble Court in the Company Application No. 371 of 2002, whereby the Petitioner Company was directed to convene a meeting of the Equity Shareholders of the Petitioner Company for the purpose of considering, and if thought fit, approving with or without modifications the Arrangement embodied in the Scheme of Arrangement between Demerged Company, Resulting Company, the Petitioner Company and their respective Shareholders and Creditors (hereinafter referred to as "Scheme of Arrangement") being Exhibit "G" to the Petition **AND** meeting of the Creditors of the Petitioner Company was dispensed with in view of the averment made in para 25 of the affidavit in support of the Company Application No. 371 of 2002 **AND UPON READING** the affidavit dated 28th day of August, 2002 of Mr. A. K. Agarwala, Chairman, appointed for the meeting of the Equity Shareholders of the Petitioner Company, proving despatch of individual notice convening the meeting of the Equity Shareholders of the Petitioner Company and also proving publication of the notice convening the meeting in the issue of newspapers "Indian Express" (Mumbai Edition) and Marathi translation thereof in the "Loksatta" both dated 23rd day of August, 2002, pursuant to the Order dated 9th day of August, 2002 **AND UPON READING** the report of Mr. A. K. Agarwala, Chairman of the meeting of the Equity Shareholders dated 21st day of September, 2002, as to the result of the said meeting of the Equity Shareholders of the Petitioner Company **AND UPON READING** the affidavit of the Mr. A. K. Agarwala, Chairman dated 21st day of September, 2002 verifying the Chairman's Report **AND IT APPEARS** from the said Report of the Chairman of the meeting of the Equity Shareholders of the Petitioner Company that the Arrangement embodied in the Scheme of Arrangement has been approved by the requisite majority, in number of the Equity Shareholders representing more than three fourth in value of the Equity Shareholders present at the meeting **AND UPON HEARING**, Mr. Rahul Chitnis, Counsel, instructed by M/s. Amarchand and Mangaldas & Suresh A. Shroff & Co., Advocates for the Petitioner Company, and Mr. D. A. Dube, Panel Counsel, instructed by Mr. T. C. Kaushik for the Regional Director, Department of Company Affairs, Maharashtra, Mumbai who submits to the Order of the Court and no other person or persons entitled to appear at the hearing of the Petition appearing this day, either in support of the said Petition or to show cause against the same **THIS COURT DOTH HEREBY** sanction the Arrangement embodied in the Scheme of Arrangement between Indo Gulf Corporation Limited, Indo Gulf Fertilisers Limited and Hindalco Industries Limited and their respective shareholders and creditors as set forth in the Scheme being Exhibit "G" to the Petition and annexed as Schedule hereto **AND THIS COURT DOTH HEREBY DECLARE** that the said Scheme of Arrangement shall be binding on the Petitioner Company and all the members

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of the Petitioner Company and all persons concerned under the Scheme in accordance with its terms **AND THIS COURT DOTH ORDER** that in consideration of the transfer of the undertaking of the Demerged Company in terms of the Scheme as a going concern (together with all assets and liabilities), the Petitioner Company is directed to issue further shares in accordance with Clause 46 of the Scheme of Arrangement **AND THIS COURT DOTH FURTHER ORDER** that under Section 394 of the Companies Act, 1956 assumption of the liabilities, transfer of the services of employees, continuation of legal proceedings pending against the Amalgamating Company shall be in accordance with the Scheme annexed hereto and other matters specified under the Scheme **AND THIS COURT DOTH FURTHER ORDER** that the Petitioner Company do within 30 days of the sealing of this Order, cause a certified copy of this Order to be delivered with the Registrar of Companies, Maharashtra, Mumbai, for registration and upon such certified copy of the order being so delivered and upon receipt of certified copy of the order passed by the Hon'ble Allahabad High Court (Lucknow Bench) Sanctioning the said Scheme of Arrangement and upon receipt of the files and record of Amalgamating Company, from the Registrar of Companies, Kanpur, the Registrar of Companies, Maharashtra, Mumbai shall place all the files and records of the Amalgamating Company and registered with him on the file kept by him in relation to the Petitioner Company and files of the Amalgamating Company and the Petitioner Company shall be consolidated accordingly **AND THIS COURT DOTH FURTHER ORDER** that the parties to the Scheme of Arrangement and any other person or persons interested therein, shall be at liberty to apply to this Hon'ble Court for any directions that may be necessary in regard to the working of the Arrangement embodied in the Scheme as sanctioned herein and annexed as Schedule hereto **AND THIS COURT DOTH LASTLY ORDER** that the Petitioner Company do pay a sum of Rs. 2,500/- (Rupees Two Thousand Five Hundred only) to the Regional Director, Department of Company Affairs, Maharashtra, Mumbai towards the costs of the Petition **WITNESS SHRI CHUNIAL KARSANDAS THAKKAR**, Chief Justice at Bombay aforesaid this 31st day of October, 2002.

By the Court

For Prothonotary & Senior Master

Sealer

Dated this 3rd day of December, 2002

Order sanctioning the Arrangement embodied in )  
the Scheme of Arrangement under Sections 391 )  
to 394 of the Companies Act, 1956, drawn on )  
the application of M/s. Amarchand & Mangaldas )  
and Suresh A. Shroff & Co., Advocates for the )  
Petitioner Company, having their Office at )  
Peninsula Chambers, Peninsula Corporate Park, )  
Ganpatrao Kadam Marg, Lower Parel, Mumbai - )  
400 013.

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SCHEME OF ARRANGEMENT  
BETWEEN

INDO GULF CORPORATION LIMITED	...	Demerged Company
INDO GULF FERTILISERS LIMITED	...	Resulting Company
HINDALCO INDUSTRIES LIMITED	...	Amalgamated Company

AND

THEIR RESPECTIVE SHAREHOLDERS AND CREDITORS

PART I - GENERAL

1. The Demerged Company is engaged in various businesses including the fertiliser business which comprises of the processing, producing and manufacturing of fertilisers and rendering services in relation to the same (the "**Fertiliser Business**", the assets and liabilities of which as on the Demerger Appointed Date are set out in **Schedule I** hereto), the manufacturing of copper (in the name and style of "Birla Copper") and certain precious metals, the processing, producing, manufacturing and marketing of certain types of chemicals (including di-ammonium phosphate) and rendering assistance and services in relation to the same, and making of investments (the "**Remaining Business**", the assets and liabilities of which as on the Amalgamation Appointed Date are set out in **Schedule II** hereto).
  2. The Resulting Company is a company having as its main object, *inter alia*, the processing, producing and manufacturing of fertilisers, petrochemicals and all types of chemicals.
  3. The Amalgamated Company is engaged in various businesses including the manufacture or production of or dealing in alumina, aluminium and down stream aluminium products and the generation of electricity. The Amalgamated Company holds 1,95,79,357 fully paid-up Equity Shares of Rs 10/- each in the Demerged Company on the Amalgamation Appointed Date.
  4. This composite Scheme of Arrangement (hereinafter referred to as the "**Scheme**") provides for:
    - (a) the transfer by way of a demerger of the Demerged Undertaking (as defined hereinafter) of the Demerged Company to the Resulting Company, and the consequent issue of equity shares by the Resulting Company to the shareholders of the Demerged Company; and
    - (b) the amalgamation of the Amalgamating Company (comprising the Remaining Business, as defined hereinafter) with the Amalgamated Company; pursuant to Sections 391 to 394 and other relevant provisions of the Act (as defined hereinafter) in the manner provided for in the Scheme.
  5. The Scheme is divided into the following parts:
    - (a) Part I, which deals with the introduction and definitions;
    - (b) Part II, which deals with the demerger of the Demerged Undertaking from the Demerged Company to the Resulting Company;
    - (c) Part III, which deals with the amalgamation of the Amalgamating Company with the Amalgamated Company; and
    - (d) Part IV, which deals with the general terms and conditions that would be applicable to both Part II and Part III, of the Scheme.
  6. The Scheme also provides for various other matters consequential or otherwise integrally connected herewith.
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## 7. Definitions:

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

- (A) “**Act**” means the Companies Act, 1956, or any statutory modification or re-enactment thereof;
  - (B) “**Amalgamated Depository**” shall have the meaning ascribed to it in Clause 54 hereof;
  - (C) “**Amalgamating Company**” means the Demerged Company comprising of the Remaining Business as it would exist following and consequent to the Demerger in terms of Part II of this Scheme;
  - (D) “**Amalgamating Company Shares**” shall have the meaning ascribed to it in Clause 47 hereof;
  - (E) “**Amalgamation**” means the amalgamation of the Amalgamating Company with the Amalgamated Company as set out in Part III hereof;
  - (F) “**Amalgamation Appointed Date**” means opening of business on April 1, 2002;
  - (G) “**Amalgamation Share Exchange Ratio**” shall have the meaning ascribed to it in Clause 46 hereof;
  - (H) “**Demerged Undertaking**” means the Fertiliser Business of the Demerged Company, located at Jagdishpur Industrial Area, District Sultanpur, Uttar Pradesh, on a going concern basis, which shall include (without limitation) the items set out in **Schedule I** hereto, and shall further mean and include (without limitation):
    - (a) all property of or required for the Fertiliser Business wherever situated, whether movable or immovable, tangible or intangible, including all funds, plant and machinery, buildings, offices (including marketing offices and liaison offices), schools, hospitals, temples, townships, capital work in progress, furniture, fixtures, office equipment, appliances, accessories, power lines, railway sidings, water pipelines and depots;
    - (b) all permits, quotas, rights, entitlements, industrial and other licences, bids, tenders, letters of intent, expressions of interest, development rights (whether vested or potential) and whether under agreements, or otherwise, municipal permissions, approvals, consents, subsidies, tenancies in relation to office and/or residential properties for the employees, trade marks, patents, copyrights, all other intellectual property (including the brand name “Shaktiman”), bank accounts, privileges, all other rights including sales tax deferrals and exemptions and other benefits, lease rights, licences, 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, funds, benefits of all agreements, contracts and arrangements and all other interests in connection with or relating to the Demerged Undertaking;
    - (c) all earnest moneys and/or security deposits paid by the Demerged Company in connection with or relating to the Demerged Undertaking;
    - (d) all records, files, papers, engineering and process information, computer programmes, manuals, data, catalogues, quotations, sales and advertising materials, lists of present and former customers and suppliers, customer credit information, customer pricing information, and other records, whether in physical form or electronic form in connection with or relating to the Demerged Undertaking; and
    - (e) present and future liabilities (including contingent liabilities and the Transferred Liabilities, as defined hereinafter) relating to the Demerged Undertaking.
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- (I) “**Demerger**” means the transfer by way of demerger of the Demerged Undertaking of the Demerged Company to the Resulting Company, and the consequent issue of equity shares by the Resulting Company to the shareholders of the Demerged Company as set out in Part II hereof;
- (J) “**Demerger Appointed Date**” means close of business on March 31, 2002;
- (K) “**Demerger Share Entitlement Ratio**” shall have the meaning ascribed to it in Clause 25;
- (L) “**Deposit Agreement**” shall have the meaning ascribed to it in Clause 32 hereof;
- (M) “**Effective Date**” means the date on which all the conditions and matters in relation to the Scheme referred to in Clause 67 of this Scheme have been fulfilled.  
References in this Scheme to the date of “**coming into effect of this Scheme**” or “**effectiveness of this Scheme**” shall mean the Effective Date.
- (N) “**GDRs**” means the outstanding Global Depository Receipts issued pursuant to the “Issue of Foreign Currency Convertible Bonds and Ordinary Shares (through Depository Receipt Mechanism) Scheme, 1993” and other applicable law, and where relevant shall include the underlying equity shares relating thereto;
- (O) “**Hindalco**” or the “**Amalgamated Company**” means Hindalco Industries Limited, a company incorporated under the Act and having its registered office at Century Bhavan, 3rd Floor, Dr. Annie Besant Road, Worli, Mumbai - 400 025, Maharashtra;
- (P) “**Indo Gulf Corporation**” or the “**Demerged Company**” means Indo Gulf Corporation Limited, a company incorporated under the Act and having its registered office at P.O. Jagdishpur Industrial Area, District Sultanpur, Uttar Pradesh, Pin 227 817;
- (Q) “**IGFL**” or the “**Resulting Company**” means Indo Gulf Fertilisers Limited (formerly known as Rajashree Fertilisers Limited), a Company incorporated under the Act and having its registered office at KB-02, IG FCC Township, P.O. Jagdishpur Industrial Area, District Sultanpur, Uttar Pradesh, Pin 227 817;
- (R) “**New Depository**” shall have the meaning ascribed to it in Clause 32 hereof;
- (S) “**Record Date**” shall have the meaning ascribed to it in Clause 25 hereof;
- (T) “**Remaining Business**” means all the business and the divisions of the Demerged Company other than the Demerged Undertaking, including but not limited to the Birla Copper Unit, di-ammonium phosphate division and precious metals recovery plant and investments and which shall further include (without limitation) the items set out in **Schedule II** hereto;
- (U) “**Securities**” shall have the meaning ascribed to it in Clause 39(b)(iv);
- (V) “**Securities Act**” shall have the meaning ascribed to it in Clause 34 hereof;
- (W) “**Scheme**” means this composite Scheme of Arrangement;
- (X) “**Transferred Liabilities**” shall have the meaning ascribed to it in Clause 22(a) hereof;
- (Y) “**Trust**” shall have the meaning ascribed to it in Clause 47 hereof;
- (Z) “**Trust Deed**” shall have the meaning ascribed to it in Clause 47 hereof; and
- (ZA) “**Trustee**” shall have the meaning ascribed to it in Clause 47 hereof.
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### 8. Share Capital:

- (a) The share capital structure of the Demerged Company as on June 30, 2002, was as follows:  
Rs. in crores

<b>Authorised:</b>		
30,00,00,000 Equity Shares of Rs. 10/- each	300.00	
2,00,00,000 Cumulative Convertible Redeemable Preference Shares of Rs. 100/- each	200.00	500.00
		<hr/>
<b>Issued, Subscribed and Paid-up:</b>		
22,52,14,015 Equity Shares of Rs. 10/- each fully paid-up*	225.21	
Less: allotment monies in arrears	0.02	225.19
		<hr/>

\*1. Includes 96,90,972 equity shares represented by GDRs.

- (b) The share capital structure of the Resulting Company as on July 30, 2002 was as follows:  
Rupees

<b>Authorised:</b>		
50,000 Equity Shares of Rs.10/-	5,00,000.00	5,00,000.00
		<hr/>
<b>Issued, Subscribed and Paid-up:</b>		
50,000 Equity Shares of Rs. 10/- each fully paid-up	5,00,000.00	5,00,000.00
		<hr/>

- (c) The share capital structure of the Amalgamated Company as on June 30, 2002 was as follows:

Rs. in Crores		
<b>Authorised:</b>		
14,50,00,000 Equity Shares of Rs. 10/- each	145.00	
5,00,000 Redeemable Cumulative Preference Shares of Rs. 100/- each	5.00	150.00
		<hr/>
<b>Issued:</b>		
7,37,13,490 Equity Shares of Rs. 10/- #	73.71	
<b>Subscribed and Paid-up:</b>		
7,37,07,440 Equity Shares of Rs. 10/- each fully paid-up*	73.70	

# 7,58,530 Equity Shares have been bought back by the Amalgamated Company in its buy back programme approved at its board meeting on January 30, 2002. The issued share capital as set out above is exclusive of these 7,58,530 shares.

- \* 1. Includes 1,23,81,149 Equity Shares represented by GDRs.  
2. 6,050 equity shares have been forfeited by the Amalgamated Company.

## PART II - DEMERGER

### SECTION 1 - DEMERGED UNDERTAKING

9. (a) Upon the coming into effect of the Scheme and with effect from the Demerger Appointed Date and subject to this Scheme, the Demerged Undertaking (including all the estate, assets, rights, title, interest and authorities including accretions and appurtenances of the Demerged Undertaking) shall, subject to the provisions of this Clause in relation to the mode of vesting and pursuant to Section 394(2) of the Act and without any further act or deed, be demerged from the Demerged Company and transferred to and vested in the Resulting Company or be deemed to have been demerged from the Demerged Company and transferred to and vested in the Resulting Company as a going concern

so as to become as and from the Demerger Appointed Date, the estate, assets, rights, title, interest and authorities of the Resulting Company subject to Section 3 of Part II of the Scheme in relation to charges thereon in favour of banks and/or financial institutions.

- (b) In respect of such of the assets of the Demerged Undertaking as are movable in nature or are otherwise capable of transfer by manual delivery or by endorsement and delivery, the same may be so transferred by the Demerged Company, and shall become the property of the Resulting Company as an integral part of the Demerged Undertaking.
  - (c) In respect of such of the assets belonging to the Demerged Undertaking other than those referred to in sub-clause (b) above, the same shall, as more particularly provided in sub-clause (a) above, without any further act, instrument or deed, be demerged from the Demerged Company and stand transferred to and vested in the Resulting Company and/or be deemed to be demerged from the Demerged Company and transferred to and vested in the Resulting Company on the Demerger Appointed Date pursuant to the provisions of Section 394 of the Act. For the avoidance of doubt, it is hereby clarified that all the rights, title and interest of the Demerged Company in any leasehold properties in relation to the Demerged Undertaking shall, pursuant to Section 394 (2) of the Act and the provisions of this Scheme, without any further act or deed, be transferred to and vested in or be deemed to have been transferred to and vested in the Resulting Company.
  - (d) All assets, estate, rights, title, interest and authorities acquired by the Demerged Company after the Demerger Appointed Date and prior to the Effective Date for operation of the Demerged Undertaking shall also stand transferred to and vested in the Resulting Company upon the coming into effect of the Scheme.
10. (a) Upon the coming into effect of the Scheme and subject to the provisions of this Scheme, all contracts, deeds, bonds, agreements, schemes, arrangements and other instruments of whatsoever nature in relation to the Demerged Undertaking to which the Demerged Company is a party or to the benefit of which the Demerged Company may be eligible, and which are subsisting or having effect immediately before the Effective Date, shall be in full force and effect on or against or in favour, as the case may be, of the Resulting Company and may be enforced as fully and effectually as if, instead of the Demerged Company, the Resulting Company had been a party or beneficiary or obligee thereto.
- (b) Without prejudice to the other provisions of the Scheme and notwithstanding the fact that vesting of the Demerged Undertaking occurs by virtue of Part II of the Scheme itself, the Resulting 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, execute deeds (including deeds of adherence), confirmations or other writings or tripartite arrangements with any party to any contract or arrangement to which the Demerged Company is a party or any writings as may be necessary to be executed, in order to give formal effect to the above provisions. The Demerged Company will, if necessary, also be a party to the above. The Resulting Company shall, under the provisions of Part II of this Scheme, be deemed to be authorised to execute any such writings on behalf of the Demerged Company and to carry out or perform all such formalities or compliances referred to above on the part of the Demerged Company to be carried out or performed.
  - (c) 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, licences, certificates, clearances, authorities given by, issued to or executed in favour of the Demerged Company shall stand transferred to the Resulting Company as if the
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same were originally given by, issued to or executed in favour of the Resulting Company, and the rights and benefits under the same shall be available to the Resulting Company.

11. All the assets and liabilities of the Demerged Undertaking shall be transferred at the values appearing in the books of the Demerged Company immediately before the demerger which are set forth in the closing balance sheet relating to the Demerged Undertaking as of March 31, 2002.
  12. (a) It is clarified that, upon the coming into effect of the Scheme, the following liabilities and obligations of the Demerged Company being a part of the Demerged Undertaking shall, without any further act or deed be and stand transferred to the Resulting Company, and shall become the liabilities and obligations of the Resulting Company which shall undertake to meet, discharge and satisfy the same:
    - (i) the liabilities which arose out of the activities or operations of the Demerged Undertaking and which are more particularly set out in **Schedule III** hereto; and
    - (ii) the general or multi-purpose borrowings and liabilities of the Demerged Company the amount of which in the aggregate stands in the same proportion, which the value of the assets of the Demerged Undertaking (being the fixed assets, gross current assets) transferred to the Resulting Company bears to the assets of the Demerged Company on the Demerger Appointed Date. The amount of the general or multi-purpose borrowings and liabilities which, are transferred on this basis are more particularly specified in **Schedule IV** hereto.
  - (b) Where any of the liabilities and obligations of the Demerged Company as on the Demerger Appointed Date deemed to be transferred to the Resulting Company have been discharged by the Demerged Company after the Demerger Appointed Date and prior to the Effective Date, such discharge shall be deemed to have been for and on account of the Resulting Company, and all loans raised and used and all liabilities and obligations incurred by the Demerged Company for the operations of the Demerged Undertaking after the Demerger Appointed Date and prior to the Effective Date shall be deemed to have been raised, used or incurred for and on behalf of the Resulting Company and to the extent they are outstanding on the Effective Date, shall also without any further act or deed be and stand transferred to the Resulting Company and shall become the liabilities and obligations of the Resulting Company which shall meet, discharge and satisfy the same.
  13. (a) Upon the coming into effect of the Scheme, all legal, taxation or other proceedings (including before any statutory or quasi-judicial authority or tribunal) by or against the Demerged Company under any statute, whether pending on the Demerger Appointed Date or which may be instituted any time in the future and in each case relating to the Demerged Undertaking shall be continued and enforced by or against the Resulting Company after the Effective Date. The Resulting Company shall be added as party to such proceedings, and shall prosecute or defend such proceedings in co-operation with the Demerged Company (or any successor thereof).
  - (b) If proceedings are taken against the Demerged Company (or any successor thereof) in respect of the matters referred to in sub-clause (a) above, it shall defend the same in accordance with the advice of the Resulting Company and at the cost of the Resulting Company, and the latter shall reimburse and indemnify the Demerged Company (or any successor thereof) against all liabilities and obligations incurred by the Demerged Company (or any successor thereof) in respect thereof.
  - (c) The Resulting Company undertakes to have all legal, taxation or other proceedings initiated by or against the Demerged Company (or any successor thereof), referred to in
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sub-clause (a) above transferred into its name and to have the same continued, prosecuted and enforced by or against the Resulting Company to the exclusion of the Demerged Company (or any successor thereof).

14. It is clarified that upon the coming into effect of the Scheme, any existing arrangements between the Demerged Company and the Indo Gulf Jan Seva Trust in relation to any social obligations undertaken by the Demerged Company shall become the obligations of the Resulting Company and the Resulting Company shall fulfil the same as fully and effectually as if, instead of the Demerged Company, the Resulting Company was a party to such arrangement.
  15. With effect from the Demerger Appointed Date and up to and including the Effective Date:
    - (a) the Demerged Company shall be deemed to have been carrying on and to be carrying on all business and activities relating to the Demerged Undertaking and stand possessed of all the estates, assets, rights, title, interest, authorities, contracts, investments and strategic decisions of the Demerged Undertaking, including the rights and interest in any documents specified in Clause 10 hereof, for and on account of, and in trust for, the Resulting Company; and
    - (b) all profits accruing to the Demerged Company, or losses arising or incurred by it (including the effect of taxes, if any, thereon), relating to the Demerged Undertaking shall for all purposes, be treated as the profits, taxes or losses, as the case may be, of the Resulting Company.
  16. Any claims, liabilities or demands (including in relation to income tax, sales tax, fertiliser subsidies or otherwise) arising out of the activities or operations of the Demerged Undertaking which relates to the period prior to the Demerger Appointed Date, but arises at any time including after the Effective Date, shall be deemed to be part of the Demerged Undertaking, and shall consequently be entirely borne by the Resulting Company. In the event that such liability is incurred by or such claim or demand is made upon the Demerged Company (or any successor thereof, then the Resulting Company shall indemnify the Demerged Company (or any successor thereof) for any payments made in relation to the same.
  17. (a) The Resulting Company undertakes to engage, on and from the Effective Date, such employees of the Demerged Company (including such employees engaged by the Demerged Company in the ordinary course of business) engaged in the Demerged Undertaking, and who are in the employment of the Demerged Company, as on the Effective Date, on terms and conditions not less favourable than those on which they are engaged by the Demerged Company, with continuity of service. The Resulting Company undertakes to continue to abide by any agreement/settlement entered into by the Demerged Company in respect of the Demerged Undertaking with any union / employee of the Demerged Company in relation to the Demerged Undertaking. The Resulting Company agrees that for the purpose of payment of any compensation, gratuity and other terminal benefits, the past services of such employees with the Demerged Company shall also be taken into account, and agrees and undertakes to pay the same as and when payable.
    - (b) In so far as the existing provident fund trusts, gratuity fund and pension and/or superannuation fund trusts created by the Demerged Company for its employees (including employees of the Demerged Undertaking) are concerned, the existing trusts created by the Demerged Company and the funds that are referable to the employees of the Demerged Undertaking shall be transferred to the Resulting Company, and the Resulting Company shall continue to contribute to such trusts in accordance with the provisions thereof, and such trusts shall be held for the benefit of the employees transferred to the Resulting Company.
  18. The transfer and vesting of the assets, liabilities and obligations of the Demerged Undertaking under Clause 9 and the continuance of the proceedings by or against the Resulting Company
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under Clause 13 hereof shall not affect any transaction or proceedings, already completed by the Demerged Company on and after the Demerger Appointed Date to the end and intent that the Resulting Company accepts all acts, deeds and things done and executed by and/or on behalf of the Demerged Company as acts, deeds and things done and executed by and on behalf of the Resulting Company.

## SECTION 2 - REMAINING BUSINESS

19. The Remaining Business and all the assets, liabilities and obligations pertaining thereto shall continue to belong to and be vested in, and be managed by the Demerged Company subject to Section 3 of Part II of the Scheme in relation to charges thereon in favour of banks, financial institutions and trustees for the debenture-holders.
20. All legal, taxation or other proceedings by or against the Demerged Company under any statute, whether pending on the Demerger Appointed Date or which may be instituted in future whether or not in respect of any matter arising before the Effective Date and relating to the Remaining Business (including those relating to any property, right, power, liability, obligation or duties of the Demerged Company in respect of the Remaining Business) shall be continued and enforced by or against the Demerged Company (or successor thereof). The Resulting Company shall in no event be responsible or liable in relation to any such legal, taxation or other proceeding against the Demerged Company (or successor thereof).
21. With effect from the Demerger Appointed Date and up to and including the Effective Date, the Demerged Company:
  - (a) shall be deemed to have been carrying on and to be carrying on all business and activities relating to the Remaining Business for and on its own behalf;
  - (b) all profits accruing to the Demerged Company thereon or losses arising or incurred by it (including the effect of taxes, if any, thereon) relating to the Remaining Business shall, for all purposes, be treated as the profits, taxes or losses, as the case may be, of the Demerged Company (or successor thereof).

## SECTION 3 - LIABILITIES

### 22. LOANS, DEBENTURES AND RELATED SECURITY

- (a) In so far as loans, borrowings and debentures of the Demerged Company are concerned, the loans, borrowings and debentures listed in **Schedule III** and such amounts pertaining to the general or multi-purpose loans, debentures and liabilities listed in **Schedule IV**, which are to be transferred to the Resulting Company in terms of Clause 12 hereof (the "**Transferred Liabilities**") being a part of the Demerged Undertaking shall, upon coming into effect of the Scheme and subject to sub-clause (b) below, without any further act or deed, become loans and debentures of the Resulting Company, and all rights, powers, duties and obligations in relation thereto shall be and stand transferred to and vested in and shall be exercised by or against the Resulting Company as if it had entered into such loans, incurred such borrowings or issued such debentures.
  - (b) In so far as the existing security in respect of the Transferred Liabilities (more particularly set out in **Schedule III** and **Schedule IV**) is concerned, such security shall, without any further act, instrument or deed be modified and shall be extended to and shall operate only over the assets comprised in the Demerged Undertaking, which have been charged and secured in respect of the Transferred Liabilities as transferred to the Resulting Company pursuant to Part II of this Scheme. Provided that if any of the assets comprised in the Demerged Undertaking, which are being transferred to the Resulting Company pursuant to Part II of this Scheme have not been charged or secured in respect of the Transferred Liabilities, such assets shall remain unencumbered and the existing security referred to above shall not be extended to and shall not operate over such assets. The absence of any formal amendment, which may be required by a lender or third party, shall not affect the operation of the above.
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- (c) In so far as the assets comprising the Remaining Business are concerned, the security over such assets relating to the Transferred Liabilities shall, without any further act, instrument or deed be released and discharged from the obligations and security relating to the same. The absence of any formal amendment, which may be required by a lender, or third party, shall not affect the operation of the above.
  - (d) Further, in so far as the assets comprised in the Demerged Undertaking are concerned, the security and charge over such assets relating to any loans, borrowings or debentures, which are not transferred pursuant to Part II of this Scheme, the same shall without any further act or deed be released and discharged from such encumbrance and shall no longer be available as security in relation to any liabilities of the Remaining Business.
  - (e) Without prejudice to the provisions of Clause 22(a) or the foregoing clauses, and upon the Scheme becoming effective, the Demerged Company and the Resulting Company shall execute any instruments or documents or do all the acts and deeds, as may be required, including the filing of necessary particulars and or modification(s) of charge, with the Registrar of Companies, Uttar Pradesh and Uttaranchal and Maharashtra respectively to give formal effect to the above provisions, if required.
  - (f) In so far as the Series XI debentures of the face value of Rs. 5,00,000/- each issued by the Demerged Company is concerned, upon the coming into effect of the Scheme, the face value of each of the said debentures shall without further act or deed be reduced by a sum of Rs. 2,00,000/- so that the face value of each such debenture shall stand reduced to Rs. 3,00,000/-. Simultaneously and without any further act or deed, and without payment of any further amount to the Resulting Company, the debenture holders shall be entitled to an equivalent number of fully paid debentures of the face value of Rs. 2,00,000/- each to be issued by the Resulting Company. The amount on such debentures to be issued by the Resulting Company shall be adjusted from the amount reduced on the debentures of the Demerged Company and shall stand automatically appropriated towards issue of debentures of the face value of Rs. 2,00,000/- each by the Resulting Company. At the time of redemption, the liability in respect of the debentures of the Demerged Company as aforesaid shall be Rs. 3,00,000/- per debenture, and the liability in respect of the debentures of the Resulting Company as aforesaid shall be Rs. 2,00,000/- per debenture. The debentures to be issued by the Resulting Company in terms of this Clause shall, subject to applicable regulations, be listed on the relevant stock exchange/s in India where the said debentures of the Demerged Company were listed on the same terms and conditions unless otherwise modified in accordance with the terms hereof.
  - (g) In so far as the fixed deposits relating to the employees of the Demerged Company are concerned, upon the coming into effect of the Scheme, the value of each of the said fixed deposits shall without further act or deed be allocated between the Demerged Company and the Resulting Company in the same proportion as the allocation of the assets of the Demerged Company between the two companies. The treatment of fixed deposits shall be as follows:
    - (i) the value of each fixed deposit with the Demerged Company shall stand reduced in the same proportion as the proportion in which the assets of the Demerged Company are being reduced consequent to the transfer of the Demerged Undertaking to the Resulting Company pursuant to the Demerger; and
    - (ii) simultaneously and without any further act or deed, the amount reduced on the fixed deposits with the Demerged Company shall stand automatically appropriated towards the creation of fixed deposits by the Resulting Company and without payment by the employees of any further amount to the Resulting Company, an equivalent number of fixed deposits representing the amount by which each such deposit was reduced shall be created by the Resulting Company.
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Upon the coming into effect of this Scheme, the fixed deposit receipts held by the employees in relation to the existing deposits with the Demerged Company shall stand cancelled without any further act or deed and each of the Resulting Company and the Demerged Company (or its successor) shall issue fixed deposit receipts to each such employee, representing the amount of fixed deposit held by such employee in the Resulting Company and the Demerged Company (or its successor) respectively. At the time of maturity, the liability of the Demerged Company (or its successor) and the Resulting Company in respect of the fixed deposits shall be discharged in the manner allocated above. All other terms and conditions in respect of the said fixed deposits shall remain unaltered.

- (h) The Demerged Company and/or the Resulting Company shall enter into and execute such further deeds, documents or writings as may be required to give full effect to the above provisions.
- (i) Upon the coming into effect of the Scheme, the Resulting Company alone shall be liable to perform all obligations in respect of the Transferred Liabilities as the borrower/ issuer thereof, and the Demerged Company (or any successor thereof) shall not have any obligations in respect of the Transferred Liabilities.
- (j) It is expressly provided that, save as mentioned in this Clause 22, no other term or condition of the Transferred Liabilities shall be modified except to the extent that such amendment is required by necessary implication or by any agreement entered into with the respective lender.
- (k) The provisions of this Clause shall operate notwithstanding anything to the contrary contained in any deed or writing or the terms of sanction or issue or any security document, all of which instruments shall stand modified and/or superseded by the foregoing provisions. If necessary, the requisite endorsement of the above provisions shall be made on the debenture certificate hitherto issued by the Demerged Company.
- (l) It is clarified that no additional stamp duty shall be paid by the Resulting Company upon the issue of new debentures pursuant to sub-clause (f) above, as such new debentures are being issued by the Resulting Company in lieu of the existing debentures, on which the requisite stamp duty has been duly paid.

#### **Section 4 - REORGANISATION OF CAPITAL**

- 23. The provisions of this Section shall operate notwithstanding anything to the contrary in any other instrument deed or writing.
  - 24. In consideration of the provisions of Part II of this Scheme and as an integral part of this Scheme, the share capital of the Resulting Company shall be restructured and reorganised in the manner set out in Clauses 25 to 34 below.
  - 25. Upon the coming into effect of the Scheme and in consideration of the demerger of the Demerged Undertaking to the Resulting Company pursuant to Part II of the Scheme, the Resulting Company shall, without any further act or deed, issue and allot to each member of the Demerged Company whose name is recorded in the register of members of the Demerged Company on a date (the "Record Date") to be fixed in that behalf by the Board of Directors or a committee thereof of the Demerged Company, in the ratio (the "Demerger Share Entitlement Ratio") of 1 Equity Share in the Resulting Company of Rs. 10/- credited as fully paid up for every 5 Equity Shares of Rs. 10/- each fully paid up held by such member in the Demerged Company.
  - 26. The shares issued pursuant to Clause 25 above shall be issued in dematerialised form by the Resulting Company, unless otherwise notified in writing by the shareholders of the Demerged Company to the Resulting Company on or before such date as may be determined by the Board of Directors of the Resulting Company or a committee thereof. In the event that such notice has not been received by the Resulting Company in respect of any of the members of
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the Demerged Company, the shares shall be issued to such members in dematerialised form provided that the members of the Demerged Company shall be required to have an account with a depository participant and shall provide details thereof and such other confirmations as may be required. It is only thereupon that the Resulting Company shall issue and directly credit the demat / dematerialised securities account of such member with the shares of the Resulting Company. In the event that the Resulting Company has received notice from any member that shares are to be issued in certificate form or if any member has not provided the requisite details relating to the account with a depository participant or other confirmations as may be required, then the Resulting Company shall issue shares in certificate form to such member.

27. In case any member's holding in the Demerged Company is such that the member becomes entitled to a fraction of an equity share of the Resulting Company the Resulting Company shall not issue fractional share certificates to such member but shall consolidate such fractions and issue consolidated equity shares to a trustee nominated by the Resulting Company in that behalf, who shall sell such shares and distribute the net sale proceeds (after deduction of the expenses incurred) to the shareholders respectively entitled to the same in proportion to their fractional entitlements.
  28. The equity shares of the Resulting Company issued and allotted in terms of Clause 25 above shall rank *pari passu* in all respects with the existing equity shares of the Resulting Company.
  29. In respect of equity shares of the Demerged Company where calls are in arrears, and such equity shares have not been forfeited by the Demerged Company prior to the coming into effect of the scheme, without prejudice to any remedies that the Demerged Company or the Resulting Company, as the case may be, shall have in this behalf, the Resulting Company shall not be bound to issue any shares of the Resulting Company (whether partly paid, or otherwise) nor to confirm any entitlement to such holder until such time as the calls-in arrears are paid. In so far as the forfeited shares of the Demerged Company are concerned, no shares shall be issued by the Resulting Company in lieu thereof.
  30. Equity shares of the Resulting Company issued in terms of Clause 25 above, shall, subject to applicable regulations, be listed and/or admitted to trading on the relevant Stock Exchange/s in India where the existing equity shares of the Demerged Company are listed and/or admitted to trading.
  31. Unless otherwise determined by the Board of Directors or any committee thereof of the Demerged Company and the Board of Directors or any committee thereof of the Resulting Company, allotment of shares in terms of Clause 25 shall be done within 90 days from the Effective Date.
  32. Upon the coming into effect of this Scheme, and the issue of shares in the Demerger Share Entitlement Ratio by the Resulting Company pursuant to the provisions of Clause 25, the Resulting Company shall issue to the depository (the "New Depository") or a customer on its behalf, appointed by the Resulting Company, appropriate number of underlying shares in accordance with the Demerger Share Entitlement Ratio and procure that the New Depository shall issue GDRs with respect to the Resulting Company to the depository that issued the GDRs with respect to the Demerged Company so that it may deal with them in an appropriate manner in accordance with the terms of the deposit agreement entered into between the Demerged Company and that depository (the "Deposit Agreement"). The Resulting Company, the New Depository and the Demerged Company shall enter into such further documents as may be necessary and appropriate in this behalf, which shall contain all detailed terms and conditions with respect to such issue of GDRs of the Resulting Company.
  33. The GDRs issued pursuant to Clause 32 above, shall not be listed unless required by any regulations, laws or permits, in which event the same may be listed in the Luxembourg Stock Exchange within 6 months of the Effective Date and the Resulting Company shall take such additional steps and do all such acts, deeds and things as may be necessary.
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34. The equity shares underlying the GDRs issued to the New Depository or a customer on its behalf will not be registered under the Securities Act of 1933, as amended, of the United States of America (the "Securities Act") based on the approval of the relevant Court(s) to the Scheme, in view of the exemption under Section 3(a)(10) of the Securities Act. However, the GDRs to be issued will, if deemed necessary, be registered on Form F-6, as required by the Securities Act.
35. If, on account of the Demerger Share Entitlement Ratio, fractional GDRs of the Resulting Company have to be issued, then, in accordance with the provisions of the Deposit Agreement, in lieu of delivering receipts for fractional GDRs, the depository that issued the existing GDRs with respect to the Demerged Company may, in its discretion, sell the shares represented by the aggregate of such fractions, at public or private sale, at such place or places and at such price or prices as it may deem proper, and distribute the net proceeds of any such sale in accordance with the terms of the Deposit Agreement.

#### SECTION 5 - GENERAL

36. (a) The reserves of the Demerged Company shall be accounted for and dealt with in the books of the Resulting Company in the following manner:
- (i) An amount equal to the balance lying to the credit of the Capital Reserve in the books of the Demerged Company shall be credited by the Resulting Company to an account by the name of "Capital Reserve" to be created in the books of the Resulting Company.
  - (ii) An amount of Rs. 1,66,00,000/- (Rupees One Core Sixty Six Lakhs only) from the balance lying to the credit of the Debenture Redemption Reserve in the books of the Demerged Company shall be credited by the Resulting Company to an account by the name of "Debenture Redemption Reserve" to be created in the books of the Resulting Company.
- (b) Upon the coming into effect of this Scheme, an amount representing the surplus of the assets over the liabilities and specific reserves referred to in sub-clause (a) above of the Demerged Undertaking being transferred to the Resulting Company, shall be debited in the books of the Demerged Company as follows:
- (i) an amount of Rs. 134,17,00,000 /- (Rupees One Hundred and Thirty Four Crores Seventeen Lakhs only) to the Profit and Loss Account; and
  - (ii) the balance amount, if any, to the General Reserve.
- (c) Upon the coming into effect of this Scheme, an amount representing the excess of (i) the amount representing the surplus of (A) the assets over (B) the liabilities of the Demerged Undertaking in its books of account and the amount credited to the specific reserves as provided for in sub-clause (a) above, over (ii) the aggregate face value of the share capital issued by the Resulting Company shall be credited to the General Reserve.
37. (a) Upon coming into effect of the Scheme, Clause (V) of the Memorandum of Association and Article 4 of the Articles of Association of the Resulting Company shall, without any further act, deed or instrument, be substituted by the following Clause:
- "The Authorised Share Capital of the Company is Rs. 75,00,00,000/- (Rupees Seventy Five Crores only) divided into 7,50,00,000 (Seven Crores Fifty Lakhs) Equity Shares of Rs. 10/- (Rupees Ten only) each, with power to increase or reduce the capital of the Company 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 special rights, privileges or conditions, as may be determined, and to vary, modify or abrogate any such rights, privileges or conditions in such manner as may for the time being be provided by the Articles of Association of the Company."
- (b) It is clarified that the Resulting Company shall be entitled to change its name to Indo Gulf Corporation Limited, if it deems necessary.
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**PART III - AMALGAMATION**

Upon the occurrence of the Demerger pursuant to Part II of this Scheme, the Demerged Company, comprising the Remaining Business, shall be referred to as the "Amalgamating Company" for the purposes of this Part III. For the sake of clarification, the subject matter of this Part III shall be confined to the Remaining Business.

**SECTION 1 - TRANSFER AND VESTING**

38. (a) Upon the coming into effect of this Scheme and with effect from the Amalgamation Appointed Date and subject to the provisions of Part III of this Scheme, the Remaining Business of the Amalgamating Company shall, pursuant to the provisions of Section 394(2) and other applicable provisions of the Act without any further act, instrument or deed, be and stand transferred to and vested in and/or be deemed to have been and stand transferred to and vested in the Amalgamated Company as a going concern so as to become as and from the Amalgamation Appointed Date, the estate, assets, rights, title, interests and authorities of the Amalgamated Company.
- (b) In respect of such of the assets of the Remaining Business of the Amalgamating Company, as are moveable in nature or are otherwise capable of transfer by manual delivery, by paying over or by endorsement and delivery, the same may be so transferred by the Amalgamating Company, and shall become the property of the Amalgamated Company as an integral part of the Remaining Business.
- (c) In respect of such of the assets belonging to the Remaining Business of the Amalgamating Company other than those referred to in sub-clause (b) above, the same shall, as more particularly provided in sub-clause (a) above, without any further act, instrument or deed, be transferred to and vested in and/or be deemed to be transferred to and vested in the Amalgamated Company on the Amalgamation Appointed Date pursuant to the provisions of Section 394 of the Act. For the avoidance of doubt, it is hereby clarified that all the rights, title and interest of the Amalgamating Company in any leasehold properties in relation to the Remaining Undertaking shall, pursuant to Section 394 (2) of the Act and the provisions of this Scheme, without any further act or deed, be transferred to and vested in or be deemed to have been transferred to and vested in the Amalgamated Company.
- (d) All assets, estate, rights, title, interest and authorities acquired by the Amalgamating Company after the Amalgamation Appointed Date and prior to the Effective Date for operation of the Remaining Business shall also stand transferred to and vested in the Amalgamated Company upon the coming into effect of the Scheme.
39. Upon the coming into effect of this Scheme and with effect from the Amalgamation Appointed Date:
- (a) All secured and unsecured debts (whether in rupees or foreign currency), all liabilities, duties and obligations and undertakings of the Amalgamating Company of any nature whatsoever along with any charge, encumbrance, lien or security thereon (hereinafter referred to as the "Liabilities") shall, pursuant to the provisions of Section 394(2) and other applicable provisions of the Act, without any further act, instrument or deed, be and stand transferred to and vested in or be deemed to have been transferred to and vested in, the Amalgamated Company, so as to become the Liabilities of the Amalgamated Company. It is clarified that in so far as the Remaining Business of the Amalgamating Company is concerned, the security or charge over such Remaining Business or any part thereof, relating to any loans, debentures or borrowing of the Amalgamating Company, shall, without any further act or deed continue to relate to such Remaining Business or any part thereof vesting in the Amalgamated Company, after the Effective Date and shall not relate to or be available as security in relation to any or any part of the other assets of the Amalgamated Company, save to the extent
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warranted by the terms of the existing security arrangements to which the Amalgamating Company and the Amalgamated Company are party, and consistent with the joint obligations assumed by them under such arrangement.

- (b) (i) All debts, outstanding and receivables of the Amalgamating Company shall on and from the Amalgamation Appointed Date stand transferred to and vested in the Amalgamated Company without any notice to the debtors, and the debtors shall be obliged to make payments to the Amalgamated Company on and after the Amalgamation Appointed Date.
- (ii) All investments made by the Amalgamating Company shall, without further act, instrument or deed, stand transferred to and be held by the Amalgamated Company, which shall be entitled to all the rights and benefits thereof.
- (iii) Loans, advances and other obligations (including any guarantees, letters of credit, letters of comfort or any other instrument or arrangements, which may give rise to a contingent liability in whatever form), if any, due or which may at any time in the future become due or between the Amalgamating Company and the Amalgamated Company shall stand discharged and there shall be no liability in that behalf on either party.
- (iv) All debentures, bonds, notes or other debt securities of the Amalgamating Company (the "Securities"), shall, pursuant to the provisions of Section 394(2) of the Act, without any further act, instrument or deed become securities of the Amalgamated Company and all rights, powers, duties and obligations in relation thereto shall be and stand transferred to and vested in or deemed to have been transferred to and vested in, and shall be exercised by or against the Amalgamated Company as if it were the Amalgamating Company in respect of the Securities so transferred. If the Securities are listed on any stock exchange, the same shall, subject to applicable regulations, be listed on the relevant stock exchange/s in India, where the Securities were listed on the same terms and conditions unless otherwise modified in accordance with the provisions hereof.
- (c) (i) Where any of the liabilities and/or obligations of the Amalgamating Company as on the Amalgamation Appointed Date transferred to the Amalgamated Company have been discharged by the Amalgamating Company after the Amalgamation Appointed Date and prior to the Effective Date, such discharge shall be deemed to have been for and on account of the Amalgamated Company.
- (ii) All loans raised and utilised and all debts, duties, undertakings, liabilities and obligations incurred or undertaken by the Amalgamating Company in relation to or in connection with the Remaining Business after the Amalgamation 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 Amalgamated Company and to the extent they are outstanding on the Effective Date, shall, upon the coming into effect of this Scheme, pursuant to the provisions of Section 394(2) and other applicable provisions of the Act, without any further act, instrument or deed be and stand transferred to or vested in or be deemed to have been transferred to and vested in the Amalgamated Company, and shall become the debt, duties, undertakings, liabilities and obligations of the Amalgamated Company which shall meet, discharge and satisfy the same.
- (iii) All estates, assets, rights, title, interests and authorities accrued to and/or acquired by the Amalgamating Company in relation to or in connection with the Remaining Business after the Amalgamation Appointed Date and prior to the Effective Date shall be deemed to have been accrued to and/or acquired for and on behalf of the Amalgamated Company and shall, upon the coming into effect of this Scheme, pursuant to the provisions of Section 394(2) and other applicable provisions of
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the Act, without any further act, instrument or deed be and stand transferred to or vested in or be deemed to have been transferred to or vested in the Amalgamated Company to that extent and shall become the estates, assets, right, title, interests and authorities of the Amalgamated Company.

40. (a) With effect from the Amalgamation Appointed Date and up to and including the Effective Date:
- (i) The Amalgamating 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 Remaining Business on account of, and in trust for, the Amalgamated Company;
  - (ii) With effect from the Amalgamation Appointed Date, all the profits or incomes accruing or arising to the Amalgamating Company, or expenditure or losses arising or incurred (including the effect of taxes, if any, thereon) by the Amalgamating Company shall, for all purposes, be treated and be deemed to be and accrue as the profits or incomes or expenditure or losses or taxes of the Amalgamated Company, as the case may be; and
  - (iii) The Amalgamating Company shall not alienate, charge, mortgage or encumber the Remaining Business and shall not deal with the Remaining Business or any part thereof, and the Amalgamating Company shall carry on the business and activities not expressly prohibited herein 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 any third party, except in each case in the following circumstances:
    - (a) if the same is in the ordinary course of business as carried on by it or is currently being considered as on the date of filing this Scheme with the High Court of Judicature at Bombay and the High Court of Judicature at Allahabad, Lucknow Bench; or
    - (b) if the same is expressly permitted by this Scheme; or
    - (c) if prior written consent of the Amalgamated Company has been obtained;
    - (d) with effect from the date of filing of this Scheme with the High Court of Judicature at Bombay and the High Court of Judicature at Allahabad, Lucknow Bench and up to and including the Effective Date, the Amalgamating Company and the Amalgamated Company shall not make any change in their respective capital structure either by any increase (by issue of equity or shares on a rights basis, bonus shares, convertible debentures or otherwise), decrease, reduction, re-classification, sub-division or consolidation, re-organisation, or in any other manner which may, in any way, affect the Amalgamation Share Exchange Ratio (as set forth in Clause 46 below), except by mutual consent of the respective Boards of Directors of the Amalgamating Company and the Amalgamated Company, or unless any such change in the capital structure has commenced prior to the filing of this Scheme or unless the same is in accordance with the provisions of this Scheme, provided that nothing contained in this sub-clause shall affect any pre-existing obligations, including in respect of conversion into equity shares in accordance with any loan obtained or convertible security issued or any stock options granted by the Amalgamating Company and the Amalgamated Company.
41. (a) The Amalgamated Company undertakes to engage, on and from the Effective Date, such employees of the Amalgamating Company (including such employees engaged by the Amalgamating Company in the ordinary course of business) who are in the
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employment of the Amalgamating Company as on the Effective Date (other than the employees engaged in the Demerged Undertaking and who are being transferred to the Resulting Company pursuant to Clause 17 hereof), on terms and conditions not less favourable than those on which they have been engaged by the Amalgamating Company, with continuity of service.

- (b) In so far as the existing provident fund trusts, gratuity fund and pension and/or superannuation fund trusts created by the Amalgamating Company for its employees are concerned, the part of the funds referable to the employees who are being transferred shall be continued for the benefit of the employees who are being transferred to the Amalgamated Company pursuant to Part III of this Scheme in the manner provided hereinafter, and the amounts in such funds in respect of contributions pertaining to the employees of the Amalgamating Company shall, subject to the necessary approvals and permissions, be transferred to or merged with the relevant funds of the Amalgamated Company.
42. (a) Upon the coming into effect of this Scheme, all suits, actions and proceedings by or against the Amalgamating Company pending and/or arising on or before the Effective Date, shall be continued and be enforced by or against the Amalgamated Company as effectually as if the same had been pending and/or arising by or against the Amalgamated Company.
- (b) The Amalgamated Company undertakes to have all legal or other proceedings initiated by or against the Amalgamating Company referred to in sub-clause (a) above transferred to its name and to have the same continued, prosecuted and enforced by or against the Amalgamated Company.
43. (a) Upon the coming into effect of this Scheme, and subject to the provisions of this Scheme, all contracts, deeds, bonds, agreements, arrangements, assurances and other instruments of whatsoever nature to which the Amalgamating Company is a party or to the benefit of which the Amalgamating Company may be eligible, and which are subsisting or having effect immediately before the Effective Date, shall be in full force and effect against or in favour of the Amalgamated Company as the case may be, and may be enforced as fully and effectually as if, instead of the Amalgamating Company, the Amalgamated Company had been a party or beneficiary or obligee thereto. The Amalgamated Company shall, wherever necessary, enter into and/or issue and/or execute deeds, writings or confirmations at any time prior to the Effective Date, enter into any tripartite arrangements, confirmations or novations to which the Amalgamating Company will, if necessary, also be a party in order to give formal effect to the provisions of this Clause 43.
- (b) The Amalgamated Company may, at any time after the coming into effect of this Scheme in accordance with the provisions hereof, if so required, under any law, or otherwise, execute deeds of confirmation in favour of any party to any contract or arrangement to which the Amalgamating Company is a party or any writings as may be necessary to be executed in order to give formal effect to the above provisions. The Amalgamated Company shall, under the provisions of Part III of this Scheme, be deemed to be authorised to execute any such writings on behalf of the Amalgamating Company to carry out or perform all such formalities or compliances referred to above on the part of the Amalgamating Company to be carried out or performed.

## **SECTION 2 - REORGANISATION OF CAPITAL**

44. The provisions of this Section shall operate notwithstanding anything to the contrary in any other instrument, deed or writing.
45. In consideration of the provisions of this Part III of the Scheme and as an integral part of this Scheme, the share capital of the Amalgamated Company shall be restructured and reorganised in the manner set out in Clauses 46 to 58 below.
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46. Upon the coming into effect of the Scheme, in consideration of the transfer of and vesting of the Remaining Business and the Liabilities of the Amalgamating Company to the Amalgamated Company in terms of Part III of this Scheme, the Amalgamated Company shall without any further application, act or deed, issue and allot to the equity shareholders of the Amalgamating Company whose names are recorded in the Register of Members of the Amalgamating Company, on the Record Date, in the ratio (the "**Amalgamation Share Exchange Ratio**") of 1 Equity Share in the Amalgamated Company of Rs. 10/- credited as fully paid up for every 12 Equity Shares of Rs. 10/- each fully paid up held by such member in the Amalgamating Company.
  47. In so far as the equity shares of the Amalgamating Company, if any, held by the Amalgamated Company (the "**Amalgamating Company Shares**") on the Record Date are concerned, the Amalgamated Company shall, without any further application, act, instrument or deed, issue equity shares of the Amalgamated Company in the Amalgamation Share Exchange Ratio to an individual trustee or a board of trustees (including the survivors or survivor of any of the trustees comprising such Board of Trustees) or a corporate Trustee (the "**Trustee**"), who shall hold such shares with all additions or accretions thereto in trust for the benefit of the Amalgamated Company and its successor or successors subject to the powers, provisions, discretions, rights and agreements contained in the instrument (the "**Trust Deed**") establishing the aforesaid Trust (the "**Trust**") on such terms and conditions as may be set out in the Trust Deed. Provided, however, that if Amalgamating Company Shares are transferred by the Amalgamated Company to any person (whether a trust, company or otherwise) or any arrangement has been made in relation to the Amalgamating Company Shares prior to the coming into effect of this Part III of the Scheme, the Amalgamated Company shall, issue equity shares in the Amalgamation Share Exchange Ratio to such person or in terms of such arrangement in accordance with the provisions of Clause 46 above. The Board of Directors of the Amalgamated Company is authorised to finalise the structure and/or arrangement in relation to the Amalgamating Company Shares and the decision of the Board of Directors of the Amalgamated Company in this behalf shall be final and binding.
  48. The shares, issued pursuant to Clause 46 above, shall be issued in dematerialised form by the Amalgamated Company, unless otherwise notified in writing by the shareholders of the Amalgamating Company to the Amalgamated Company on or before such date as may be determined by the Board of Directors of the Amalgamated Company or a committee thereof in the event that such notice has not been received by the Amalgamated Company in respect of any of the members of the Amalgamating Company, the shares shall be issued to such members in dematerialised form, provided that the members of the Amalgamating Company shall be required to have an account with a depository participant, and shall provide details thereof and such other confirmations as may be required. It is only thereupon that the Amalgamated Company shall issue and directly credit the dematerialised securities account of such member with the shares of the Amalgamated Company. In the event that the Amalgamated company has received notice from any member that shares are to be issued in certificate form or if any member has not provided the requisite details relating to the account with a depository participant or other confirmation as may be required, then the Amalgamated Company shall issue shares in certificate form to such member.
  49. In case any member's holding in the Amalgamating Company is such that the member becomes entitled to a fraction of an equity share of the Amalgamated Company, the Amalgamated Company shall not issue fractional share certificates to such member but shall consolidate such fractions and issue consolidated equity shares to a trustee nominated by the Amalgamated Company in that behalf, who shall sell such shares and distribute the net sale proceeds (after deduction of the expenses incurred) to the shareholders respectively entitled to the same in proportion to their fractional entitlements.
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50. The equity shares of the Amalgamated Company to be issued and allotted, in terms of Clause 46 above, shall rank *pari passu* in all respects with the existing equity shares of the Amalgamated Company.
  51. In so far as the forfeited shares of the Amalgamating Company are concerned, no shares shall be issued by the Amalgamated Company in lieu thereof.
  52. Equity shares of the Amalgamated Company issued in terms of Clause 46 above, shall, subject to applicable regulations, be listed and/or admitted to trading on the relevant Stock Exchange/s in India, where the existing equity shares of the Amalgamated Company are listed and/or admitted to trading.
  53. Unless otherwise determined by the Board of Directors or any committee thereof of the Amalgamated Company, allotment of shares in terms of Clause 46 of this Part shall be done within 90 days from the Effective Date.
  54. Upon the coming into effect of this Scheme, and the issue of shares in the Amalgamation Share Exchange Ratio by the Amalgamated Company pursuant to the provisions of Clause 46, the Amalgamated Company shall issue to the depository in respect of the existing GDRs of the Amalgamated Company (the “**Amalgamated Depository**”) appropriate number of underlying shares in accordance with the Amalgamation Share Exchange Ratio and procure that the Amalgamated Depository issue GDRs of the Amalgamated Company to the depository that issued the existing GDRs with respect to the Amalgamating Company so that it may deal with them in an appropriate manner in accordance with the terms of the Deposit Agreement. The Amalgamated Company and the Amalgamated Depository shall enter into such further documents as may be necessary and appropriate in this behalf, which shall contain all detailed terms and conditions with respect to such issue of GDRs of the Amalgamated Company.
  55. The Amalgamated Company shall take all such additional steps and do all such acts, deeds and things as may be necessary for the issue of GDRs pursuant to Clause 54 and for listing the GDRs on the Luxembourg Stock Exchange [and if deemed necessary, for the registration of the GDRs under the Securities Act of 1933, as amended, of the United States of America].
  56. (a) The GDRs issued pursuant to Clause 54 shall be similar in all material respects to the existing GDRs of the Amalgamating Company.  
(b) It is hereby clarified that for the purpose of determining the number of GDRs that can be re-issued by the Amalgamated Company under the “Issue of Foreign Currency Convertible Bonds and Ordinary Shares (through Depository Receipt Mechanism) Scheme, 1993” (as amended from time to time), the GDRs issued pursuant to Clause 54 above shall be deemed to be included in the number of GDRs originally issued by the Amalgamated Company as well as in the number of outstanding GDRs, such that the number of GDRs the Amalgamated Company may re-issue shall be the same as it would have been, if the arrangement pursuant to this Scheme were not to occur.
  57. The equity shares underlying the GDRs issued to the depository that issued the existing GDRs with respect to the Amalgamating Company will not be registered under the Securities Act based on the approval of the relevant Court(s) to the Scheme, in view of the exemption under Section 3(a)(10) of the Securities Act. However, the GDRs to be issued will, if deemed necessary, be registered on Form F-6, as required by the Securities Act.
  58. If, on account of the Amalgamation Share Exchange Ratio, fractional GDRs of the Amalgamated Company have to be issued, then, in accordance with the provisions of the Deposit Agreement, in lieu of delivering receipts for fractional GDRs the depository that issued the existing GDRs with respect to the Amalgamating Company may, in its discretion, sell the shares represented by the aggregate of such fractions, at public or private sale, at such place or places and at such price or prices as it may deem proper, and distribute the net proceeds of any such sale in accordance with the terms of the Deposit Agreement.
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**SECTION 3 - GENERAL**

59. The reserves of the Amalgamating Company (after giving effect to the transactions in Part II of this Scheme) shall be accounted for and dealt with in the books of the Amalgamated Company in the following manner:
- (a) Amounts equal to the balances lying in the General Reserve Account, Capital Redemption Reserve Account, Share Premium Account, Debenture Redemption Reserve, Profit and Loss Account and/or any other reserves of the Amalgamating Company shall be credited by the Amalgamated Company to its General Reserve Account, Capital Redemption Reserve Account, Share Premium Account, Debenture Redemption Reserve, Profit and Loss Account and/or corresponding reserves account respectively.
  - (b) In the event that the value of the net assets of the Amalgamating Company exceeds the aggregate of the paid-up value of the equity shares to be issued and allotted by the Amalgamated Company pursuant to the terms of Clause 46 hereof and the amount credited to specific reserves as provided in sub-clause (a) above, such excess shall be credited to the 'General Reserve Account'.
60. Upon the coming into effect of the Scheme, the Amalgamating Company shall be dissolved without winding up.
61. Upon the coming into effect of the Scheme, the Resulting Company and the Amalgamated Company shall enter into an arrangement (whether in the form of a registered users agreement or otherwise) pursuant to which the Resulting Company shall license the right to use the name "Shaktiman" to the Amalgamated Company on such terms and conditions as may be mutually agreed to between the Resulting Company and the Amalgamated Company.

**PART IV - OTHER TERMS AND CONDITIONS**

**The provisions of this Part shall be applicable to both the Demerger pursuant to Part II as well as the Amalgamation pursuant to Part III hereof.**

62. (a) The Demerged Company, the Resulting Company and the Amalgamated 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. Provided that:
- (i) the shareholders of the Demerged Company shall not be entitled to dividend, if any, declared and paid by the Resulting Company to their shareholders for the accounting period prior to the Demerger Appointed Date; and
  - (ii) the shareholders of the Demerged Company shall not be entitled to dividend, if any, declared and paid by the Amalgamated Company to their shareholders for the accounting period prior to the Amalgamation Appointed Date.
- (b) The holders of the shares of the Demerged Company, the Resulting Company and the Amalgamated 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 member of the Demerged Company and/or the Resulting Company and/or the Amalgamated Company to demand or claim any dividends which, subject to the provisions of the said Act, shall be entirely at the discretion of the respective Boards of Directors of the Demerged Company, the Resulting Company and the Amalgamated Company respectively, and subject to the approval of the shareholders of the Demerged Company, the Resulting Company and the Amalgamated Company respectively.
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63. The Demerged Company and the Resulting Company shall make necessary applications before the High Court of Judicature at Allahabad, Lucknow Bench, for the sanction of this Scheme under Sections 391 and 394 of the Act. The Amalgamating Company shall make application to the High Court of Judicature at Allahabad, Lucknow Bench for dissolution of the Amalgamating Company without winding up.
64. The Amalgamated Company shall make the necessary application before the High Court of Judicature at Bombay for the sanction of this Scheme under Sections 391 to 394 of the Act.
65. (a) In the event of there being any pending share transfers, whether lodged or outstanding, of any shareholder of the Demerged Company, the Board of Directors or any committee thereof of the Demerged Company shall be empowered in appropriate cases, even subsequent to the Record Date or the Effective Date as the case may be, to effectuate such a transfer in the Demerged Company as if such changes in registered holder were operative as on the Record Date, in order to remove any difficulties arising to the transferor of the share in the Resulting Company and/or the Amalgamated Company as the case may be, and in relation to the new shares after the Scheme becomes effective. The Board of Directors of the Demerged Company shall be empowered to remove such difficulties as may arise in the course of implementation of the Scheme and registration of new members in the Resulting Company and/or the Amalgamated Company as the case may be, on account of difficulties faced in the transaction period.
- (b) Having regard to the adoption of the Audited Accounts and the Annual Report (the "Accounting Statements") of the Demerged Company on August 3, 2002, it is clarified that upon coming into effect of the Scheme, the Demerged Company is not required to place the Accounting Statements of the Demerged Company, before its shareholders for approval or to file the same with the Registrar of Companies, Maharashtra.
66. (a) The Demerged Company (by its Board of Directors), the Resulting Company (by its Board of Directors) and the Amalgamated Company (by its Board of Directors) either by themselves or through a committee appointed by them in this behalf, may, in their full and absolute discretion, assent to any alteration or modification to this Scheme which either the Boards of Directors of the Demerged Company, the Resulting Company or the Amalgamated Company, as the case may be, deem fit, or which the Court and/or any other Authority may deem fit to approve or impose.
- (b) The Demerged Company (by its Board of Directors), the Resulting Company (by its Board of Directors), and the Amalgamated Company (by its Board of Directors), either by themselves or through a committee appointed by them in this behalf, may give such directions as they may consider necessary to settle any question or difficulty arising under the Scheme or in regard to and of the meaning or interpretation of the Scheme or implementation hereof or in any matter whatsoever connected therewith (including any question or difficulty arising in connection with any deceased or insolvent shareholders, depositors or debenture-holder(s) of the respective companies), or to review the position relating to the satisfaction of various conditions to the Scheme and, if necessary, to waive any of those (to the extent permissible under law).
- (c) Any issue as to whether any asset, liability, employee or litigation pertains to the Demerged Undertaking or not shall be decided by the Boards of Directors of the Amalgamated Company and the Resulting Company, either by themselves or through a committee appointed by them in this behalf, and if considered necessary by them, after consultation with the Board of Directors of the Demerged Company, on the basis of evidence that they may deem relevant for the purpose (including the books and records of the Demerged Company).
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67. This Scheme is conditional upon and subject to:
- (a) the Scheme being agreed to by the respective requisite majorities of the various classes of members and creditors (where applicable) of the Demerged Company, the Resulting Company and the Amalgamated Company, as required under the Act and the requisite orders of the High Court of Judicature at Bombay and the High Court of Judicature at Allahabad, Lucknow Bench referred to in Clauses 63 and 64 hereof being obtained;
  - (b) such other sanctions and approvals including sanction of any Governmental Authority, creditor, lessor or contracting party as may be required by law or contract in respect of the Scheme being obtained; and
  - (c) the certified copies of the court orders referred to in this Scheme being filed with the Registrar of Companies, Maharashtra and Uttar Pradesh and Uttaranchal.
68. In the event of this Scheme failing to take effect finally by March 31, 2003 or by such later date as may be agreed by the respective Boards of Directors of the Demerged Company, the Resulting Company and the Amalgamated Company, this Scheme shall become null and void and in that event no rights and liabilities whatsoever shall accrue to or be incurred *inter se* by the parties or their shareholders or creditors or employees or any other person. In such case, each Company shall bear its own costs or shall bear costs as may be mutually agreed.
69. In the event of non-fulfilment of any or all obligations under the Scheme by any Company towards the other Company, *inter se* or to third parties and non-performance of, which will put the other Company under any obligation, then such Company will indemnify all costs/interests, etc. to the other Company.
70. 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 Demerged Company, the Resulting Company and the Amalgamated Company, affect the validity or implementation of the other parts and/or provisions of this Scheme.
71. All costs, charges, levies and expenses in relation to or in connection with or incidental to this Scheme or the implementation thereof shall be borne and paid for in the following manner:
- (a) by the Demerged Company (or its successor, which shall include the Amalgamated Company) for the Demerger, unless otherwise determined by the Boards of Directors of the Demerged Company (or its successor) and the Resulting Company; and
  - (b) the Amalgamated Company for the Amalgamation.
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**SCHEDULE I****Fertiliser Business of the Demerged Company  
BALANCE SHEET as of the Demerger Appointed Date**

		Rs. in Crores As at 31/03/2002
<b>SOURCES OF FUNDS</b>		<b>FERTILISER</b>
<b>Shareholders' Funds</b>		
Capital	45.04	
Reserves and Surplus	279.46	
<b>Loan Funds</b>		
Secured Loans	33.93	
Unsecured Loans	0.74	
	<u>359.17</u>	<b>359.17</b>
<b>APPLICATION OF FUNDS</b>		
<b>Fixed Assets</b>		
Net Block	309.13	
Capital Work-in-progress	24.46	
	<u>333.59</u>	<b>333.59</b>
<b>Investments</b>	97.10	
<b>Net Current Assets</b>	6.80	
<b>Deferred Tax</b>		
Deferred Tax Liabilities	(78.32)	
	<u>359.17</u>	<b>359.17</b>

**SCHEDULE II****Remaining Business of the Demerged Company  
BALANCE SHEET as of the Amalgamation Appointed Date**

		Rs. in Crores As at 01/04/2002
<b>SOURCES OF FUNDS</b>		
<b>Shareholders' Funds</b>		
Capital	225.19	
Reserves and Surplus	997.32	
<b>Loan Funds</b>		
Secured Loans	701.40	
Unsecured Loans	246.51	
	<u>2170.42</u>	<b>2170.42</b>
<b>APPLICATION OF FUNDS</b>		
<b>Fixed Assets</b>		
Net Block	1405.40	
Capital Work-in-progress	46.35	
	<u>1451.75</u>	<b>1451.75</b>
<b>Investments</b>	328.41	
<b>Net Current Assets</b>	729.73	
<b>Deferred Tax</b>		
Deferred Tax Liabilities	(339.47)	
	<u>2170.42</u>	<b>2170.42</b>

**SCHEDULE III**

Details of specific Debentures and Loans arising out of the activities and operation of the Fertiliser Business and being transferred to the Resulting Company

		Rs. in Crores As at 31/03/2002	
<b>SECURED LOANS</b>			
Term Loans			
From Financial Institution			
	Rupee Loans	-	
	Foreign Currency Loans	-	
From Banks			
	Rupee Loans (PICUP)	-	
	Foreign Currency Loans	-	
	Deferred Trade Tax Loan	15.66	
	Working Capital borrowings from Banks	8.27	<b>23.93</b>

**SCHEDULE IV**

Allocation of Multi-purpose Borrowings

		Rs. in Crores	
		Total (as on March 31, 2002)	Transferred to Resulting Company
<b>Debentures</b>			
Series IX-10%	25.00		
Series X-9.70%	25.00		
Series XI-9.45%	25.00		
	<u>75.00</u>	75.00	10.00
Employee FD		5.09	0.74
		<b>80.09</b>	<b>10.74</b>

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
COMPANY PETITION NO. 871 OF 2004  
CONNECTED WITH  
COMPANY APPLICATION NO. 429 OF 2004

In the matter of the Companies Act, 1956;

- And -

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

- And -

In the matter of Hindalco Industries Limited, a company incorporated under the Companies Act, 1956, and having its registered office at Century Bhavan, 3rd Floor, Dr. Annie Besant Road, Worli, Mumbai-400 025, Maharashtra;

- And -

In the matter of the Scheme of Arrangement between Indian Aluminium Company, Limited and Hindalco Industries Limited and their respective shareholders and creditors.

Hindalco Industries Limited, a company )  
incorporated under the Companies Act, 1956, )  
and having its registered office at Century )  
Bhavan, 3rd Floor, Dr. Annie Besant Road, )  
Worli, Mumbai - 400 025, Maharashtra. )

. . . . Petitioner Company

CORAM : S. U. Kamdar J.

DATED : 14th January, 2005

UPON the Petition of Hindalco Industries Limited, the Petitioner Company above named, presented to this Hon'ble Court on the 24th day of November, 2004, for sanctioning the Arrangement embodied in the Scheme of Arrangement between Indian Aluminium Company, Limited (hereinafter referred to as "Demerged Company" or "Indal") and Hindalco Industries Limited

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(hereinafter referred to as "Petitioner Company") and their respective shareholders and creditors and other consequential relief's as mentioned in the said Petition, AND the said Petition being this day called on for hearing and final disposal AND UPON READING the said Petition and affidavit of Mr. Anil Malik, Company Secretary of the Petitioner Company, affirmed on the 24th day of November, 2004 verifying the said Petition AND UPON READING the affidavit of Mr. Sanjay Pulekar, Clerk in the office of the Advocates for the Petitioner Company dated the 13th day of December, 2004 proving publication of notice of hearing of the petition in the issue of news papers "Indian Express" (Mumbai Edition) and Marathi translation thereof in the "Loksatta" both on the 8th day of December, 2004, pursuant to the Order dated the 3rd day of December, 2004, AND UPON READING the affidavit of Mr. Sanjay Pulekar dated the 6th day of December, 2004 proving service of notice of having of hearing of the petition upon the Regional Director, Department of Company Affairs, Maharashtra, Mumbai, AND UPON READING the Order dated the 8th day of October, 2004, passed by this Hon'ble Court in Company Application No. 429 of 2004, whereby the petitioner Company was directed to convene the meetings of the secured creditors, unsecured creditors and equity shareholders of the Petitioner Company for the purpose of considering, and if thought fit, approving, with or without modifications, the Arrangement embodied in the Scheme of Arrangement between the Demerged Company, the Petitioner and their respective shareholders and creditors (hereinafter referred to as "Scheme of Arrangement") being Exhibit "E" to the Petition AND UPON READING the affidavit dated the 28th day of October, 2004 Mr. A K. Agarwala, Chairman, appointed of the Petitioner Company, proving dispatch of individual notice convening the meetings of the secured creditors, unsecured creditors and equity shareholders of the Petitioner Company and also proving publication of the notice convening the said meetings in the issue of news papers "Indian Express" (Mumbai Edition) and Marathi translation thereof in the "Loksatta" both dated the 21st day of October, 2004, pursuant to the order dated 8th day of October, 2004, AND UPON READING the Report of Mr. A K. Agarwala, Chairman, of the meetings of the secured creditors, unsecured creditors and equity shareholders dated the 24th day of November, 2004 as to the result of the said meeting of the secured creditor, unsecured creditors and equity shareholders of the Petitioner Company AND UPON READING the affidavit of Mr. A K. Agarwala dated the 24th day of November, 2004 verifying the Chairman's Report AND UPON READING the further affidavit of the Chairman, Mr. A. K. Agarwala, dated 25th November, 2004, filing the list of creditors and shareholders of the Petitioner Company who had attended the said meeting AND IT APPEARS from the said Report and the further affidavit of the Chairman of the meetings of the secured creditor, unsecured creditors and equity shareholders of the Petitioner Company that the Arrangement embodied in the Scheme of Arrangement has been approved by the requisite majority, in number of the secured creditor, unsecured creditors and equity shareholders of the Petitioner Company representing more than three fourth in value of the secured creditor, unsecured creditors and equity shareholders of the Petitioner Company present of the meeting AND UPON HEARING, Mr. R. M. Kadam, Counsel, instructed by M/s. Amarchand & Mangaldas and Suresh A Shroff & Co., Advocates for the Petitioner Company, and Mr. C. J. Joy with Mr. R. C. Master and Mr. M. M. Goswami Panel Counsel, instructed by Dr. T. C. Kanshik for the Regional Director, Department of the Company Affairs, Maharashtra, Mumbai who submits to the order of the Court And no other person or persons entitled to appear at the hearing of the Petition appearing this day, either in support of the said Petitioner or to show cause against the same THIS COURT DOTTH HEREBY sanction the Arrangement embodied in the Scheme of Arrangement between Indian Aluminium Company Limited and Hindalco Industries Limited and their respective shareholders and creditors as set forth in the Scheme being Exhibit "E" to the Petition and annexed as Schedule hereto, AND THIS COURT DOTTH HEREBY DECLARE that the said Scheme of Arrangement shall be binding with effect from 1st April, 2004 (hereinafter referred to as "Appointed Date"), on the Petitioner

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Company and all the members and creditors of the Petitioner Company and of the Demerged Company AND THIS COURT DOTH ORDER that with effect from the Appointed Date the Demerged Undertaking of the Demerged Company, as set out in the Scheme shall without any further act or deed do stand transferred to and vested in the Petitioner Company pursuant to the provisions of Sections 391 to 394 of the Companies Act, 1956 AND THIS COURT DOTH FURTHER ORDER that with effect from the Appointed Date all the assets/undertaking of the Demerged Company, comprising the Demerged Undertaking (as defined in the Scheme) shall without any further act, instrument or deed stand transferred to and/or deemed to, have been transferred to the Petitioner Company pursuant to the provisions of Sections 391 to 394 of the Companies Act, 1956 AND THIS COURT DOTH FURTHER ORDER that in pursuance of Section 394 of the Companies Act, 1956, and with effect from the Appointed Date, all debts, liabilities, duties and obligations in respect of the Demerged Undertaking of the Demerged Company as set out in the scheme shall without any further act or deed stand transferred to or be deemed to be transferred to the Petitioner Company so as to become the debts, liabilities, duties and objections of the Petitioner Company AND THIS COURT DOTH HEREBY FURTHER ORDER that with effect from the Appointed Date all legal, taxation or other proceedings by or against the Demerged Company and relating to the Demerged Undertaking pending on or instituted after the Appointed Date shall be continued and enforced by or against the Petitioner Company after the Effective Date effectually and in the same manner and to the same extent as if the same had been pending and/or arisen by or against the Demerged Company AND THIS COURT DOTH FURTHER ORDER that with effect the appointed date all the permanent employees of the Demerged Company engaged in the Demerged Undertaking as on the Effective Date, as defined in the Scheme shall become the employees of the Petitioner Company on such date and subject to the Scheme, on terms and conditions not less favourable than those, on which they are engaged in the Demerged Undertaking and without any interruption of service as a result of the transfer of the Demerged Undertaking AND THIS COURT DOTH FURTHER ORDER that upon Effective Date and in consideration of the demerger including the transfer and vesting of the Demerged Undertaking in the Petitioner Company, the Petitioner Company shall, without any further act or deed, issue and allot to each member of the Demerged Company whose name is recorded in the Register of Member of the Demerged Company on a Record Date, to be fixed in that behalf by the Board of Directors or a Committee of the Demerged Company, in the ratio of 1 equity share in the Petitioner Company of Rs. 10/- credited as fully paid up for every 7 equity shares of Rs. 2/- each fully paid up (upon reduction of the Demerged Company as set out in Clause 29 of the Schedule hereto) held by such member in the Demerged Company AND THIS COURT DOTH FURTHER ORDER that the Petitioner Company do within 30 days of the sealing of this Order, cause a certified copy of this Order to be delivered to the Registrar of Companies, Maharashtra, Mumbai, for registration and upon such certified copy of the order being so delivered and upon receipt of certified copy of the order passed by the Hon'ble Calcutta High Court sanctioning the said Scheme of Arrangement and upon receipt of the files and record of the Demerged undertaking of the Demerged Company from the Registrar of Companies, Calcutta, the Registrar of Companies, Maharashtra, Mumbai shall place all the files and records of the Demerged undertaking of the Demerged Company and registered with him on the file kept by him in relation to the Petitioner Company and files relating to Demerged undertaking of the Demerged Company and the Petitioner Company shall be consolidated accordingly AND THIS COURT DOTH FURTHER ORDER that the parties to the Scheme of Arrangement and any other person or persons interested therein shall be at liberty to apply to this Hon'ble Court for any directions that may be necessary in regard to the working of the Arrangement embodied in the Scheme sanctioned herein and annexed as Schedule hereto AND THIS COURT DOTH LASTLY ORDER that the Petitioner Company do pay a sum of Rs. 2,500/- (Rupees Two Thousand Five Hundred only) to the Regional Director, Department

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of Company Affairs, Maharashtra, Mumbai, towards the costs of the Petition WITNESS SHRI DALVEER BHANDARI, Chief Justice at Bombay aforesaid this 14th day of January, 2005.

By the Court

Sd/-

For Prothonotary & Senior Master

Sealer

Sd/-

Dated this 9th day of February, 2005

Order sanctioning the Arrangement embodied in the )  
Scheme of Arrangement under Sections 391 to 394 )  
of the Companies Act, 1956 drawn on the )  
application of M/s. Amarchand & Mangaldas and )  
Suresh A. Shroff & Co., Advocates for the Petitioner )  
Company having their office at Peninsula )  
Chambers, Peninsula Corporate Park, Ganpatrao )  
Kadam Marg, Lower Parel, Mumbai - 400 013. )

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## SCHEDULE

### SCHEME OF ARRANGEMENT BETWEEN

Indian Aluminium Company, Limited	. . .	Demerged Company
Hindalco Industries Limited	. . .	Resulting Company

and

**their respective shareholders and creditors**

#### **PART - I : GENERAL**

- (A) The Demerged Company (as defined hereunder) is engaged *inter alia* in conducting and carrying on the business of mining, manufacture and sale of hydrate and alumina, alumina chemicals, aluminium, aluminium products, including aluminium sheets, extrusions and foil and generation of electricity.
- (B) The Resulting Company (as defined hereunder) is engaged in various businesses including the manufacture or production of or marketing of or dealing in alumina, aluminium and downstream aluminium products, the generation of electricity, the manufacture of copper and certain precious metals, the processing, production, manufacture and marketing of certain types of chemicals (including di-ammonium phosphate) and rendering assistance and services in relation to the same, and making of investments. As of March 31, 2004, the Resulting Company held 68,781,401 fully paid-up equity shares of Rs. 10/- each constituting approximately 96.53% of the share capital of the Demerged Company.
- (C) This Scheme of Arrangement provides for the transfer by way of a demerger of the Demerged Undertaking (as defined hereinafter) of the Demerged Company to the Resulting Company, and the consequent issue of equity shares by the Resulting Company to the shareholders (other than the Resulting Company) of the Demerged Company pursuant to the relevant provisions of the Act (as defined hereinafter).
- (D) This Scheme is divided into the following parts.
- (a) Part I, which deals with the introduction and definitions;
  - (b) Part II, which deals with the demerger of the Demerged Undertaking from the Demerged Company to the Resulting Company;
  - (c) Part III, which deals with the general terms and conditions applicable to this Scheme.
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## 1. DEFINITIONS

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

- (A) “**Act**” means the Companies Act, 1956 and including any statutory re-enactment or modification thereof from time to time;
- (B) “**Appointed Date**” means April 1, 2004;
- (C) “**Demerged Undertaking**” means all the businesses of the Demerged Company other than the Remaining Business (as defined hereinafter), on a going concern basis, consisting *inter alia* of:
- (i) the smelting unit at Alupuram, Kalamassery, District Ernakulam, Kerala;
  - (ii) the extrusion unit at Alupuram, Kalamassery, District Ernakulam, Kerala;
  - (iii) the smelting, carbon cathode block making and alumina refining unit at Village Yamunapur, Belgaum, Karnataka;
  - (iv) The alumina refining unit at Village Muri, District Ranchi, Jharkhand;
  - (v) The aluminium rolling and aluminium scrap recycling unit at MIDC Industrial Area, Taloja, District Raigad, Maharashtra;
  - (vi) The aluminium rolling unit at Belur, District Howrah, West Bengal;
  - (vii) The aluminium foil and packaging unit at Kalwa, District Thane, Maharashtra;
  - (viii) The smelting unit at Hirakud, District Sambalpur, Orissa;
  - (ix) The captive coal mining unit at Hirakud, District Sambalpur, Orissa;
  - (x) The captive coal mining unit at Talabira, Orissa; Saraswati Vihar, District Sambalpur, Orissa;
  - (xi) The bauxite mining unit at Chandgad, District Kolhapur, Maharashtra;
  - (xii) The bauxite mining unit at Durgmanwadi Mines, Radha Nagari, District Kolhapur, Maharashtra;
  - (xiii) The bauxite mining and Kaolin production unit Lohardaga, Jharkhand;
  - (xiv) Office and residential premises in the districts of Kolkata, Ahmedabad, Bangalore, Bhubaneswar, Chennai, Coimbatore, Hyderabad, Mumbai, New Delhi, Pune, Belgaum, Ernakulam, Ranchi, Raigad, Howrah, Thane, Sambalpur, Kolhapur and Lohardaga;
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- (xv) The Demerged Company's investment comprising 3,65,10,941 equity shares of the face value of Rs. 10/- each in Utkal Alumina International Limited;
- (xvi) The Demerged Company's investment comprising 1,40,000 equity shares of the face value of Rs. 10/- each in Indal Exports Limited; and
- (xvii) The Demerged Company's investment comprising 25,500 equity shares of the face value of Rs. 10/- each in Suvas Holdings Private Limited.

and shall mean and include (without limitation):

- (a) all assets and property of the Demerged Undertaking wherever situate, including the right to use assets and property, whether movable or immovable, tangible or intangible, plant and machinery, land, buildings, offices, capital work-in-progress, rolling stock, investments, current assets (including inventories, sundry debtors, bills of exchange, loans and advances, etc.), vehicles, D.G. sets, godowns, stocks and stores, warehouses, furniture, fixtures, office equipment, appliances, accessories, power lines, railway lines and sidings, water pipelines, depots, power plants, right to use jetties and ports, share of any joint assets and other facilities and premises;
  - (b) all permits, quotas, right, entitlements, export/import incentives and benefits including Duty Exemption Pass Book Scheme (DEPB) and advance licences, industrial and other licences, bids, tenders, letters of intent, expressions of interest, development right (whether vested or potential and whether under agreements or otherwise), municipal permissions, approvals, consents, subsidies, tenancies in relation to the office and/or residential properties, all other intellectual property rights including trade marks, patents, designs, copyrights, benefit of any deposits privileges, all other rights including sales tax deferrals and exemptions and other benefits, lease rights, prospecting licences and mining leases including its mining leases and prospecting licences in the States of Jharkhand, Karnataka, Maharashtra and Orissa (in each case including the benefit of any applications, made therefor) and the surface rights in relation thereto, receivables, and liabilities related thereto, licences, power 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 all other interests in connection with or relating to the Demerged Undertaking;
  - (c) all earnest moneys and/or security deposits paid by the Demerged Company in connection with or relating to the Demerged Undertaking;
  - (d) all records, files, papers, engineering and process information, computer programmes, software licences, drawing, manuals, data, catalogues, quotations sales and advertising materials, lists of present and former customers and suppliers, customer credit information, customer pricing information, and other records whether in physical or electronic form in connection with or relating to the Demerged Undertaking; and
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(e) all present and future liabilities appertaining to or relating to the Demerged Undertaking (including contingent liabilities and the Transferred Liabilities, as defined hereunder) and shall further include any obligations under any licences or permits, appertaining or relating to the Demerged Undertaking.

(D) "**Effective Date**" means the last of the dates on which the conditions and matters referred to in Clause 35 hereof occur or have been fulfilled or waived;

References in this Scheme to the date of "**coming into effect of this Scheme**" or "**effectiveness of this Scheme**" shall mean the Effective Date;

(E) "**Funds**" shall have the meaning ascribed thereto in Clause 10(b) hereof;

(F) "**GDRs**" means Global Depository Receipts issued pursuant to the "Issue of Foreign Currency Convertible Bonds and Ordinary Shares (through Depository Receipt Mechanism) Scheme, 1993", and other applicable laws, and where relevant shall include the underlying equity shares relating thereto;

(G) "**Hindalco**" or the "**Resulting Company**" means Hindalco Industries Limited, a company incorporated under the Act and having its registered office at Century Bhavan, 3rd Floor, Dr. Annie Besant Road, Worli, Mumbai-400 025, Maharashtra;

(H) "**Indal**" or the "**Demerged Company**" means Indian Aluminium Company, Limited, a company incorporated under the Act and having its registered office at 1, Prafulla Chandra Sen Sarani (formerly Middleton Street), Kolkata-700 071, India;

(I) "**Net Worth**" means the aggregate value of the total assets of the Demerged Undertaking as on the Appointed Date as reduced by the value of aggregate value of the liabilities of the Demerged Undertaking as on the Appointed Date and as appearing in the Opening Financial Statement;

(J) "**Opening Financial Statement**" means the opening balance sheet of the Demerged Undertaking as at the opening of business hours on the Appointed Date which is annexed as Schedule I hereto and which has been prepared as per the report dated August 23, 2004 prepared and certified by M/s. Bansi S. Mehta & Co., Chartered Accountants;

(K) "**Record Date**" shall have the meaning ascribed to it in Clause 19 hereof;

(L) "**Remaining Business**" means the aluminium foils business of the Demerged Company located at Village Kollur, R. C. Puram Mandal, (via) Mutangi, District Medak - 502 300, Andhra Pradesh and consisting of an aluminium foil and packaging unit engaged in the manufacture and sale of aluminium foil and light gauge strips;

(M) "**Scheme**" means this Scheme of Arrangement including any modification or amendment hereto;

(N) "**Share Entitlement Ratio**" shall have the meaning ascribed to it in Clause 19 hereof; and

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(0) "Transferred Liabilities" shall have the meaning ascribed to it in Clause 16 hereof.

## 2. SHARE CAPITAL

(a) The share capital structure of the Demerged Company as on July 31, 2004, was as follows:

	<u>Rs. in Crores</u>
<b><u>Authorised</u></b>	
100,000,000 Ordinary Shares of Rs. 10/- each	100.00
49,600,000 Unclassified Shares of Rs. 10/- each	49.60
40,000 Cumulative Redeemable Preference Shares of Rs. 100/- each	0.40
	<u>150.00</u>
<b><u>Issued, Subscribed and Paid-up</u></b>	
71,257,131 Ordinary Shares of Rs.10/- each fully paid-up*	71.26
*Includes equity shares represented by GDRs	
	<u>71.26</u>

(b) The share capital structure of the Resulting Company as on July 31, 2004, was as follows:

	<u>Rs. in Crores</u>
<b><u>Authorised</u></b>	
145,000,000 Equity Shares of Rs. 10/- each	145.00
500,000 14% Free of Company's tax, but subject to deduction of taxes at source at the prescribed rates, Redeemable Cumulative Preference Shares of Rs. 100/- each	5.00
	<u>150.00</u>
<b><u>Issued</u></b>	
92,481,325 Equity Shares of Rs. 10/- each fully paid-up#	92.48
#758,530 equity shares have been bought back by Applicant Company under its buyback programme approved by the Board of Directors. The issued share capital set out above is exclusive of 758,530 equity shares.	
	<u>92.48</u>
<b><u>Subscribed and Paid-up</u></b>	
92,475,275 Equity Shares of Rs. 10/- each fully paid-up*	92.47

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- \* (1) Include equity shares represented by GDRs.
- (2) 6,050 equity shares have been forfeited by Applicant Company.

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 92.47
 

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## PART - II: DEMERGER

### SECTION 1 - DEMERGED BUSINESS

3. (a) Upon the coming into effect of this Scheme, and with effect from the Appointed Date, the Demerged Undertaking (including all the estate, assets, rights, claims, title, interest and authorities including accretions and appurtenances of the Demerged Undertaking) shall, subject to the provisions of this Clause 3 in relation to the mode of vesting and pursuant to Section 394 (2) of the Act and without any further act or deed, be Demerged from the Demerged Company and be transferred to and vested in or be deemed to have been Demerged from the Demerged Company and Transferred to and vested in the Resulting Company as a going concern so as to become, as and from the Appointed Date, the estate, assets, rights, claims, title, interest and authorities of the Resulting Company subject to Section 3 of Part II of this Scheme in relation to charges thereon in favour of banks and/or financial institutions.
  - (b) In respect of such of the assets of the Demerged Undertaking as are moveable in nature or are otherwise capable of transfer by delivery of possession, payment or by endorsement and delivery, the same may be so transferred by the Demerged Company, and shall become the property of the Resulting Company as an integral part of the Demerged Undertaking.
  - (c) In respect of such of the assets belonging to the Demerged Undertaking other than those referred to in sub-clause (b) above, the same shall, as more particularly provided in sub-clause (a) above, without any further act, instrument or deed, be Demerged from the Demerged Company and transferred to and vested in and/or be deemed to be Demerged from the Demerged Company and transferred to and vested in the Resulting Company with effect from the Appointed Date pursuant to the provisions of Section 394 of the Act.
  - (d) All assets acquired by the Demerged Company after the Appointed Date but prior to the Effective Date in relation to the Demerged Undertaking shall also without any further act, instrument or deed stand transferred to and vested in or be deemed to have been transferred to or vested in the Resulting Company upon the coming into effect of this Scheme.
  - (e) For the avoidance of doubt, upon coming into effect of this Scheme, all the rights, title, interest and claims of the Demerged Company in any leasehold properties, including the mining leases and the prospecting licences (including in each case any applications made therefor) (the particulars of the mining leases and the prospecting licences are set out in Schedule II hereto) of the Demerged Company in relation to the Demerged Undertaking shall, pursuant to Section 394 (2) of the Act, without any further act or deed, be transferred to and vested in or be deemed to have been transferred to and vested in the Resulting Company.
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- (f) It is hereby clarified that the rest of the assets and liabilities pertaining to the Remaining Business of the Demerged Company shall continue to belong to and vest in the Demerged Company and the Demerged Company shall continue to carry on the Remaining Business.
  - (g) In consideration of the demerger, the Resulting Company shall issue its shares to the shareholders of the Demerged Company in terms of Section 4 of this Scheme.
4. (a) Upon the coming into effect of this Scheme and subject to the provisions of this Scheme, all contracts, deeds, bonds, agreements, schemes, arrangements and other instruments of whatsoever nature in relation to the Demerged Undertaking to which the Demerged Company is a party or to the benefit of which the Demerged Company may be eligible, and which are subsisting or have effect immediately before the Effective Date, shall continue in full force and effect on or against or in favour, as the case may be, of the Resulting Company and may be enforced as fully and effectually as if, instead of the Demerged Company, the Resulting Company had been a party or beneficiary or obligee thereto.
- (b) Without prejudice to the other provisions of this Scheme and notwithstanding the fact that vesting of the Demerged Undertaking occurs by virtue of Part II of this Scheme itself, the Resulting 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 tripartite arrangements with any party to any contract or arrangement to which the Demerged Company is a party or any writings as may be necessary in order to give formal effect to the above provisions. The Demerged Company will, if necessary, also be a party to the above. The Resulting Company shall, under the provisions of Part II of this Scheme, be deemed to be authorised to execute any such writings on behalf of the Demerged Company and to carry out or perform any such formalities or compliances referred to above on the part of the Demerged Company to be carried out or performed.
- (c) 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, licences, certificates, clearances, authorities, powers of attorney given by, issued to or executed in favour of the Demerged Company in relation to the Demerged Undertaking shall stand transferred to the Resulting Company as if the same were originally given by, issued to or executed in favour of the Resulting Company, and the Resulting 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 Resulting Company. The Resulting Company shall make applications to any Governmental Authority as may be necessary in this behalf.
- (d) It is clarified that if any assets (estate, claims, rights, title, interest in or authorities relating to such assets) or any contract, deeds, bonds, agreements, scheme, arrangements or other instruments of whatsoever nature in relation to the Demerged Undertaking, which the Demerged Company is a party to cannot be transferred to the Resulting Company for any reason whatsoever, the Demerged Company shall
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hold such asset or contract, deeds, bonds, agreements, schemes, arrangements or other instruments of whatsoever nature in trust for the benefit of the Resulting Company, insofar as it is permissible so to do, till such time as the transfer is effected.

5. All the assets and liabilities of the Demerged Undertaking shall be transferred to the Resulting Company at the values appearing in the books of the Demerged Company (at historical cost less depreciation and without any revaluation) immediately before the demerger and which are set forth in the Opening Financial Statement.
  6. (a) It is clarified that, upon the coming into effect of this Scheme, the following debts, liabilities, duties, and obligations of the Demerged Company (as on the Appointed Date) and being a part of the Demerged Undertaking shall, without any further act or deed, be and stand transferred to the Resulting Company to the extent that they are outstanding as on the Effective Date, and shall become the debts, liabilities and obligations of the Resulting Company which shall meet, discharge and satisfy the same:
    - (i) the liabilities which arose out of the activities or operations of the Demerged Undertaking and the specific loans or borrowing (including debentures) raised, incurred and utilised solely for the activities or operations of the Demerged Undertaking and which are more particularly specified in Schedule III hereto; and
    - (ii) in cases other than those referred to in (i) above, so much of the amount of the general or multipurpose borrowings of the Demerged Company as stand in the same proportion which the value of the assets (being the fixed assets, investments, gross current assets) transferred to the Resulting Company bears to the total value of the assets of the Demerged Company on the Appointed Date. The amount of the general or multipurpose borrowings, which are transferred on this basis are more particularly specified in Schedule IV hereto.
  - (b) Where any of the debts, liabilities, duties and obligations of the Demerged Company as on the Appointed Date deemed to be transferred to the Resulting Company have been discharged by the Demerged Company after the Appointed Date and prior to the Effective Date, such discharge shall be deemed to have been for and on account of the Resulting Company and all loans raised and used and all liabilities and obligations incurred by the Demerged Company for the operations of the Demerged Undertaking after the Appointed Date and prior to the Effective Date, subject to the terms of this Scheme, shall be deemed to have been raised, used or incurred for and on behalf of the Resulting Company and to the extent they are outstanding on the Effective Date, shall also without any further act or deed be and stand transferred to and be deemed to be transferred to the Resulting Company and shall become the debts, liabilities, duties and obligations of the Resulting Company, which shall meet discharge and satisfy the same.
7. (a) Upon the coming into effect of this Scheme, all legal, taxation or other proceedings, whether civil or criminal, (including before any statutory or quasi-judicial authority or tribunal) by or against the Demerged Company under any statute, whether pending on the Appointed Date or which may be instituted any time thereafter and in each case relating to the Demerged Undertaking shall be continued and enforced by or against the Resulting Company after the Effective Date. The Demerged Company shall in no
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event be responsible or liable in relation to any such legal, taxation or other proceedings against the Resulting Company. The Resulting Company shall be added as party to such proceedings and shall prosecute or defend such proceedings in co-operation with the Demerged Company.

- (b) If proceedings are taken against the Demerged Company in respect of the matters referred to in sub-clause (a) above, it shall defend the same in accordance with the advice of the Resulting Company and at the cost of the Resulting Company, and the latter shall reimburse and indemnify the Demerged Company against all liabilities and obligations incurred by the Demerged Company in respect thereof.
  - (c) The Resulting Company undertakes to have all legal, taxation or other proceedings initiated by or against the Demerged 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 Resulting Company to the exclusion of the Demerged Company. Both Companies shall make relevant applications in that behalf.
8. The Demerged Company, with effect from the Appointed Date and up to and including the Effective Date:
- (a) shall be deemed to have been carrying on and to be carrying on all business and activities relating to the Demerged Undertaking and stand possessed of all the estates, assets, rights, title, interest, authorities, contracts, investments and strategic decisions of the Demerged Undertaking for and on account of, and in trust for, the Resulting Company; and
  - (b) all profits accruing to the Demerged Company, or losses arising or incurred by it including the effect of taxes if any thereon), relating to the Demerged Undertaking for the period after the Appointed Date based on the audited accounts of the Demerged Company shall for all purposes, be treated as the profits or losses, as the case may be, of the Resulting Company.
9. The Demerged Company undertakes that it will preserve and carry on the business of the Demerged Undertaking with reasonable diligence and business prudence and shall not undertake financial commitments or sell, transfer, alienate, charge, mortgage, or encumber the Demerged Undertaking or any part thereof unless the prior written consent of the board of directors of the Resulting Company has been obtained in relation to any of the above, and agrees that it shall not make any decisions or undertake any business outside the capital expenditure plan and such other plans as have been approved by the board of directors of the Demerged Company without the prior written consent of the board of directors of the Resulting Company.
10. (a) Upon the coming into effect of this Scheme, all permanent employees of the Demerged Company engaged in the Demerged Undertaking as on such date shall become the permanent employees of the Resulting Company, and, subject to the provisions hereof, on terms and conditions not less favourable than those on, which they are engaged in the Demerged Undertaking and without any interruption of service as a result of the transfer of the Demerged Undertaking.
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- (b) In so far as the existing provident fund, gratuity fund and pension and/or superannuation fund (including senior officers superannuation fund), trusts, retirement fund or benefits and any other funds or benefits created by the Demerged Company for the employees of the Demerged Undertaking are concerned (collectively referred to as the 'Funds'), the Funds and such of the investments made by the Funds which are referable to the employees of the Demerged Undertaking being transferred to the Resulting Company in terms of sub clause (a) above shall be transferred to the Resulting Company and shall be held for their benefit pursuant to this Scheme in the manner provided hereinafter. The Funds shall, subject to the necessary approvals and permissions and at the discretion of the Resulting Company, either be continued as separate funds of the Resulting Company for the benefit of the employees of the Demerged Undertaking or be transferred to and merged with the relevant funds of the Resulting Company; provided, however, that the existing pension funds in respect of the employees of the Demerged Undertaking shall be continued as separate funds of the Resulting Company. In the event that the Resulting Company does not have its own funds in respect of any of the above, the Resulting Company may, subject to necessary approvals and permissions, continue to contribute to the relevant funds, until such time that the Resulting Company creates its own fund, at which time the Funds and the investments and contributions pertaining to the employees of the Demerged Undertaking shall be transferred to the funds created by the Resulting Company.
- (c) In so far as the existing provident fund, gratuity fund and pension and/or superannuation fund, trusts created by the Demerged Company for such of the employees of the Remaining Business are concerned, if any, the same shall continue and, in the event that the Demerged Company presently contributes to the same, the Demerged Company shall continue to contribute to such funds and trusts in accordance with the provisions thereof, and such funds and trusts, if any, shall be held for the benefit of the employees of the Remaining Business.
11. The transfer and vesting of the assets, liabilities and obligations of the Demerged Undertaking under Clause 3 hereof and the continuance of the proceedings by or against the Resulting Company under Clause 7 hereof shall not affect any transaction or proceedings already completed by the Demerged Company on or before the Appointed Date to the end and intent that, subject to Clause 9, the Resulting Company accepts all acts, deeds and things done and executed by and/or on behalf of the Demerged Company as acts, deeds and things done and executed by and on behalf of the Resulting Company.

## SECTION 2 - REMAINING BUSINESS

12. The Remaining Business and all the assets, liabilities and obligations pertaining thereto shall continue to belong to and be vested in and be managed by the Demerged Company subject to Section 3 of this Part II of this Scheme in relation to charges thereon in favour of banks, financial institutions and trustees for the debenture holders.
13. (a) All legal, taxation or other proceedings whether civil or criminal (including before any statutory or quasi-judicial authority or tribunal) by or against the Demerged Company under any statute, whether pending on the Appointed Date or which may be instituted at any time thereafter, and in each case relating to the Remaining Business (including
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those relating to any property, right, power, liability, obligation or duties of the Demerged Company in respect of the Remaining Business) shall be continued and enforced by or against the Demerged Company after the Effective Date. The Resulting Company shall in no event be responsible or liable in relation to any such legal, taxation or other proceeding against the Demerged Company, which relate to the Remaining Business.

- (b) If proceedings are taken against the Resulting Company in respect of the matter referred to in sub-clause (a) above, it shall defend the same in accordance with the advice of the Demerged Company and at the cost of the Demerged Company, and the latter shall reimburse and indemnify the Resulting Company against all liabilities and obligations incurred by the Resulting Company in respect thereof.
14. With effect from the Appointed Date and up to and including the Effective Date:
- (a) the Demerged Company shall carry on and shall be deemed to have been carrying on all business and activities relating to the Remaining Business for and on its own behalf; and
  - (b) all profits accruing to the Demerged Company thereon or losses arising or incurred by it (including the effect of taxes, if any, thereon) relating to the Remaining Business shall, for all purposes, be treated as the profits or losses, as the case may be, of the Demerged Company.
15. The Resulting Company shall provide required support to the remaining business as applicable and as may be necessary.

### SECTION 3 - LIABILITIES

#### 16. LOANS, DEBENTURES AND RELATED SECURITY

- (a) In so far as loans, borrowings and liabilities and debentures (whether convertible into equity shares or not) of the Demerged Company are concerned, the loans, borrowings, liabilities and debentures listed in Schedule III and such of the general or multipurpose borrowings, loans, debentures and liabilities listed in Schedule IV which are to be transferred to the Resulting Company in terms of this Part II (the "Transferred Liabilities") being a part of the Demerged Undertaking shall, upon coming into effect of this Scheme and subject to sub-clause (b) below, without any further act or deed, become loans, borrowings, liabilities and debentures of the Resulting Company, and all rights, powers, duties and obligations in relation thereto shall be and stand transferred to and vested in and shall be exercised by or against the Resulting Company as if it had entered into such loans, incurred such borrowing or issued such debentures.
  - (b) In so far as the existing security in respect of the Transferred Liabilities (more particularly set out in Schedule III and Schedule IV) is concerned, such security shall, without any further act, instrument or deed, be modified and shall be extended to and shall operate only over the assets comprised in the Demerged Undertaking which have been charged and secured in respect of the Transferred Liabilities as transferred to the Resulting Company pursuant to Part II of this Scheme. Provided that if any of the
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assets comprised in the Demerged Undertaking, which are being transferred to the Resulting Company pursuant to Part II of this Scheme have not been charged or secured in respect of the Transferred Liabilities, such assets shall remain unencumbered and the existing security referred to above shall not be extended to and shall not operate over such assets. The absence of any formal amendment, which may be required by a lender or third party shall not affect the operation of the above.

- (c) In so far as the Transferred Liabilities which have been secured only by the assets of the Remaining Business are concerned, it is clarified that the Resulting Company shall create adequate security equivalent to the value of the security over the assets of the Remaining Business in respect of the Transferred Liabilities, and such security shall extend to and operate over the assets of the Demerged Undertaking that are being transferred to the Resulting Company pursuant to this Scheme.
  - (d) In so far as the assets comprising the Remaining Business are concerned, the security over such assets relating to the Transferred Liabilities, the same shall, without any further act, instrument or deed be released and discharged from the obligations and security relating to the same. The absence of any formal amendment which may be required by a lender or third party shall not affect the operation of the above.
  - (e) Further, in so far as the assets comprised in the Demerged Undertaking are concerned, the security and charge over such assets relating to any loans or debentures which are not transferred pursuant to this Scheme (and which shall continue with the Demerged Company), shall without any further act or deed be released from such encumbrance and shall no longer be available as security in relation to such liabilities.
  - (f) In so far as the exiting security in respect of liabilities of the Demerged Company other than the Transferred Liabilities is concerned, such security shall, without any further act, instrument or deed, be modified and shall be extended and shall operate only over the assets of the Remaining Business.
  - (g) Without any prejudice to the provisions of the foregoing clauses and upon the effectiveness of this Scheme, the Demerged Company and the Resulting Company shall execute any instruments or documents or do all the acts and deeds as may be required, including the filing of necessary particulars and/or modification(s) of charge, with the Registrar of Companies, Maharashtra or the Registrar of Companies, West Bengal respectively to give formal effect to the above provisions, if required.
  - (h) In so far as the 50 (Fifty) 6.6% Privately Placed Secured Redeemable Non-Convertible Debentures of the face value of Rs. 10,000,000/- each issued by the Demerged Company is concerned, upon the coming into effect of the scheme, the face value of each of the said debentures shall without further act or deed be reduced by a sum of Rs. 9,736,000/- so that the face value of each such debenture shall stand reduced to Rs. 264,000/-. Simultaneously and without any further act or deed, and without payment of any further amount to the Resulting Company, the debentureholders shall be entitled to an equivalent number of fully paid debentures of the face value of Rs. 9,736,000/- each to be issued by the Resulting Company. On such reduction as above in respect of the said debentures of the Demerged Company, the difference in the amount between the original face value of the said debentures and such reduced
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face value shall be automatically appropriated towards the debentures to be issued by the Resulting Company in terms of this Clause. At the time of redemption, the liability in respect of the debentures of the Demerged Company as aforesaid shall be Rs. 264,000/- per debenture, and the liability in respect of the debentures of the Resulting Company as aforesaid shall be Rs. 9,736,000/- per debenture. The debentures to be issued by the Resulting Company in terms of this sub-clause shall, subject to applicable regulations, be listed on the relevant stock exchange/s in India where the said debentures of the Demerged Company were listed on the same terms and conditions unless otherwise modified in accordance with the terms hereof.

- (i) The Demerged Company and the Resulting Company shall enter into and execute such further deeds, documents or writings as may be required to give effect to the provisions of this Clause 16.
- (j) Upon the coming into effect of this Scheme, the Resulting Company alone shall be liable to perform all obligations in respect of the Transferred Liabilities, and Demerged Company shall not have any obligations in respect of the Transferred Liabilities, and the Resulting Company shall indemnify the Demerged Company in this behalf.
- (k) It is expressly provided that, save as mentioned in this Clause 16, no other term or condition of the Transferred Liabilities is modified by virtue of this Scheme except to the extent that such amendment is required by necessary implication.
- (l) Subject to the necessary consents being obtained, if required, in accordance with the terms of this Scheme, the provisions of this Clause 16 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 shall stand modified and/or superseded by the foregoing provisions.

#### SECTION 4 - REORGANISATION OF CAPITAL

- 17. The provisions of this Section shall operate notwithstanding anything to the contrary in this Scheme.
  - 18. In consideration of the provisions of Part II of this Scheme and as an integral part of this Scheme, the capital of the Demerged Company and the Resulting Company shall be restructured and reorganised in the manner set out in Clause 19 to 29 below.
  - 19. Upon the Effective Date and in consideration of the demerger, including the transfer and vesting of the Demerged Undertaking in the Resulting Company pursuant to Part II of this Scheme, the Resulting Company shall, without any further act or deed, issue and allot to each member of the Demerged Company, whose name is recorded in the register of members of the Demerged Company on a date (the "Record Date") to be fixed in that behalf by the Board of Directors or a committee thereof of the Demerged Company, in the ratio of 1 equity share in the Resulting Company of Rs. 10/- credited as fully paid-up for every 7 equity shares of Rs. 2/- each fully paid-up (upon the reduction of the capital of the Demerged Company as set out in Clause 29 below) held by such member in the Demerged Company (the "Share Entitlement Ratio").
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20. The equity shares issued to the members of the Demerged Company pursuant to Clause 19 above shall be issued in dematerialised form by the Resulting Company, unless otherwise notified in writing by the shareholders of the Demerged Company to the Resulting Company on or before such date as may be determined by the board of directors of the Resulting Company or a committee thereof. In the event that such notice has not been received by the Resulting Company in respect of any of the members of the Demerged Company, the equity shares shall be issued to such members in dematerialised form provided that the members of the Demerged Company shall be required to have an account with a depository participant and provide details thereof and such other confirmations as may be required. It is only thereupon that the Resulting Company shall issue and directly credit the dematerialised equity shares to the account of such member with the equity shares of the Resulting Company. In the event that the Resulting Company has received notice from any member that equity shares are to be issued in certificate form or if any member has not provided the requisite details relating to the account with a depository participant or other confirmations as may be required, then the Resulting Company shall issue equity shares in certificate form to such member. In case any member's holding in the Demerged Company is such that the member becomes entitled to a fraction of an equity share of the Resulting Company, such fractional share certificates shall be issued in accordance with Clause 22 below.
  21. Equity shares to be issued by the Resulting Company pursuant to Clause 19 above in respect of such of the equity shares of the Demerged Company which are held in abeyance shall also be kept in abeyance.
  22. In case any members holding in the Demerged Company is such that the member becomes entitled to a fraction of an equity share of the Resulting Company, the Resulting Company shall allot fractional share to such member, and such members shall be entitled to intimate the Resulting Company within 20 days of such allotment as to whether they are desirous of holding such fractional equity shares. Upon receipt of such intimation, the Resulting Company shall issue fractional share certificates to such member within the time period specified in this Scheme. In the event that a member fails to intimate the Resulting Company of the same within the prescribed time period, such member shall be deemed to have consented to the transfer of the fractional shares allotted to it to a trustee nominated by the Resulting Company in that behalf, and thereupon, the Resulting Company shall consolidate all such fractional shares in favour of such trustee. The trustee shall thereafter sell such equity shares and distribute the net sale proceeds (after the deduction of the expenses incurred) to the members respectively entitled to the same in proportion to their fractional entitlements.
  23. In the event of there being any pending share transfers, whether lodged or outstanding, of any shareholder of the Demerged Company, the board of directors or any committee thereof of the Demerged Company shall be empowered in appropriate cases, prior to or even subsequent to the Record Date, to effectuate such a transfer in the Demerged Company as if such changes in registered holder were operative as on the Record Date, in order to remove any difficulties arising to the transferor of the share in the Resulting Company and in relation to the equity shares issued by the Resulting Company after the effectiveness of this Scheme. The board of directors of the Demerged Company shall be empowered to remove such difficulties as may arise in the course of implementation of this Scheme and registration of new members in the Resulting Company on account of difficulties faced in the transaction period.
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24. The equity shares to be issued and allotted by the Resulting Company in terms of Clause 19 above shall rank *pari passu* in all respects with the existing equity shares of the Resulting Company.
25. Equity shares of the Resulting Company issued in terms of Clause 19 above shall be listed and/or admitted to trading on the relevant stock exchange/s in India, where the equity shares of the Resulting Company are listed and/or admitted to trading as on the Effective Date.
26. Unless otherwise determined by the Board of Directors or any committee thereof of the Demerged Company and the Board of Directors or any committee of the Resulting Company, issuance of shares in terms of Clause 19 above, shall be done within 90 days from the Effective Date.
27. No shares shall be issued by the Resulting Company in terms of Clause 19 above in respect of the equity shares held on the Record Date by the Resulting Company in the Demerged Company.
28. No GDRs shall be issued by the Resulting Company in respect of any GDRs held in the Demerged Company. Provided however, the Resulting Company shall issue shares in accordance with the Share Entitlement Ratio to such of the holders of GDRs of the Demerged Company, who are holding shares of the Demerged Company as on the Record Date. The Demerged Company may, if so required under any law or otherwise, execute deeds, confirmations or the writings or tripartite arrangements with any party including the depository or custodian in respect of its GDRs, or any writings or obtain any regulatory or other approvals as may be necessary to be executed in order to give formal effect to the above provision.
29. (a) As an integral part of the Scheme, and upon the coming into effect of this Scheme, with effect from the Appointed Date, the issued, subscribed and paid-up capital of the Demerged Company shall be reduced by Rs. 570,057,048/- (Rupees Fifty Seven Crores Fifty Seven Thousand Forty Eight only) as being no longer represented by assets of the Demerged Company and such reduction shall be effected by reducing the face value of the equity shares of the Demerged Company from Rs. 10/- per equity share to Rs. 2/- per equity share.
- (b) The capital clause of the Memorandum of Association of the Demerged Company and Article 3(1) of the Articles of Association of the Demerged Company shall, upon the coming into effect of this Scheme and without any further act or deed, respectively be replaced by the following clauses:

#### MEMORANDUM OF ASSOCIATION

- "v. The Authorised Capital of the Company is Rs.700,000,000/- divided into 100,000,000 Ordinary Shares of Rs. 2/- each, 49,600,000 Unclassified Shares of Rs. 10/- each and 40,000 Cumulative Redeemable Preference Shares of Rs. 100/- each, with the power to increase and reduce the capital, to divide the shares in the capital for the time being into several classes and to attach thereto respectively such preferential or deferred or special rights, privileges and conditions, as may be determined by or in accordance with the regulations of the
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Company and to vary, modify or abrogate any such rights, privileges, conditions in such manner as may for the time being be provided by the regulations of the Company.

#### ARTICLES OF ASSOCIATION

"3(1) The Authorised Capital of the Company is Rs.700,000,000/- divided into 100,000,000 Ordinary Shares of Rs. 2/- each, 49,600,000 Unclassified Shares of Rs. 10/- each and 40,000 Cumulative Redeemable Preference Shares of Rs. 100/- each, with the power to increase and reduce the capital, to divide the shares in the capital for the time being into several classes and to attach thereto respectively such preferential or deferred, or special rights, privileges and conditions, as may be determined by or in accordance with the regulations of the Company and to vary, modify or abrogate any such rights, privileges, conditions in such manner as may for the time being be provided by the regulations of the Company."

#### SECTION 5 - GENERAL TERMS AND CONDITIONS

30. Accounting by the Demerged Company and the Resulting Company in respect of the assets and liabilities of the Demerged Undertaking.
- (A) Demerged Company shall give effect to the transfer of assets and liabilities of the Demerged Undertaking as on the Appointed Date, in its books as under:
- (a) Transfer the assets and liabilities and sums specified in Clause 30B(b) relating to the Demerged Undertaking as on the Appointed Date. Transfer the excess of the book value of assets over liabilities of the Demerged Undertaking as also the sum specified in Clause 30B(b) of this Scheme and after deduction from the aggregate of the foregoing by the sum specified in Clause 30(B)(c) below, to the debit of an Account styled as "Demerged Adjustment Account";
  - (b) Transfer the credit balances in the various items appearing under the head "Reserves and Surplus" as on the Appointed Date to the "Demerged Adjustment Account";
  - (c) Transfer the credit balance resulting from the reduction in its share capital specified in Clause 29 above to the "Demerger Adjustment Account"; and
  - (d) Out of the net balance remaining in the Demerger Adjustment Account, the Demerged Company shall transfer a sum of Rs. 4,000,000 to the "Capital Redemption Reserve Account"; Rs. 335,500 to the "Other Capital Reserve Account"; Rs. 7,000,000 to the "Debenture Redemption Reserve Account" and balance amount, if any, to the "General Reserve Account" of the Demerged Company.
- (B) The Resulting Company shall incorporate the vesting of the assets and liabilities of the Demerged Undertaking of the Demerged Company pursuant to the Scheme in its books as under:
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- (a) The assets and liabilities of the Demerged Undertaking (except as stated in (b) and (c) below) as on the Appointed Date shall be accounted for at the respective book values at which the same are to so vest in accordance with the provisions of this Scheme as the assets and liabilities of the Resulting Company;
  - (b) Transfer to the debit of an account styled as the "Miscellaneous Expenses to the extent not written off (Demerged Company) Account a sum of Rs. 81,146,503/- being the unamortized balance as at the Appointed Date in the Demerged Company's books of account in respect of the sums paid to employees of Demerged Undertaking under Voluntary Retirement Scheme and others;
  - (c) Credit a sum of Rs. 1,638,722,000/- to its "Deferred Tax Liability Account" (being the amount of credit balance relatable to the Demerged Undertaking on the Appointed Date in the books of account of the Demerged Company transferred by the Demerged Company to Deferred Tax Liability Account pursuant to the Accounting Standard applicable thereto);
  - (d) The Resulting Company shall determine the net result of the foregoing and compare the same with the aggregate of the face and paid-up value of the equity shares to be allotted pursuant to Clause 19 above and the value at which the Resulting Company carries its investment in the Demerged Company on the Record Date (as reduced by such sum as may be determined by the Board of Directors (or a duly constituted committee thereof) of the Resulting Company) and the excess of the latter over the former shall be dealt with as under:
    - (i) an amount equal to Rs. 111,850,000/- shall be transferred to the credit of the Resulting Company's Debenture Redemption Reserve Account;
    - (ii) an amount equal to Rs. 4,000,000/- shall be credited by the Resulting Company to Other Capital Reserve Account; and
    - (iii) the resulting balance, if any, shall be Company's Securities Premium Account.
31. (a) The Demerged Company and the Resulting 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. Provided that the shareholders of the Demerged Company shall not be entitled to dividend, if any, declared and paid by the Resulting Company to its shareholders for the accounting period prior to the Appointed Date.
- (b) The holders of the shares of the Demerged Company and the Resulting 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 member of the Demerged Company and/or the Resulting Company to demand or claim any
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dividends which, subject to the provisions of the said Act, shall be entirely at the discretion of the respective Boards of Directors of the Demerged Company and the Resulting Company and subject to the approval of the shareholders of the Demerged Company and the Resulting Company respectively.

### PART III - OTHER TERMS AND CONDITIONS

32. The Resulting Company had made a voluntary offer for the purchase of equity shares of the Demerged Company from its shareholders in pursuance of a letter of offer dated January 22, 2004, which *inter alia* provided an exit option to the existing shareholders of the Demerged Company during the period commencing from February 16, 2004, up to February 15, 2005. The Resulting Company proposes to discontinue the said offer in view of the provisions of this Scheme and the shareholders of the Demerged Company being entitled to the equity shares of the Resulting Company in the Share Entitlement Ratio in terms hereof and in this regard has approached the relevant stock exchanges, and subject thereto, the said offer shall stand discontinued.
  33. The Demerged Company and the Resulting Company shall make necessary applications before the High Court of Kolkata and the High Court of Judicature at Bombay for the sanction of this Scheme of Arrangement under Sections 391 and 394 of the Act.
  34. (a) The Demerged Company (by its Board of Directors) and the Resulting Company (by its Board of Directors), either by themselves or through a committee or authorised officers appointed by them in this behalf, may, in their full and absolute discretion, assent to any alteration or modification to this Scheme including but not limited to those which the Court may deem fit to approve or impose.  
  
(b) The Demerged Company (by its Board of Directors) and the Resulting Company (by its Board of Directors), (either by themselves or through a committee or authorised officers appointed by them in this behalf), may give such directions 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 (including any question or difficulty arising in connection with any deceased or insolvent shareholders, depositors or debenture holders of the respective companies), 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 law).  
  
(c) The Demerged Company (by its Board of Directors) and the Resulting Company (by its board of directors), (either by themselves or through a committee or authorised officers appointed by them in this behalf), may, in their full and absolute discretion, modify, vary or withdraw this Scheme prior to the Effective Date in any manner at any time.  
  
(d) Any issue as to whether any asset, liability, employee, legal, taxation or other proceedings pertains to the Demerged Undertaking or not shall be decided by the boards of directors of the Demerged Company and the Resulting Company, either by themselves or through a committee or authorised officers appointed by them, in this behalf on the basis of any evidence that they may deem relevant for this purpose (including the books and records of the Demerged Company).
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35. This Scheme is conditional upon and subject to:
- (a) this Scheme being agreed to by the respective requisite majorities of the various classes of members and creditors (where applicable) of the Demerged Company and the Resulting as required under the Act and the requisite orders of the High Court of Calcutta and the High Court of Judicature at Bombay referred to in Clause 33 hereof being obtained;
  - (b) such other sanctions and approvals including but not limited to in principle approvals, sanctions of any Governmental Authority (in relation to the transfer of mining leases/prospecting licences, sales tax benefits or entitlements or loans), as may be required by law in respect of this Scheme being obtained; and
  - (c) the certified copies of the orders of the High Court referred to in this Scheme being filed with the Registrar of Companies, Maharashtra and the Registrar of Companies, West Bengal.
36. In the event of non-fulfilment of any or all obligations under this Scheme by any party towards any other party, *inter se* or to third parties and non-performance of which will place the other party under any obligation, then such defaulting party will indemnify all costs and interests to such other affected party.
37. In the event of this Scheme failing to take effect by March 31, 2005, or such later date as may be agreed by the respective Boards of Directors of the Demerged Company and the Resulting Company, this Scheme shall stand revoked, cancelled and be of no effect and become null and void and in that event no right and liabilities whatsoever shall accrue to or be incurred *inter se* by the parties or their shareholders or creditors or employees or any other person. In such case, each company shall bear its own costs or shall bear costs as may be mutually agreed.
38. All costs, charges, levies and expenses in relation to or in connection with or incidental to this Scheme or the implementation thereof shall be borne and paid for by the Resulting Company.
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**Schedule I****Opening Financial Statement****Opening Balance Sheet of Demerged Undertaking as at 1st April, 2004.**

	(Rs. in Crores)	(Rs. in Crores)
<b>SOURCE OF FUNDS</b>		
Net Worth (Balancing Figure)		994.49
<b>LOAN FUNDS</b>		
Secured Loans	484.84	
Unsecured Loans	<u>3.54</u>	
<b>TOTAL</b>		<u>488.38</u>
		<b><u>1482.87</u></b>
<b>APPLICATION OF FUNDS</b>		
<b>FIXED ASSETS</b>		
Cost	1559.05	
Less : Depreciation	<u>654.01</u>	
Net Block	905.04	
Capital Work-in-progress	<u>115.03</u>	
		1020.07
<b>INVESTMENTS</b>		309.25
<b>NET CURRENT ASSETS</b>		309.31
<b>DEFERRED TAX</b>		
Deferred Tax Liability		-163.87
<b>DEFERRED REVENUE TERMS</b>		
Miscellaneous Expenditure		8.11
<b>TOTAL</b>		<b><u>1482.87</u></b>

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## Schedule II

### Mining and Prospecting Leases

#### I. Jharkhand

##### A. Existing Bauxite Leases

1. Mining lease covering 96.84 hectares at village: Bagru, Bhusar and Hisri (Bagru), Dist. Lohardaga, including renewal applications and related proceedings.
  2. Mining lease covering 140.06 hectares at village: Serangdag, Hanrup and Paunri, (Serangdag Dist. Gumla).
  3. Mining lease covering 19.58 hectares at village: Hisri, Champi and Korgo (Hisri New) Dist. Lohardaga, including renewal approved by the Government of India in 1998 and other applications and related proceedings etc.
  4. Mining lease covering 13.38 hectares at village: Hisri, Champi and Korgo (Hisri Old) Dist. Lohardaga.
  5. Mining lease covering 84.77 hectares at village: Bhusar and Kekrang (Bhusar), Dist. Lohardaga, including renewal approved by the Government of India in 1998 and other applications and related proceedings etc.
  6. Mining lease covering 134.33 hectares at village: Pakhar and Semardih (Pakhar), Dist. Lohardaga, including renewal approved by the Government of India in 1997 and other applications and related proceedings etc.
- B. Pending applications for Bauxite Leases covering an aggregated of 1277.27 hectares in various villages in District Gumla.

#### II Maharashtra

##### A. Existing Bauxite Leases

1. Mining lease covering 204.67 hectares (non-forest land) at village: Durgmanwadi, Padali, Karanje, Padasali (lease named as Redhanagari or Durgmanwadi) Dist. Kolhapur. Registration No. 1911/2000.
  2. Mining lease covering 106.76 hectares at village: Bhagoli, Pilani, Kokare, Umgaon, Nhaveli and Chandgad (Kasarsada), Dist. Kolhapur.
  3. Mining lease covering 284 hectares at village: Kanor Khurd, Pundre, Kanur Badruk, Thamapur (Nagartaswadi), District Kolhapur for 42.9 hectares vide Registration No. 1079/2000 dated 5.9.2000.
  4. Mining lease covering 484.24 hectares at Idergunj, District Kolhapur vide letter No. 596/1998 dated 21.4.98.
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5. Mining lease covering 16 hectares at village: Kitwade and Hajgoli (Mogalgad) District Kolhapur, including renewal applications and related proceedings etc.
- B. New Bauxite Leases applied for in various villages in District Kolhapur.
6. Mining lease applied for 2503 hectares area at village: Dhangarwadi, Ainewadi, Yelwan Jugul, Manoli, Gajapur, Hambavalli, Javalli and Gholsawade (Dhangarwadi), District Kolhapur, including the related proceedings etc.
7. Mining lease applied at village: Udgiri, Shitur, Shirale, Tambave, Niwale (Udgiri) District Kolhapur, including the related proceedings etc.

### III. Bauxite Leases in Karnataka

1. Mining lease covering 22.26 hectares at village: Kalmani and Chapali (Jamboti lease), District Belgaum including renewal application and related proceedings.
2. Mining lease covering 29.14 hectares at village: Dhamne (Dhamne lease), District Belgaum including renewal application and related proceedings.
3. Mining lease covering area of 134.36 hectares in village: Warkadapatiya, Kirvale, Dongargaon (Kirvale lease), District: Belgaum including renewal application and related proceedings.

### IV. Orissa

- A. Existing Coal Mining Lease
  1. Mining lease covering 170.305 hectares at village: Khinda (Talabira I) Dist. Sambalpur.
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## Schedule III

Details of specific debentures and loans arising out of the activities and operation on the Demerged Undertaking and being transferred to the Resulting Company  
(o/s as on 31/03/2004)

A.	Secured Loans	Rs. in Crores
	ECB (US\$ 12.5 M Loan)	61.95
	ECB (US\$ 40 M Loan)	156.74
	9.95% Non-convertible Debentures	50.00
	Rupee Term Loan From FI	0.88
	Rupee Term Loan from Bank	2.68
	Working Capital Loans FC Loans from Banks (PCFC)	38.83
	<b>Total</b>	<b>311.08</b>
<b>B.</b>	<b>Unsecured Loans</b>	
	FC Loans from banks on Capital imports (Buyers Credit)	3.54

## Schedule IV

Allocation of multipurpose borrowings to the Demerged Undertaking  
(o/s as on 31/03/2004)

Rs. in Crores

	Total	Transferred to Resulting Company
6.60% Non-Convertible Debentures	50.00	48.68
Working Capital Loan		
• (WCDL, CC etc.)	115.36	112.32
• FC Loan from Bank - FCNR (B)	13.10	12.76
<b>Total</b>	<b>178.46</b>	<b>173.76</b>

## HIGH COURT, BOMBAY

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
COMPANY PETITION NO. 934 OF 2007  
CONNECTED WITH  
COMPANY APPLICATION NO. 1061 OF 2007

In the Matter of Scheme of Amalgamation of Indian Aluminium Company, Limited with Hindalco Industries Limited.

Hindalco Industries Limited.....

Petitioner Company

Coram: A. M. Khanwilkar J.

Date : 18th January, 2008

Mr. Vikram B. Trivedi with Mr. Sunil Tilokchandani and Ms. Purvi Doctor i/b M/s. Manilal Kher Ambalal & Co. for the Petitioner Company.

Ms. Heena Shah with Mr. S. K. Mohaparkar for RD.

1. Heard learned counsel for the parties.
  2. This Company Petition No. 934 of 2007 has been filed by Hindalco Industries Limited, the Transferee Company.
  3. This Petition has been filed for obtaining sanction to the Scheme of Amalgamation of Indian Aluminium Company, Limited with Hindalco Industries Limited under Sections 391 to 394 of the Companies Act, 1956.
  4. Counsel appearing on behalf of the Petitioner Company has complied with all the statutory requirements as per direction of this Hon'ble Court and they have filed necessary Affidavits of compliance in the Court. However, Petitioner Company also undertakes to comply with all statutory requirements, if any, as required under the Companies Act, 1956.
  5. Upon perusal of the entire material placed on records, the Scheme appears to be fair and reasonable, and is not violative of any provisions of law, and is nor contrary to any public policy. None of the parties concerned has come forward to oppose the Scheme.
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6. No creditor has filed an affidavit objecting the Scheme of Amalgamation till date. The Petitioner Company has filed an affidavit dated 16 January, 2008, placing on record the letters received from the creditors.
7. The notice of Petition was also given to the Regional Director who after having obtained report from the Registrar of Companies and examining the Scheme has filed an affidavit stating that the Scheme is not prejudicial to the interests of creditors and shareholders. There is no objection to the Scheme save and except as stated in para 6 of the Affidavit of the Regional Director, wherein the Petitioner Company is directed to give an undertaking that they shall comply with the accounting treatment as prescribed under the Accounting Standard 14 i.e. 'Accounting for Amalgamation issued by the Institute of Chartered Accountants of India'.
8. The Petitioner Company undertakes to comply with Accounting Standard 14 (AS14) laid down by the Institute of Chartered Accountants of India. Undertaking given by Mr. Anil Malik, Company Secretary of the Petitioner Company is accepted.
9. There is no objection to the Scheme save and except as stated in para 6 of the Affidavit of the Regional Director and since all the requisite statutory compliances have been fulfilled, Company Petition No. 934 of 2007 filed by the Company is made absolute in terms of prayer Clauses (a) to (h).
10. Counsel for Petitioner Company submits that the Petition filed by the Transferor Company is pending before the Calcutta High Court. Sanctioning of the Scheme is subject to the Order of the Calcutta High Court in the Petition filed by the Transferor Company.
11. The Petitioner Company to lodge a copy of this Order and the Scheme with the concerned Superintendent of Stamps for the purpose of adjudication of stamp duty payable, if any, on the same within 30 days of obtaining the certified copy and /or an authenticated copy of Order.
12. The Petitioner Company has to pay the cost of Rs. 5,000/- to the Regional Director within four weeks from the date of Order.
13. Filing and issuance of drawn up Order is dispensed with.
14. All the authorities concerned are directed to act on a copy of this Order along with the Scheme duly authenticated by the Company Registrar.

Order sanctioning the Arrangement embodied in the )  
 Scheme of Arrangement under Sections 391 to 394 )  
 of the Companies Act, 1956 drawn on the application )  
 of M/s. Manilal Kher Ambalal & Co., MKA Chamber )  
 (Crossley House), British Hotel Lane, Off. Mumbai )  
 Samachar Marg, Fort, Mumbai-400 001. )

By the Court  
 For **Prothonotary & Senior Master**  
**(A. M. Khanwilkar J.)**

Sealer  
 Dated the 25th day of January, 2008

SCHEME OF AMALGAMATION  
OF  
INDIAN ALUMINIUM COMPANY, LIMITED  
WITH  
HINDALCO INDUSTRIES LIMITED

**THE SCHEME:**

This Scheme provides for the amalgamation of Indian Aluminium Company, Limited, the Transferor Company with Hindalco Industries Limited, the Transferee Company pursuant to Sections 391 to 394 and other relevant provisions of the Act.

The Scheme is divided into the following parts:

1. Part A - deals with the introduction and definitions.
2. Part B - deals with the Amalgamation of the Transferor Company with the Transferee Company.
3. Part C - deals with the accounting treatment for the Amalgamation in the books of the Transferee Company.
4. Part D - deals with the general terms and conditions that would be applicable to the entire Scheme.
5. Part E - deals with other terms and conditions.

In addition to the above, the Scheme also provides for various other matters consequential or otherwise, integral to it.

**Description of the Companies**

1. The Transferor Company is presently engaged *inter alia* in conducting and carrying on packaging business comprising mainly of manufacture and sale of aluminium foil.
2. The Transferee Company is engaged in various businesses including the manufacture, production, marketing, and dealing in alumina, aluminium and downstream aluminium products, the generation of electricity, the manufacture of copper and certain precious metals, the processing, production, manufacture and marketing of certain types of chemicals (including di-ammonium phosphate) and rendering assistance and services in relation to the same and making of investments.
3. This Scheme provides for the transfer and vesting by way of a merger of the Undertaking (as defined hereinafter) of the Transferor Company in the Transferee Company, and the consequent issue of shares by the Transferee Company to the shareholders of the Transferor Company.

**PART A - INTRODUCTION AND DEFINITIONS**

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

- A-1. "Act" means the Companies Act, 1956 and includes any statutory re-enactment or modification thereof from time to time and any reference to the provisions of the said Act shall be construed accordingly;
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- A-2. "Appointed Date" means April 1, 2007;
- A-3. "Courts" or "High Courts" means the Hon'ble High Court of Judicature at Bombay and the Hon'ble High Court of Calcutta and shall include the National Company Law Tribunal, if applicable;
- A-4. "Effective Date" means the last of the dates, on which the conditions and matters referred to in Clause D-6 hereof occur or have been fulfilled or waived;
- A-5. "Hindalco" or the "Transferee Company" means Hindalco Industries Limited, a company incorporated under the Act, and having its registered office at Century Bhavan, 3rd Floor, Dr. Annie Besant Road, Worli, Mumbai - 400 030, Maharashtra;
- A-6. "Indal" or the "Transferor Company" means Indian Aluminium Company, Limited, a company incorporated under the Act, and having its registered office at 1 Prafulla Chandra Sen Sarani (formerly known as Middleton Street), Kolkata - 700 071.
- A-7. "Preference Shares" shall mean 6% Redeemable Cumulative Preference Shares of the Transferee Company of Rs. 2/- each credited as fully paid up and redeemable on 1st April, 2009 with cumulative dividend;
- A-8. "Record Date" shall have the meaning ascribed to it in Clause B-12 hereof;
- A-9. "Scheme" means this Scheme of Amalgamation in its present form or with any modifications approved or directed by the Courts;
- A-10. "Share Exchange Ratio" shall have the meaning ascribed to it in Clause B-12 hereof;
- A-11. "Undertaking" shall mean the business of the Transferor Company on a going concern basis, consisting *inter alia* of:
- (i) all assets and properties of the Transferor Company wherever situated, including the right to use such assets and properties, whether moveable or immoveable, tangible or intangible, plants and machineries, land, buildings, offices, capital work-in-progress, rolling stocks, investments, current assets (including inventories, sundry debtors, bills of exchange, loans and advances, etc.), vehicles, D.G. sets, godowns, stocks and stores, warehouses, furniture, fixtures, office equipments, appliances, accessories, power lines, water pipe lines, depots, share of any joint assets, and other facilities and premises;
  - (ii) without prejudice to the generality of the foregoing clause, the Undertaking of the Transferor Company shall include moveable and immoveable properties including investments, claims, powers, authorities, allotments, approvals, consents, registrations, contracts, engagements, arrangements including technical collaborations, product licensing arrangements, know-how, all permits, quotas, rights, entitlements, export/import incentives and benefits including Duty Entitlement Pass Book Scheme (DEPB) and advance licences, industrial and other
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licences, bids, tenders, letters of intent, expressions of interest, development rights (whether vested or potential and whether under agreements or otherwise), municipal permissions, approvals, consents, subsidies, tenancies in relation to the office and/or residential properties, all other intellectual properties including trade marks, patents, designs, copyrights, including any applications for registrations of the same and right to use such intellectual and industrial property rights, trade secrets, confidential information, domain names, benefit of any deposits, privileges, all other rights including sales tax deferrals and exemptions and other benefits, lease rights, licences, powers and facilities of every kind, nature and description whatsoever, rights to use and avail of telephones, facsimile connections, internet, leased line connections and installations, utilities, electricity and other services, provisions and benefits of all agreements, privileges, contracts and arrangements, including technological licensing agreements, computer programmes, manuals, data, catalogues, sales and advertising materials, dossiers, registered/unregistered user rights and licences, and all other rights hereafter accruing and other interests in connection with or relating to the Transferor Company;

- (iii) all earnest moneys and/or security deposits paid by the Transferor Company;
- (iv) all records, files, papers, engineering and process information, computer programmes, software licences, drawings, manuals, data, catalogues, quotations, sales and advertising materials, lists of present and former customers and suppliers, customer credit information, customer pricing information, and other records whether in physical or electronic form; and
- (v) all present and future liabilities including contingent liabilities and shall further include any obligations under any licences and/or permits.

#### Capital Structure

The Share Capital Structure of the Transferor Company as on 31st March, 2007 is as follows:

Transferor Company:	As at 31st March, 2007	
	Nos.	Rs. in Lacs
<b>SHARE CAPITAL</b>		
<b>AUTHORISED</b>		
Ordinary ("Equity") Shares of Rs. 2/- each	100,000,000	2,000.00
Unclassified Shares of Rs. 10/- each	49,600,000	4,960.00
Cumulative Redeemable Preference Shares of Rs. 100/- each	40,000	40.00
		<b>7,000.00</b>
<b>ISSUED, SUBSCRIBED AND PAID-UP</b>		
Ordinary ("Equity") Shares of Rs. 2/- each Out of 71,257,131 Ordinary Shares, 69,160,477 shares are held by the Transferee Company	71,257,131	<b>1,425.14</b>

The Share Capital Structure of the Transferee Company as on 31st March 2007 is as follows:

Transferee Company:	As at 31st March, 2007	
	Nos.	Rs. in Lacs
<b>SHARE CAPITAL AUTHORISED</b>		
Equity Shares of Re. 1/- each	1,450,000,000	14,500.00
14% Redeemable Cumulative Preference Shares of Rs. 100/- each	500,000	500.00
		<b>15,000.00</b>
<b>ISSUED</b>		
Equity Shares of Re. 1/- each	1,159,329,501	<b>11,593.30</b>
<b>SUBSCRIBED AND PAID-UP</b>		
Equity Shares of Re. 1/- each fully paid-up	927,808,470	9,278.08
Equity Shares of Re. 1/- each (Called and paid-up of Re. 0.50 each)	231,521,031	1,157.61
		<b>10,435.69</b>
Less: Face Value of Shares forfeited	60,500	0.61
Add: Forfeited Shares Account (Amount Paid-up)	<b>10,435.08</b>	0.30
	<b>10,435.38</b>	
Less: Call-in-Arrears		2.90
		<b>10,432.49</b>

#### PART B - AMALGAMATION OF THE TRANSFEROR COMPANY.

Transfer and Vesting of the Undertaking:

- B-1. Upon the coming into effect of this Scheme, and with effect from the Appointed Date, the Undertaking of the Transferor Company (including all the estate, assets, rights, claims, title, interest and authorities including accretions and appurtenances) shall, subject to the provisions of Clauses B-2 and B-3 in relation to the mode of vesting and pursuant to the provisions of the Act and without any further act, instrument or deed, be transferred to and vested in and/or deemed to have been transferred to and vested in the Transferee Company as a going concern so as to become, as and from the Appointed Date, the estate, assets, rights, claims, title, interest and authorities including accretions and appurtenances of the Transferee Company subject to Clause B-6 of this Scheme in relation to charges thereon in favour of banks and/or financial institutions.
- B-2. In respect of such of the assets of the Transferor Company as are movable in nature or are otherwise capable of transfer by manual delivery of possession, payment or by endorsement and delivery, the same may be so transferred by the Transferor Company and shall become the property of the Transferee Company.
- B-3. In respect of such of the assets belonging to the Transferor Company other than those referred to in Clause B-2 above, the same shall, as more particularly provided in Clause B-1 above, without any further act, instrument or deed, be transferred to and vested in



and/or be deemed to have been and stand transferred to and vested in the Transferee Company with effect from the Appointed Date pursuant to the provisions of Section 394 of the Act.

- B-4. All debts, liabilities, outstanding and receivables of the Transferor Company shall on and from the Appointed Date, stand transferred to and vested in the Transferee Company without any further notice or other intimation to the debtors and the debtors shall be obliged to make payments to the Transferee Company on and after the Effective Date.
- B-5. All estates, assets, rights, title, interests and authorities accrued to and/or acquired by the Transferor Company after the Appointed Date and prior to the Effective Date shall be deemed to have been accrued to and/or acquired for and on behalf of the Transferee Company and shall, upon the coming into effect of this Scheme, pursuant to the applicable provisions of the Act, without any further act, instrument or deed be and stand transferred to or vested in or be deemed to have been transferred to or vested in the Transferee Company to that extent and shall become the estates, assets, rights, title, interests and authorities of the Transferee Company.
- B-6. Upon the coming into effect of this Scheme and with effect from the Appointed Date:
- (a) All secured and unsecured debts (whether in Indian Rupees or foreign currency), all liabilities, duties, obligations and undertakings of the Transferor Company of any nature whatsoever along with any charge, encumbrance, lien or security thereon (hereinafter referred to as the "Liabilities") shall, pursuant to the applicable provisions of the Act, without any further act, instrument or deed, be and stand transferred to and vested in or be deemed to have been transferred to and vested in, the Transferee Company, so as to become the Liabilities of the Transferee Company and that it shall not be necessary to obtain the further consent of any third party or other person who is a party to any contract or any arrangement by virtue of which such liabilities have arisen, in order to give effect to the provisions of this Clause.
  - (b) All debentures, bonds, notes or other debt securities of the Transferor Company, whether convertible into equity, or otherwise, (the "Securities"), shall pursuant to the applicable provisions of the Act, without any further act, instrument or deed become Securities of the Transferee Company and all rights, powers, duties and obligations in relation thereto shall be and stand transferred to and vested in or deemed to have been transferred to and vested in, and shall be exercised by and against the Transferee Company as effectually as if instead of the Transferor Company, the Transferee Company had issued the same.
  - (c) The security or charge relating to loans, debentures or borrowings of the Transferor Company shall continue to relate to the said assets as they hitherto relate after the Effective Date and shall not relate to or be available as security in relation to the borrowings of the Transferee Company for so long as the said security or charge remains outstanding.
  - (d) The assets of the Transferee Company shall not relate to or be available as security in relation to the said borrowings of the Transferor Company unless the Transferee Company otherwise agrees.
  - (e) Where any of the Liabilities of the Transferor Company as on the Appointed Date transferred to the Transferee Company have been discharged by the Transferor Company after the Appointed Date and prior to the Effective Date, such discharge shall be deemed to have been for and on account of the Transferee Company.
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- (f) All loans raised and utilised and all debts, duties, undertakings, liabilities and obligations incurred or undertaken by the Transferor Company after the Appointed Date and prior to the Effective Date subject to the provisions of this Scheme 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, pursuant to the applicable provisions of the Act, without any further act, instrument or deed be and stand transferred to and vested in or be deemed to have been transferred to and vested in the Transferee Company and shall become the debts, duties, undertakings, liabilities and obligations of the Transferee Company which shall meet, discharge and satisfy the same.

B-7. For the removal of doubts it is clarified that to the extent that there are inter-company loans, deposits, obligations, balances or other outstandings including any interest thereon, as between the Transferor Company and the Transferee Company, the obligations in respect thereof shall come to an end and there shall be no liability in that behalf and corresponding effect shall be given in the books of account and records of the Transferee Company for the reduction of such assets or liabilities as the case may be.

B-8. Legal Proceedings:

Upon the coming into effect of this Scheme, all suits, actions and proceedings (the "Proceedings") by or against the Transferor Company pending and/or arising on or before the Effective Date shall be continued and be enforced by or against the Transferee Company as effectually as if the same had been pending and/or had arisen by or against the Transferee Company.

B-9. Contracts:

- (a) Upon the coming into effect of this Scheme, and subject to the provisions of this Scheme, all contracts, deeds, bonds, agreements, arrangements, assurances and other instruments of whatsoever nature ("Contracts") 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 having effect immediately before the Effective Date, shall be in full force and effect against or in favour of the Transferee Company as the case may be 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. The Transferee Company may if and wherever necessary, enter into and/or issue and/or execute deeds, writings or confirmations at any time, enter into any tripartite arrangements, confirmations or novations prior to the Effective Date to which the Transferor Company will, if necessary, also be a party in order to give formal effect to the provisions of this Clause.
- (b) The Transferee Company may, at or 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 in favour of any party to any contract or arrangement to which the Transferor Company is a party or any writings as may be necessary to be executed in order to give formal effect to the above provisions. The Transferee Company shall, under the provisions of Part B 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.

B-10. Saving of Concluded Transactions:

The transfer of the Undertaking of the Transferor Company, the continuance of Proceedings and the effectiveness of Contracts as mentioned hereinabove, shall not affect any transaction or Proceedings already concluded by the Transferor Company on or before

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the Effective Date, to the end and intent that the Transferee Company accepts and adopts all acts, deeds and things done and executed by the Transferor Company in respect thereto, as if done and executed on its behalf.

**B-11. Employees:**

- (a) Upon the coming into effect of this Scheme, all permanent employees who are on the rolls of the Transferor Company on the Effective Date shall become the permanent employees of the Transferee Company, on such date and subject to the provisions hereof, on terms and conditions not less favourable than those on which they are engaged and/or which are applicable to them in the Transferor Company and without any interruption of service as a result of the transfer.
- (b) The arrangements relating to the existing provident fund with Regional Provident Fund Commissioner and superannuation fund with the Life Insurance Corporation of India with respect to the employees of the Transferor Company shall be continued by the Transferee Company or may be substituted with any other arrangements that would not be less favourable to the employees.

**B-12. Reorganisation of Capital:**

- (a) The provisions of this Section shall operate notwithstanding anything to the contrary in this Scheme.
- (b) The Transferee Company holds 97.06 % consisting of 6,91,60,477 Equity Shares of Rs. 2/- each of the issued, subscribed and paid-up capital of the Transferor Company as on 31st March 2007. Upon the Scheme becoming effective the entire share capital held by the Transferee Company and/or its nominees in the Transferor Company shall stand cancelled without any further application, act or deed and without allotment of any new shares by the Transferee Company in lieu thereof.
- (c) In consideration of this Scheme and as an integral part thereof, the Share Capital of the Transferee Company shall be restructured and reorganised in the manner set out herein.
- (d) Upon the Scheme coming into effect and in consideration of the transfer and vesting of the Undertaking of the Transferor Company pursuant to Part B of this Scheme, the Transferee Company shall, subject to Clause B-12 (b) above, without any further act or deed, issue and allot to each member of the Transferor Company, other than itself and its nominees, whose name is recorded in the register of members of the Transferor Company on a date (the "Record Date") to be fixed in that behalf by the Board of Directors or a committee thereof of the Transferor Company, shares in the Transferee Company in lieu of the shares held by them in the Transferor Company in the following ratio: (the "Share Exchange Ratio"),
  - (i) 1 (One) Equity Share of Re. 1/- each in the Transferee Company credited as fully paid up ("New Equity Shares") for every 170 (One Hundred Seventy) Equity Shares of Rs. 2/- each fully paid-up held by them in the capital of the Transferor Company;

Or

- (ii) 1 (One) 6% Preference Share in the Transferee Company credited as fully paid up for every 1 (One) Equity Share of Rs. 2/- each fully paid-up held by them in the capital of the Transferor Company.
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- (e) The members of the Transferor Company, excepting those holding less than 170 (One Hundred & Seventy) Equity Shares of Rs. 2/- each in the Transferor Company shall accordingly have the option to take either New Equity Shares or Preference Shares in the Transferee Company as above. Such option shall however not be available in respect of the fractional equity shares, if any, to which such members of the Transferor Company holding not less than 170 (One Hundred & Seventy) Equity Shares of Rs. 2/- each in the Transferor Company may be entitled in terms of the Share Exchange Ratio for New Equity Shares specified in Clause B-12 (d) (i) above. In lieu of the equity shares in the Transferor Company represented by such fractional entitlements, they shall be entitled to receive only corresponding number of preference shares for such residual equity shares in accordance with the Share Exchange Ratio specified in Clause B-12 (d) (ii) above. Pursuant to the Scheme becoming effective, the Transferee Company shall accordingly send to the eligible members of the Transferor Company an appropriate intimation and option form requiring them to exercise their option as above not later than 20 days from the date thereof.
- (f) The members of the Transferor Company holding less than 170 (One Hundred & Seventy) Equity Shares of Rs. 2/- each in the Transferor Company shall not have such option and shall be entitled only to preference shares in the Transferee Company in the Share Exchange Ratio for preference shares specified in Clause B-12 (d) (ii) above.
- (g) In default of the exercise of option by the members of the Transferor Company holding not less than 170 (One Hundred & Seventy) Equity Shares of the Transferor Company in the manner and within the time specified in the intimation and option form, such members shall be issued and allotted preference shares in the ratio specified in Clause B-12 (d) (ii) above.
- (h) The New Equity Shares to be issued by the Transferee Company pursuant to sub-clause (d) above shall rank *pari passu* in all respects with the existing equity shares of the Transferee Company save and except that the New Equity Shares shall be entitled to dividend, if any, with effect from the Appointed Date. The preference shares to be issued by the Transferee Company pursuant to sub-clause (d) above shall carry a preferential right to payment of dividend at the rate of 6% per annum with effect from the Appointed Date on a cumulative basis and such preference shares shall be redeemable on April 1, 2009. Such preference shares shall carry other rights applicable to the preference shares of the Transferee Company as specified in Clause B-13(b) herein. The New Equity Shares and preference shares to be issued by the Transferee Company shall be subject to the Memorandum and Articles of Association of the Transferee Company. Further, such New Equity Shares and Preference Shares shall, subject to applicable regulations, be listed and/or admitted to trading on the stock exchange(s) where the equity shares of the Transferee Company are listed and/or admitted to trading.
- (i) The shares issued to the members of the Transferor Company pursuant to sub-clause (d) above shall be issued in dematerialised form by the Transferee Company, unless otherwise notified in writing by the shareholders of the Transferor Company to the Transferee Company on or before such date as may be determined by the Board of Directors of the Transferee Company or a committee thereof. In the event that such notice has not been received by the Transferee Company in respect of any of the members of the Transferor Company, the shares in the
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Transferee Company shall be issued to such members in dematerialised form provided that the members of the Transferor Company shall have an account with a depository participant and provide details thereof, and such other confirmations as may be required. It is only thereupon that the Transferee Company shall issue and directly credit the dematerialised shares to the account of such member of the Transferor Company. In the event that the Transferee Company has received notice from any member that the shares are to be issued in the certificate form or if any member has not provided the requisite details relating to the account with a depository participant or other confirmations as may be required, then the Transferee Company shall issue the shares in certificate form to such members.

- (j) The shares to be issued by the Transferee Company pursuant to sub-clause (d) above in respect of such of the equity shares of the Transferor Company which are held in abeyance shall also be kept in abeyance.
- (k) In the event of there being any pending share transfer, whether lodged or outstanding, of any shareholder of the Transferor Company, the Board of Directors or any committee thereof of the Transferor Company shall be empowered in appropriate cases, prior to or even subsequent to the Record Date, to effectuate such a transfer in the Transferor Company as if such changes in registered holder were operative as on the Record Date. In order to remove any difficulties, arising out of such transfer of shares in the Transferor Company and in relation to the shares issued by the Transferee Company after the effectiveness of this Scheme, the Board of Directors of the Transferor Company shall be empowered to remove such difficulties as may arise in the course of implementation of this Scheme and registration of new members in the Transferee Company on account of difficulties faced in the transaction period.
- (l) Unless otherwise determined by the Board of Directors or any committee thereof of the Transferor Company and the Board of Directors or any committee thereof of the Transferee Company, issuance of shares in terms of sub-clause (d) above shall be completed within 90 days from the Effective Date.
- (m) No shares shall be issued by the Transferee Company in terms of sub-clause (d) above, in respect of the equity shares held on the Record Date by the Transferee Company and its nominees in the Transferor Company.

**B-13. Alteration in the Memorandum and Articles of Association:**

- (a) As an integral part of the Scheme and upon the coming into effect of this Scheme, the Capital Clause V of the Memorandum of Association of the Transferee Company shall stand amended without any further act, deed, permission and/or compliances, reading as under:

"V. The Authorised Share Capital of the Company is Rs. 150,00,00,000/- (Rupees One Hundred Fifty Crores only) divided into 145,00,00,000 (One Hundred Forty Five Crores) Equity Shares of Re. 1/- (Rupee One) each and 2,50,00,000 (Two Crores Fifty Lacs) Redeemable Cumulative Preference Shares of Rs. 2/- (Rupees Two) each carrying an appropriate rate of dividend as may be determined by the Articles of Association of the Company (free of Company's tax but subject to deduction of tax as required under the provisions of the Income Tax Act, 1961, for the time being in force), subject to be increased or decreased in accordance with the Company's regulations and legislative provisions for the time being in force in this behalf, and with power to divide the Shares

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in the Capital for the time being into Equity Share Capital and/or Preference Share Capital, with or without voting rights as may be permissible at law, and to attach thereto respectively, any preferential, qualified or special rights, privileges or conditions as may be determined by or in accordance with the provisions of the Companies Act, 1956, and the regulations of the Company, and to vary, modify or abrogate any such rights, privileges or conditions in such manner as may, for the time being, be provided by the regulations of the Company.”

- (b) As an integral part of the Scheme and upon the coming into effect of this Scheme, Articles 4(i)(a), 4(i)(b), 4(i)(c), 4(i)(d), 4(ii)(a) and 4(ii)(e) of the Articles of Association of the Transferee Company shall stand amended any further act, deed, permission and/or compliances, as under:

Existing Articles 4(i)(a), 4(i)(b), 4(i)(c) and 4(i)(d) shall stand substituted by the following Articles:

- “4(i) (a) The Authorised Share Capital of the Company is Rs. 150,00,00,000/- (Rupees One Hundred Fifty Crores only) divided into 145,00,00,000 (One Hundred Forty Five Crores) Equity Shares of Re. 1/- (Rupee One) each and 2,50,00,000 (Two Crores Fifty Lacs) Redeemable Cumulative Preference Shares of Rs. 2/- (Rupees Two) each carrying an appropriate rate of dividend as fixed by the Board at the time of issue in accordance with the applicable provisions of law, if any, or otherwise, (free of Company’s tax but subject to deduction of tax as required under the provisions of the Income Tax Act, 1961, for the time being in force), subject to be increased or decreased in accordance with the Company’s regulations and legislative provisions for the time being in force in this behalf, and with power to divide the Shares in the Capital for the time being into Equity Share Capital and/or Preference Share Capital, with or without voting rights as may be permissible at law, and to attach thereto respectively, any preferential, qualified or special rights, privileges or conditions as may be determined by or in accordance with the provisions of the Act and the regulations of the Company, and to vary, modify or abrogate any such rights, privileges or conditions in such manner as may for the time being be provided by the regulations.
- 4(i) (b) Out of the aforesaid 2,50,00,000 (Two Crores Fifty Lacs) Redeemable Cumulative Preference Shares of Rs. 2/- (Rupees Two) each, 21,00,000 (Twenty One Lacs) Preference Shares (Indal Shares) carrying a rate of dividend of 6% per annum, shall be reserved for allotment to the members of Indian Aluminium Company, Limited (Indal) as shall be required in terms of the Scheme of Amalgamation of Indal with the Company sanctioned by the High Court of Judicature at Bombay and the High Court at Calcutta on the petitions presented to the said Courts. The same shall be redeemed at par by the Company on 1st April, 2009 and for the purpose of such redemption, the provisions of Section 80 of the Act shall apply.
- 4(i) (c) The Redeemable Cumulative Preference Shares mentioned in sub-clause (a) above (Preference Shares) shall confer upon the holders thereof the rights out of the profits of the Company resolved to be distributed, to a fixed Cumulative Preferential Dividend at the rate determined in accordance with the provisions of Article 4(i)(a) above (free of Company’s tax subject to the deduction of tax as required under the provisions of the Income Tax Act, 1961, for the time being in force) on the Capital for the time being paid-up thereon and shall carry rights including in a winding-up to repayment of the Capital together with arrears of such fixed dividend
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accrued upto the commencement of the winding-up (whether earned or declared or not) in priority to the equity shares, but shall not confer the right to any further participation in either profits or assets.

- 4(i) (d) The holders of the preference shares shall be entitled to dividend proportionately to the amounts paid, or credited as paid on the said shares, and in the year of allotment, proportionately also to the portion of the period in respect of which the dividend is to be paid, being the portion commencing from the date of allotment and ending at the close of such period. Notwithstanding the foregoing, holders of Indal Shares shall be entitled to dividend with effect from 1st April 2007.

The existing Article 4(ii)(a) shall stand amended so as to read as under:

- “4(ii) (a) Subject to the provisions of Section 80 of the Act, the Directors may at any time as may be determined by them, but not later than twenty years from the date of issue and allotment of the Preference Shares (excepting Indal Shares), apply the net profits or the moneys of the Company, which may be lawfully applied for the purpose, including any proceeds of a fresh issue of Shares made for the purpose of redemption, in redemption of the whole or any part of the preference shares for the time being issued and outstanding at par, together with a sum equal to the arrears of fixed dividend thereon (whether earned or declared or not) down to the date of redemption.

In existing Article 4(ii)(e) the word “ten” shall be substituted by the word “twenty”.

## **PART C - ACCOUNTING TREATMENT**

### **C-1. General Accounting Treatment:**

- (a) With effect from the Appointed Date and upon the Scheme becoming effective, the unabsorbed depreciation and losses of the Transferor Company shall be treated as the unabsorbed depreciation and losses of the Transferee Company as on the Appointed Date and the Transferee Company shall be entitled to carry forward the losses and unabsorbed depreciation of the Transferor Company and to revise its tax returns and including any loss, returns, related tax deduction certificates and to claim refund, advance tax credits, etc. accordingly.
- (b) All assets and liabilities, including reserves, of the Transferor Company shall be recorded in the books of accounts of the Transferee Company at their existing carrying amounts and in the same form, save and except the items detailed below.

### **C-2. Treatment of certain Individual Items:**

- (a) The difference between the cost of investments in the books of the Transferee Company representing investments in the Transferor Company together with the amounts recorded as share capital issued over the issued share capital of the Transferor Company shall be dealt in accordance with the generally accepted accounting principles.
- (b) In case of any difference in the accounting policy between the Transferor Company and the Transferee Company, the impact of the same till the Appointed Date will be quantified and adjusted in the general reserves of the Transferee Company to ensure that the financial statements of the Transferee Company reflect the financial position on the basis of the consistent accounting policy.
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- (c) Upon or any time after the issuance of the Preference Shares pursuant to the Scheme, the Transferee Company shall create a capital redemption reserve for redemption of such preference shares.

#### **PART D - GENERAL TERMS AND CONDITIONS**

##### **D-1. Conduct of business as and from the Appointed Date till Effective Date:**

- (a) The Transferor Company shall carry on and be deemed to carry on its business and activities and stand possessed of its properties and assets for and on account of and in trust for the Transferee Company and all the profits accruing to the Transferor Company or losses arising or incurred by it shall for all purposes be treated as the profits or losses of the Transferee Company as the case may be.
- (b) The Transferor Company hereby undertakes to carry on its business until the Effective Date with reasonable diligence and shall not, without the written consent of the Transferee Company, alienate, charge or otherwise deal with the Undertaking or any part thereof except in the ordinary course of its business.
- (c) The Transferor Company shall not without the written concurrence of the Transferee Company vary the terms and conditions of the employment of its employees except in the ordinary course of business.
- (d) The Transferor Company shall not undertake any new business or any substantial expansion, of its existing business or change the general character or nature of its business except with the written concurrence of the Transferee Company.

##### **D-2. Dividend:**

- (a) The Transferor Company and the Transferee Company shall be entitled to declare and pay dividends, whether interim or final, to their respective equity shareholders in respect of the accounting period prior to the Effective Date. Provided that the equity shareholders of the Transferor Company shall not be entitled to dividend, if any, declared and paid by the Transferee Company to its equity shareholders for the accounting period prior to the Appointed Date.
- (b) The holders of the equity 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.

##### **D-3. Dissolution of the Transferor Company:**

Pursuant to the Scheme becoming effective, the Transferor Company shall be dissolved without being wound up, without any further act, deed or instrument.

##### **D-4. Application to relevant High Courts and other Authorities:**

The Transferor Company and the Transferee Company shall, with all reasonable dispatch, make respective applications under the applicable provisions of the said Act to the Hon'ble High Courts at Calcutta and Bombay for sanctioning and carrying out this Scheme of Amalgamation and for dissolution of the Transferor Company without winding-up.

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**D-5. Modification of Amendment to the Scheme:**

- (a) The Transferor Company and the Transferee Company may assent from time to time on behalf of all persons concerned to any modifications or amendments or additions to this Scheme or to any conditions or limitations, which either the Board of Directors of the Transferor Company and the Transferee Company deem fit, or which the High Courts of Bombay and Calcutta and or any other authorities under law may deem fit to approve of or impose and which the Transferor Company and the Transferee Company may in their discretion deem fit and resolve all doubts or difficulties that may arise in carrying out and implementing the Scheme and to do, authorise and execute all acts, instruments, deeds, matters and things necessary, or to review the position relating to the satisfaction of the conditions of this Scheme, and if necessary, to waive any of those (to the extent permissible under law) for bringing the Scheme into effect. In the event any of the conditions that may be imposed by the Court or other authorities, which the Transferor Company and the Transferee Company may find unacceptable for any reason, then the Transferor Company and the Transferee Company are at liberty to withdraw the Scheme. The aforesaid powers of the Transferor Company and the Transferee Company may be exercised by their respective Boards of Directors, or a committee or committees of the concerned Board of Directors or any person authorised in that behalf by the concerned Board of Director (hereinafter referred to as "Delegates").
- (b) For the purpose of giving effect of this Scheme or to any modifications or amendments thereof or additions thereto, the Delegates of the Transferor Company and the Transferee Company may give and are authorised to determine and give all such directions as are necessary including directions for setting or removing any question of doubt or difficulty that may arise and such determination or directions, as the case may be, shall be binding on all the parties, in the same manner as if the same were specifically incorporated in this Scheme.

**D-6. Scheme conditional on approval/sanctions:**

This Scheme is conditional upon and subject to :

- (a) this Scheme being (i) approved by the respective requisite majorities of the various classes of members and creditors (where applicable) of the Transferor Company and the Transferee Company as required under the Act and (ii) sanctioned by the Hon'ble High Courts;
- (b) such other sanctions and approvals including, but not limited to in principle approvals, sanctions by any Governmental Authority (in relation to the transfer of Undertaking, sales tax benefits or entitlements or loans), if any, as may be required by law in respect of this Scheme being obtained; and
- (c) the certified copies of the Orders of the High Courts referred to in this Scheme being filed with the Registrar of Companies, Maharashtra and the Registrar of Companies, West Bengal.

D-7. The Board of Directors of the Transferor Company and the Transferee Company shall, upon the conditions being satisfied, or upon waiver of any condition that is capable of being waived, declare the Scheme as having come into effect.

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**PART E - OTHER TERMS AND CONDITIONS**

- E-1. In the event of any of the said sanctions and approvals not being obtained or waived and/or the Scheme not being sanctioned by the High Courts at Calcutta and/or Bombay, the Scheme shall become null and void, and each party shall bear its respective costs, charges and expenses in connection with the Scheme of Amalgamation.
- E-2. (a) In the event of this Scheme failing to take effect finally, including without limitation, due to any of the said sanctions and approvals referred to in Clause D-6 above not being obtained and/or complied with and/or satisfied and/or waived and/or this Scheme not being sanctioned by the relevant High Courts and/or Order or Orders not being passed as aforesaid, before 30th June, 2008 or such other date as may be mutually agreed upon by the respective Board of Directors of the Transferor Company and the Transferee Company who are hereby empowered and authorised to agree to and extend the aforesaid period from time to time in exercise of their powers through and by the respective Delegates, this Scheme shall stand revoked/ cancelled and be of no effect and become null and void and in that event no rights and liabilities whatsoever shall accrue to or be incurred *inter se* by the parties or the shareholders or creditors or employees or any other person save and except in respect of any act or deed done prior thereto as is contemplated hereunder or as to any right, liability or obligation which has arisen or accrued pursuant thereto and which shall be governed and be preserved or worked out in accordance with the applicable law.
- (b) Further, the Boards of Directors of the Transferor Company and the Transferee Company, including through or by the respective Delegates shall be entitled to revoke, cancel and declare the Scheme to be of no effect if such Boards of Directors are of the view that the coming into effect of the Scheme in terms of the provisions of this Scheme or filing of the drawn up orders with any authority could have adverse implication on the Transferor Company and/or the Transferee Company.
- E-3. If any part or provision 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.

The Transferor Company (by its Board of Directors) and the Transferee Company (by its Board of Directors), (either by themselves or through a committee or authorised officers appointed by them in this behalf), may, in their full and absolute discretion, modify, vary or withdraw this Scheme prior to the Effective Date in any manner at any time.

- E-4. In the event of non-fulfilment of any or all obligations under this Scheme by any party towards any other party, *inter-se* or to third parties and non-performance of which will place the other party under any obligation, then such defaulting party will indemnify all costs and interest to such other affected party.
- E-5. On the approval of the Scheme by the members of the Transferor Company and the members of the Transferee Company pursuant to Section 391 of the Act, it shall be deemed that the said members have also accorded all relevant consents under Section 31 and any other provisions of the Act to the extent the same may be considered applicable.
- E-6. All costs, charges, levies and expenses in relation to or in connection with or incidental to this Scheme or the implementation thereof shall be borne and paid for by the Transferee Company.
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO. 293 OF 2009  
CONNECTED WITH  
COMPANY APPLICATION NO. 234 OF 2009

Hindalco Industries Limited, a Company )  
Incorporated under the provisions of )  
the Companies Act, 1956 and having )  
its Registered Office at Century Bhavan, )  
3rd Floor, Dr. Annie Besant Road, )  
Worli, Mumbai - 400 030, Maharashtra ) . . . . . Petitioner Company

Mr. Janak Dwarkadas, Sr. Counsel alongwith Mr. Sharan Jagtiani I/b Chitnis & Co. for the  
Petitioners.

Mr. Simil Purohit a/w. Mr. Vivek Khemka for Ram Niranjan Kedia - Objector.

Mr. Shaunak Thakkar a/w. Dr. Santosh Raje for Bhupendra Gandhi - Objector.

Mr. C.J. Joy a/w. Mr. Y.R. Mishra & Mr. V. B. Tiwari I/b Mr. S.K. Mohopatra for Regional  
Director.

Mr. Prashant Chavan a/w. Mr. Suhas Patil I/b Navdeep Vora & Associates for MIDC  
Creditors.

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CORAM: A. M. KHANWILKAR. J  
DATED JUNE 22, 2009

**JUDGEMENT:**

1. This is a composite Petition by the Company to obtain sanction to the scheme of arrangement involving financial restructuring of Hindalco Industries Ltd (hereinafter referred to as HIL or the Company) and its Equity Shareholders under section 391 r/w Section 100 of the Companies Act, 1956 (hereinafter referred to as the Act).
  2. The Company is the flagship Company of the Aditya Birla Group and a leading manufacturer of aluminium and copper. It is stated that over the years, the Company has grown into the largest vertically integrated non-ferrous metal company in the country and among the largest primary producers of aluminium and copper in Asia. It is further stated that in 2007, the acquisition of Novelis Inc., a world leader in aluminium rolling and can recycling, marked a significant milestone in the history of the aluminium industry in India. It is the case of the Company that an important element of HIL's growth strategy has been to seek out opportunities for acquisitions and Strategic partnerships in India as well as overseas with a view to diversify its product portfolio, consolidation of customer base and to extend the presence of the Company in overseas markets. It is stated that such an endeavor by the Company would not only provide the Company with an opportunity to widen its international footprint but also enable the newly acquired companies to increase their margins through reduction of labour and other costs. It is further stated that the Company has been successful in enhancing its presence in the international markets. However, this has resulted in HIL incurring various costs relating to organic as well as inorganic growth projects. It is also stated that in its endeavor to grow further, HIL would continue to incur these costs in the future. It is the case of the Company that the present global economic scenario especially in the commodity space has had an adverse impact on HIL's domestic and overseas operations, which may result in impairment/diminution in value of assets/investment of HIL and its subsidiaries. It is the case of the Company that these expenses/costs are inevitable for the growth of the Company and its shareholders. The Company now proposes to undertake the Financial Restructuring Exercise on terms and conditions spelt out in the proposed scheme, which is presented to this Court for approval with a view to provide greater level of transparency and openness and to secure full involvement of all the shareholders / stakeholders.
  3. The composite scheme of arrangement is for undertaking financial restructuring exercise whereby HIL would create a "Reconstruction Reserve Account" from its Securities Premium Account balance to adjust expenses as defined in clause 1.4 of the Scheme. It also provides that as and when the Board of HIL determines that a part or whole of the balance remaining the Reconstruction Reserve Account is no longer required, the same can be transferred to the Securities Premium Account of the Company as per the terms and conditions of the Scheme.
  4. Since the scheme is essentially in respect of adjustment of expenses as defined in clause 1.4 of the proposed scheme, it may be apposite to refer to the definition of "Expenses" appearing therein, which reads thus:
    - "1.4 "Expenses" means and without limiting the generality of the foregoing, includes inter-alia the following items accounted for in the financial statements of HIL.
      - 1.4.1. Impairment, amortization and/or write off of goodwill and other intangible assets, if any, arising on preparation of consolidated accounts of HIL.
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- 1.4.2. Interest and other financial charges paid/payable on borrowings for acquisitions by HIL and/or any of its subsidiaries and interest and other financial charges paid/payable upon refinancing of such borrowings.
- 1.4.3. Impairment of assets / investments / intangibles in the Financial statements of HIL and / or any of its subsidiaries.
- 1.4.4. Diminution in the value of investments in subsidiary companies in the Financial Statements of HIL and/or any of its subsidiaries.
- 1.4.5. Costs associated with existing projects / divisions in part and / or whole by HIL and / or any of its subsidiaries and financial costs associated with delay in projects;
- 1.4.6. Consultants / law firms fees and / or any fees payable towards professional services (say due diligence, etc.) in connection with financing / refinancing acquisitions.”

Further, part III of the Scheme provides for Financial Restructuring of HIL and Accounting Treatment. Clause 3 pertains to creation and utilization of Business Reconstruction Reserve Account and the modalities therefor. Clause 4 provides for alteration in the Articles of Association, which is stated to be an integral part of this Scheme. Article 71 of the Articles of Association of the Company are intended to be amended to read “The words “Share Premium Account” shall be substituted with the words “Securities Premium Account” in Article 71(c) of the Articles of Association of the Company”. Clause 5 of the Scheme envisages that the Scheme would result in the Company improving its financial status for the benefit of all the shareholders/stakeholders. It mentions that the parties to the Scheme agree and acknowledge the adequacy and sufficiency of the consideration. It is further agreed and acknowledged that the Scheme involves the creation of Business Reconstruction Reserve Account in the books of the Company on account of clause 3.1 and 3.2 and utilization of the same against the expenses defined in clause 1.4 & other terms & conditions of the scheme without any issue of shares or discharge of any consideration in cash or otherwise. Clause 6 of the scheme refers to the conduct of Business. It envisages that nothing in the Scheme shall affect the conduct of business of HIL and/or any deeds, bonds, contracts, agreements and any other instruments to which HIL is a party and/or all legal or other proceedings by or against HIL. It further provides that nothing in the scheme shall affect the existing rights of the workers and employees of HIL. Part IV of the Scheme provides for General Terms and Conditions of the modification or amendments to the Scheme, conditionality of the Scheme, binding effect, application to the High Court, effect of non-receipt of approvals and costs, charges and expenses.

5. The Company asserts that at a Board Meeting held on 14th February, 2009 the Board of Directors of the Petitioner company passed a resolution by which it was resolved that the Scheme of Arrangement placed before the Board be submitted to the High Court for its sanction for the financial restructuring as mentioned in the Scheme. The Petitioner then refers to the circumstances and/or reasons that have necessitated and or justify the propounding of the stated Scheme of Arrangement and advantages thereof. The salient features of the scheme are also highlighted in the Petition presented for approval of the scheme. It is stated that this Court by Order dated 27th February, 2009 passed in Company Application 234 of 2009 filed by the Petitioner company, directed to hold meeting of its Equity Shareholders. Accordingly, on 2nd April, 2009 at 10.00 a.m. at Ravindra Natya Mandir, P. L. Deshpande Maharashtra Kala Academy, Prabhadevi, Mumbai, meeting of its Equity shareholders was duly convened and held in accordance with the said Order, which meeting was chaired by Mr. A. K. Agarwala. In the said meeting 549 Equity Shareholders of the Petitioner Company representing 76,94,00,729
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Equity Shares of Re. 1/- each attended personally or through Authorised Representatives or by proxy. After inviting debate on the proposed scheme, the resolution was put to vote by poll in the meeting, in which, 424 members holding 72,19,93,282 Equity Shares of Re. 1/- each of the aggregate value of Rs. 72,19,93,282/- voted in favour of the Scheme. 11 members holding 8,997 Equity shares of Re. 1/- each of the aggregate value of Rs. 8997/- voted against the said Scheme. Votes of 58 members for aggregate 4,73,90,050 shares cast were declared invalid. In other words, the resolution was passed by requisite majority of Equity Shareholders supporting the same. The Chairman of the said meeting has submitted report recording these facts. It is further stated that pursuant to the order of this Court an Extra Ordinary General Meeting was held on the same date i.e. 2nd April, 2009, at the same place at Ravindra Natya Mandir, P.L. Deshpande Maharashtra Kala Academy, Prabhadevi, Mumbai at 12.00 p.m. which was again chaired by Mr. A.K. Agarwala. In the said meeting a special Resolution was proposed as per the provisions of Section 100 of the Companies Act for utilization of the Securities Premium Account of the Petitioner Company as stated in clause 3 of the proposed scheme. The Resolution was put to vote and carried out by the requisite majority by show of hands. It is stated that separate procedure under section 101 (2) for reduction of Securities Premium Account was dispensed with by an Order of this Court in Company Application No. 234 of 2009.

6. The Petitioner Company has asserted that the proposed scheme in arrangement between the Petitioner Company and its Equity Shareholders only in accordance with the provisions of Section 391(1)(b) and not in accordance with the provisions of Section 391(1)(a), as there is no arrangement and/or Compromise with the Creditors as no sacrifice is called for under the proposed scheme. It is reiterated that the proposed scheme envisages creation of Business Reconstruction Reserve Account by transfer of Securities Premium Accounts balance as on 31st December, 2008 to Business Reconstruction Reserve Account and utilisation of Business Reconstruction Reserve Account against the expenses defined in Clause 1.4 of the Scheme. It is stated that the proposed restructuring of deemed paid-up capital under the said scheme does not involve any financial outlay / outgo on the part of Petitioner and is only in the nature of a book entry. Besides, such reduction will not cause any prejudice to any of the creditors of the Petitioner. It is further stated that the financial restructuring proposed under the said scheme does not involve either diminution of any liability in respect of unpaid share Capital or payment to any shareholder of any paid-up capital and the same shall be carried out as an integral part of the Scheme. That the Creditors will not be effected by the proposed financial restructuring as there is no reduction in the amount payable to any of the Creditors, no compromise or arrangement is contemplated with the Creditors. It is further stated that the proposed adjustment would not in any way adversely effect the ordinary operations of the Petitioner Company or the ability of the Petitioner Company to honour its commitments or to pay its debt in the ordinary course of business. It is the case of the Petitioner that the scheme is primarily entered into between the petitioner Company and its Equity Shareholders and not between the Petitioner and other class of shareholders or creditors. It is stated that insofar as Preference Shareholders of the petitioner Company are concerned, under the Scheme their interest is not affected at all as they are entitled to a fixed rate of dividend under the terms of the issue and also under the provisions of the Act. It is stated that the meeting of Preference shareholders was dispensed with by this Court vide order passed in Company Application No. 234 of 2009 on the basis of undertaking given by the Petitioner company that all Preference shares will be redeemed and fully paid off by 1st April, 2009. It is stated that as per the said undertaking all its Preference Shares have been redeemed by 1st April 2009 and the Petitioner company has no Preference Shareholders on the date of presentation of the Petition. It is also stated that meeting of secured creditors and unsecured creditors
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has also been dispensed with by this Court. As on 31st January 2009, the Petitioner company has had 57 Secured Creditors of the value of Rs. 5741.73 crores and 11646 Unsecured Creditors of the value of Rs. 4561.02 crores. It is stated that the Secured Creditors will continue to hold charge over the respective assets even after the proposed Scheme is sanctioned. Further, there will be no dilution in securities / charge created on the assets of the Petitioner. The Petitioner has also stated that individual notices have been given to the secured and unsecured creditors of the value above Rs. 10 Lakhs.

7. In this background, the present Petition is presented by the Petitioner company on 4th April, 2009. Notices were issued to the Regional Director, Department of Company Affairs and the Registrar of Companies. They have stated on affidavit before this Court that the Scheme is not prejudicial to the interest of shareholders and public, for which reason the Court may pass appropriate orders, as it deems fit. Even the ROC and the Bombay Stock Exchange have given its consent for approving the scheme. However, the Regional Director has filed further affidavit on 17th June, 2009, in which he has referred to the objections raised by one Mr. Bhupendra Gandhi which were received under the cover of letter of Mr. Abant Roy, Member of Parliament for examination. After examining the grievance in the said complaint the Regional Director has opined that the objections were untenable. In paragraph-6 of the further affidavit, the Regional Director has however, recommended that the Court may place time limit for implementation of the scheme so as to assuage the apprehension of the objector that the scheme allows the Board of Director of the Company unrestricted discretion to keep adjusting the expenses against the Securities Premium Account without any time limit. The Regional Director has recommended to limit write off of the expenses to the Securities Premium Accounts in the Books of Accounts up to 31st March 2009 and not thereafter. However, except observing this, no justification has been offered by the Regional Director as to why such restriction is necessitated. No provision of law has been relied to justify this recommendation.
  8. Besides, two objectors have appeared before this Court. One Mr. Ramnirajan Kedia of Tourism Services Pvt. Ltd. has filed affidavit dated 5th May, 2009 to oppose the proposed scheme. There is one more objection registered by one Mr. Bhupendra Gandhi by filing affidavit dated 5th May, 2009. Insofar as the first objector is concerned, he is neither a shareholder nor creditor of the Petitioner company. His objection is opposed by the Petitioner company, amongst other, on the ground of his locus. Insofar as objection filed by Bhupendra Gandhi, it is the case of the Petitioner company that he is not a bonafide complainant. In that, on the date of meeting of the Equity Shareholders to consider the proposed scheme, the second objector had only one share of the Petitioner company. He participated in the meeting and registered his objection. But the resolution was passed with overwhelming majority. Moreover, on the one hand he objected to the proposed scheme and on the other hand, after the meeting of the Equity Shareholders, he has purchased additional 50 Equity Shares of the Petitioner company, which reflects on his bonafide. According to the Company, his objection should be thrown out on this count alone. Besides raising issue of locus and bonafide of the objectors, the Petitioner company has also countered the grievance of the objectors on merits. On merits the issue raised by the objectors are broadly that the scheme if approved would result in allowing the Petitioner company to violate accounting standards by providing for adjustment against the Reserve Account instead of profit and loss account. Besides, it would give wide and unguided discretion to the Board of Directors by keeping the scheme open ended. Moreover, the scheme does not disclose the figures of expenses to be adjusted in the Reserve Account, nor does the Scheme define the non-operating and extra ordinary expenses. It was also emphasized on behalf of the objectors that the scheme intends to write off the liability and losses of the subsidiaries, which cannot be permitted. The principal argument of the objectors is that on making
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adjustment of the expenses against the Reserve Account it would not be a fair and accurate representation of the financial position of the Petitioner company. In as much as, the stated expenses ought to be and are required to be shown in the profit and loss account and not against the Reserve Account. For that reason, the Court should not accord approval especially when such adjustment will also be in violation of accounting standards. It was also argued that the amount lying in Security if transferred would later on become unavailable for satisfying the direction to be issued in the pending proceedings.

9. If the aforesaid objections were to be overruled, the Petitioner company would be entitled for the relief claimed in this Petition and the proposed scheme of the Petitioner Company will have to be approved. I shall straightaway examine the argument regarding locus of Ramnirajan Kedia. Admittedly, the said objector is neither a shareholder nor a creditor of the Petitioner company. If it is so, the Petitioner company is justified in contending that such person has no locus to raise objection in relation to the scheme propounded by the Company under Section 391 of the Act. This issue is no more res integra. This Court in the case of ICICI LTD Vs Financial & Management Services Ltd. reported in (1998) 29 CLA 372 (Bom) (See paragraph 21), after adverting to the relevant reported decisions has unhesitatingly held that it is clear that under the provisions of the Act, as they stand, the persons who are interveners who are neither shareholders, members nor creditors of the company which is before the Court, have no locus to be heard in relation to the Scheme under Section 391 of the Act. The Petitioner has also relied on the decision of the Division Bench of our High Court in the case of the Securities and Exchange Board of India (SEBI) Vs Sterlite Industries (India) Ltd. reported in (2003) 113 Comp. Cases 273 (Bom) (see paragraphs - 8 and 9). In which this Court has had occasion to dismiss the appeal preferred by SEBI against the order passed under Section 391 on the ground that it had no locus in a Petition under Section 391, not being shareholders or creditors of the company. Counsel for Mr. Kedia however placed reliance on the decision of the Apex Court in the case of S.K. Gupta & Anr. V.K Jain & Anr. Reported in (1979) 49 Comp. cases 342. He placed emphasis on the observations in the said decision at page 353 of the reported Judgment to contend that if the Court can suo moto act, it is immaterial as to who drew the attention of the Court to a situation which necessitated Court's intervention. Reliance placed on this decision is inapposite. Inasmuch as, the observations in this decision are in the context of proceedings under section 352 of the Act. As a matter of fact, the Supreme Court in the same Judgment has noted the distinction between the proceedings under sections 391 and 392, as can be discerned from the observations at pages 350 to 352 of the reported decision at page 352, the Apex Court has noted the distinction in the scheme of Section 391 in contradiction to that of Section 392, as the legislature has used the expression "any person interested in the affairs of the Company" in Section 392, which has under denotation unlike the expression "a member or creditor or liquidator of a company" used in Section 391. Having regard to the fact that this is a composite Petition under Section 391 as well as Sections 100 and 101 of the Act, the person who is neither a shareholder nor creditor of the company would have no locus. However, since the objection is also taken by one of the shareholders, this Court would nevertheless address the objections on merits a little later.
  10. Insofar as the second objector (Mr. Bhupendra Gandhi) is concerned, twofold grievance is made by the Petitioner company. Firstly, that he is not a bonafide complainant. He possessed only one share on the relevant date. He had participated in the meeting and his objections were overruled by the overwhelming majority of Equity Shareholders. Significantly, he procured 50 additional shares of the Company after the meeting in which he had raised objection to the proposed scheme. In my opinion, the grievance of the Petitioner company is well-founded. In as much as, no prudent person who had opposed the proposed scheme, would think of acquiring additional shares of the same
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company. Indeed, the fact that the objector possessed only one share on the relevant date does not mean that he is denuded of his right of raising objection. Nevertheless, I find substance in the stand taken by the Petitioner company that the complaint filed by this objector is not bonafide. Counsel for the Petitioner has rightly relied on the observations of the Securities Appellate Tribunal in decision dated 10th April, 2008 in Appeal No. 25 of 2008 in the case of Shri Sukumar Chand Jain v/s. SEBI & Ors. That a person who has not approached with clean hands and have traded in the shares of the target company, cannot be heard to make grievance about the scheme.

11. Be that as it may, reverting to the merits of the issues raised, it is argued that the Regional Director in his further affidavit dated 17th June, 2009 has opined that the scheme allows the Board of Directors of the company unrestricted discretion to keep adjusting the expenses against Securities Premium Account without any time limit. The Regional Director has therefore, recommended placing time limit for implementation of the scheme and to limit write off of the expenses to Securities Premium Accounts in the Books of Account up to 31st March, 2009 and not thereafter. I am in agreement with the stand taken by the Petitioner company that this changed opinion of the Regional Director inspite of having found that the objections taken by the objector Mr. Bhupendra Gandhi were untenable was on account of intervention of the Member of Parliament at the behest of the objector - Bhupendra Gandhi, who had forwarded the complaint for reconsideration. Significantly, the Regional Director has not adverted to any provision of law which obligates the Petitioner company to limit the period to write off all the expenses in the Books of Account. It would have been a different matter, if the law obliged the company to do so within a particular time. In absence of such requirement, the Regional Director ought to have assigned tangible reason as to why it was still necessary to impose the outer limit for writing off the expenses. Even during the argument advanced on behalf of the Regional Director or for that matter the objectors, I was unable to discern any tangible reason to justify such restriction. Understood thus, taking any other view would be interfering with the commercial wisdom or business decision of the overwhelming majority of stakeholder of the Company, who have reposed trust and confidence in the Board of Directors, who are expected to exercise their discretion with prudence. The Petitioner has justly relied on the observations of the Madras High Court in the case of Re: Parrys Confectionery Ltd. reported in (2004) 122 Comp. Cases 900 (Mad.) in paragraphs 13 and 14, the Madras High Court observed thus:
    13. The short question that arises for consideration is whether this Court should grant approval for the reduction of the Petitioner's Securities premium Account as resolved by the Shareholders of the Petitioner in the Special Resolution at the meeting held on 23-6-2003 as set out in para 13 of the Petition.
    14. The Special Resolution passed by the Company clearly shows that the restructuring will not be prejudicial to the interest of the Petitioner's creditors as the reduction does not involve either the diminution of any liability in respect of unpaid capital or the payment to any shareholder of any paid-up capital. Further, there is no reduction in the amount payable to any of the creditors and neither is any comprises or arrangement contemplated with such creditors. The asset cover ratio as covenanted by the Petitioner in their agreement with the various secured creditors will continue to be maintained even after such restructuring. In recognition of this position all such secured creditors have signified their consent to the restructuring. "I find that it is purely a business decision arrived at by the shareholders on the basis of the commercial principles as the restructuring does not involve any cash outflow. the same will not affect the normal operations of the Petitioner or its ability to honour its commitments and to pay its debts in the ordinary course of business and the restructuring is in accordance with sound commercial and
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accounting practice and would enable the Petitioner to project a more realistic picture of the Petitioner's operations which would be to the benefit of the Petitioner's shareholders and investors. In recognition of this position, the shareholders of the Petitioner have unanimously approved such restructuring".

(emphasis supplied)

12. It will be also apposite to advert to the dictum of the Chancery Division pressed into service by the Petitioner in the case of Re Ratners Group plc reported in (1988) Ch. D. 685. This decision would also answer the objection raised by the objectors about unspecified expenses in the scheme. Dealing with that contention, the Court has noted the scope of interference by the Court while considering the proposal for approval of the scheme. The Court cannot interfere with the discretion and commercial wisdom of the stakeholders and the Board of Directors. The Court has considered the same in the following words:

"Secondly it was said that there was a worry because the amount of goodwill to be written off could not be specified. It is said in the affidavit to be sum in excess of £ 140m. But at present, the balance sheet date not having arrived and the accounts not having been prepared, the amount is not clear and fixed.

In my judgment counsel for the company is again correct when he submits that factor has no effect on discretion. Counsel wholly accepted that the court will not do anything in vain and that, if a reduction was applied for, approved by shareholders but on the evidence was not for any discernible purpose at all but simply an act in a vacuum, the court might well say that it would not in its discretion sanction it. That refusal by the court would not be because the reduction was not within the powers of the shareholders and the jurisdiction of the court, but as matter of discretion the court will not act in vain, the matter had not been shown to have any real purpose, it never was more than a hollow act, of no merit or purpose, and should not be troubling the court or wasting everybody's time; and for that sort of reason the court might exercise its discretion against sanctioning the proposed reduction. But, said counsel, accepting that limitation, as he fully did, that has nothing to do with this case. Here we have evidence by a man of substance, who is the finance director of this substantial company, that in his judgment the company is likely given its present policy and given the circumstances of its businesses, to have future substantial needs to write off goodwill following future hoped for, as yet undefined, acquisitions. I myself have certainly approved reductions of share premium accounts for sums considerably in excess of any present goodwill to be written off. More to the point Peter Gibson J, in three different cases last sittings, Re Hilldown Holding plc (7 December 1987, unreported), Re Ladbroke Group plc (16 November 1987, unreported) and Re Smiths Industries plc (16 November 1987, unreported) all very large and well-known businesses, approved reductions of share premium accounts to make reserves available which would be suitable for use in writing off goodwill created on future acquisitions, as was intended and proved by the evidence to be contemplated. Indeed, it is to be believed that Mervyn Davies J. himself in Re Exco international plc (8 July 1985, unreported) actually approved such reduction. In my judgement the fact that there is no presently intended write-off makes no difference in principle to the exercise of the courts discretion in favour of sanctioning a reduction, provided it is proved by evidence that the company is likely to need to use the reserves created to write off "goodwill" in the future, so that the act is not a hollow act doing no good to anybody.

In my view the proposition in Buckley on the Companies Acts (14th edn, 1981) Vol I, P 181), where the subheading is 'Motive for reduction', that the motive is immaterial is a correct general summary of the proposition which I think is not really perhaps best expressed as the 'motive' for the reduction, since the reduction is the result of an

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extraordinary resolution which will have been voted for by multifarious persons, many of whom will have different private motives, all leading them to act the same way. But if it can be seen that the reduction is one which is properly passed by shareholders who are treated equitably, have had the facts explained and provided the creditors are safeguarded, the court will habitually sanction reductions and exercise its discretion in favour of them unless the act is a pointless and hollow act. Provided those requirements are satisfied, the company may reduce its capital in any way that it thinks fit and the court will normally sanction those reductions." (emphasis supplied)

Applying the principle stated in the above said decisions, if the grievance of the objector or for that matter opinion of the Regional Director were to be acted upon, it would trench upon the discretion of the stakeholders and the Board of Directors in propounding the scheme for stated purpose. For, it is not a hollow act. It will be apposite to advert to another decision pressed into service by the Petitioner in the case of Hyderabad Industries Ltd. reported in (2004) 55 SCL 1(AP), where the court has noted that it is very well settled and needs no restatement that the court does not exercise any appellate power over the decision of the Company or its management. The Company Court in its equity jurisdiction is required itself to satisfy and see that the procedure, by which resolution is carried through, is legally correct and the shareholders and creditors are not prejudiced. Further it is also the duty of the court that it has to see that the scheme is fair and equitable between the different classes of shareholders. In paragraph - 18 of the decision, the court has observed that nothing has been brought to the notice of the Court that special resolution affects the interest of the shareholders. Similar situation obtains in the present case. None of the objectors are in a position to point out as to what prejudice will be caused to the shareholders. On the other hand, the Registrar of Company as well as Regional Director including the Bombay Stock Exchange have unambiguously opined that the proposed scheme is not prejudicial to the interests of the shareholders and public.

13. Significantly, Andhra Pradesh High Court in the abovesaid case, considered the proposal of the company to set off liability amount against the Share Premium Account. It has noted that with the said adjustment, the Company's accounting method in respect of investments would fall in line with the Accounting Standards of Institute of Chartered Accountants of India and represent the true shareholder value. That the set off will not cause any prejudice to the creditors of the company. It proceeded to record that the reduction of capital does not involve either result in the diminution of any liability in respect of unpaid capital or the payment to any shareholder of any paid-up capital. No compromise or arrangement is contemplated and there is no reduction in the value of the security, which the creditors have in the Company.
  14. Reliance has rightly been placed on another decision of our High Court in the case of Re : Zee Telefilms Ltd. reported in (2005) 124 Comp Cas 102(Bom). In paragraph - 12, the Court while considering the scheme for adjustment of the Books of Accounts, so as to reflect the true and fair value of the Company's investments in its subsidiaries, approved the scheme on the finding that the decision was within the frame work of law, which is not illegal or contrary to the public policy. The Court then proceeded to observe that there was no reason to interfere with the said decision taken by the experts which includes business, financial experts, auditors and majority shareholders of the company. Suffice it to observe that no tangible basis is forthcoming as to why the proposed scheme should be approved with amendment of placing time limit for implementation of scheme and to limit write off Securities Premium Account up to 31st March, 2009 and not thereafter. If the Equity shareholders or the stakeholders of the company have resolved consciously and approved the proposed scheme, inspite of open ended scheme, they have exercised business discretion. It is not open for this Court to sit over the said view as an Appellate Court, unless the same was against the
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frame work of law or public policy. There is nothing wrong in the decision to spread out or adjust and write off all the expenses. The fact that this may enable the Company to declare sufficient dividend as have been declared in the past, does not militate against the Company: so long as the Company makes necessary declaration of all the facts and figures in its Books of Accounts.

15. The next question is; whether there would be violation of accounting standards. The objection will have to be answered keeping in mind provisions of Section 211 of the Act. Sub - section (3A) thereof stipulates that every profit and loss account and balance sheet of the Company shall comply with the accounting standards. Sub-section (3B) provides that where the profit and loss account and balance sheet of the company did not comply with the accounting standards, the said Company shall disclose in its profit and loss account and balance sheet, the deviation from the accounting standards, reasons for such deviation and financial effects, if any, arising due to such deviation. On conjoint reading of sub-section (3A) and (3B) of Section 211, it necessarily follows that deviation from the accounting standards is permissible subject, however, to compliance of the requirement of disclosure in the profit and loss account and balance sheet of such deviation and the reasons for such deviation and financial effects thereof. In other words, deviation of accounting standards is not wholly prohibited, but is regulated by the provisions of section 211 of the Act. The Petitioner assures to abide by the said regime. So long as such disclosure is made, the company cannot be faulted with regard to the profit and loss Account and balance sheet being in deviation from the accounting standards. Even the guidelines issued by the Institute of Chartered Accountants of India, copy whereof was produced at the time of hearing, restates this position. The same reads thus:

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“Announcement on Disclosures in cases where a Court / Tribunal makes an order sanctioning an accounting treatment which is different from that prescribed by an Accounting Standard”.

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Paragraph 4.2 of the 'Preface to the statements of Accounting Standards' (revised 2004) provides as under:

"4.2 The Accounting Standards by their very nature presentation cannot and do not override the local regulations which govern the preparation and presentation of statement in the country. However, the ICAI will determine the extent of disclosure to be made in financial statements and the auditors, report thereon. Such disclosure may be by way of appropriate notes explaining the treatment of particular items. Such explanatory notes will be only in the nature of clarification and therefore need not be treated as adverse comments on the related financial statements."

In the case of Companies, Section 211 (3B) of the Companies Act, 1956, provides that "Where the profit and loss account and the balance sheet of the Company do not comply with the accounting standards, such companies shall disclose in its profit and loss account and balance sheet, the following namely:

the deviation from the accounting Standards;  
the reasons for such deviation; and  
the financial effect, if any, arising due to such deviation."

In view of the above, if an item in the financial statements of a Company is treated differently pursuant to an order made by the court / tribunal, as compared to the treatment required by an Accounting Standard, following disclosures should be made in the financial statements of the year in which different treatment has been given:

A description of the accounting treatment made along with the reason that the same has been adopted because of the Court / Tribunal Order.  
Description of the difference between the accounting treatment, prescribed in the Accounting Standard and that followed by the Company.  
The financial impact, if any, arising due to such a difference.

It is recommended that the above disclosures should be made by enterprises other than companies also in similar situation.

16. A priori, it is not as if deviation of the accounting standards per se can be a ground to reject the scheme propounded by the Petitioner company. In the present case, it is noticed that the scheme is the product of conscious act of the shareholders. It is their commercial wisdom or business decision. In their wisdom, they have approved the proposed scheme which bestows complete discretion in the Board in which they have full confidence. As aforesaid, there is no law which prohibits adjustment of loss by spreading it out including that of the subsidiary companies. There is no manifest unfairness to the shareholders in any manner. No creditor is affected by the proposed scheme.
  17. To get over this position, it was argued by the Counsel for the objector No.2 that the Petitioner should be thrown out on account of non-disclosure of material facts. It is the case of the objector No.2 that the Petitioner company has not disclosed about the proceedings before the SEBI, Appellate Tribunal. Significantly, the said proceedings have no concern with the issue that arises for consideration. Moreover, the scheme clearly provides that the scheme would not affect the pending legal proceedings or any orders passed against the Petitioner Company. It was then argued by the objector that once the Securities Premium Account was to be transferred, the amount presently lying in the said account would become unavailable in the event the objector were to succeed in his pending proceedings before the authority. The argument clearly overlooks that if the Authority were to so direct, the Petitioner Company would be bound to pay the amount as per the said order. The fact that there would be no security premium
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account existing in future or that the amount in the said account was insufficient would not extricate the Petitioner company from obligation to pay as per the order of the competent authority or the Court. Accordingly, this apprehension is completely misplaced.

18. Counsel for the objector would then argue that the Petitioner company is a profit making company. The Accounts of the Petitioner company should reproduce a fair and accurate financial position and that the losses should necessarily be adjusted to the profit and loss account and not against the Reserve Account. All these objections will have to be only stated to be rejected for reasons already recorded in the earlier part of this Judgement. Similarly, argument of the objector that the scheme provides for wide and undefined discretion in the Board also does not commend to me. These matters would fall within the realm of commercial wisdom and sound business practice which the Petitioner company intends to adopt. The Court cannot sit over the said decision as Court of Appeal. The argument of the objectors that the scheme does not disclose the amount or for that matter non-operating extra ordinary expenses, is also of no avail. The Petitioner Company has rightly pointed out that the Books of Accounts are prepared in accordance with the requirement of law. Not only the Books of Accounts and the balance sheet of the Petitioner Company are duly prepared, but a separate consolidated statement of the Petitioner company and its subsidiary is also prepared and issued. Financial position of the Company is reflected from the consolidated accounts prepared in accordance with requirement of law.
  19. Counsel for the objector placed emphasis on clause 58 of the Accounting Standard (AS) 28 (issued 2002) Clause 58 reads thus:
 

“58. An impairment loss should be recognised as an expense in the statement of profit and loss immediately, unless the asset is carried at revalued amount in accordance with another Accounting Standard (see Accounting Standard (AS) 10, Accounting for Fixed Assets), in which case any impairment loss of a revalued asset should be treated as a revaluation decrease under that Accounting Standard.”

Relying on this provision, it was argued that impairment loss should necessarily be considered as an expense to be reflected in the profit and loss account of the company contemporaneously. However, on reading this provision, it is not possible to take the view that it completely prohibits adjustment of losses of Companies or that of subsidiary company. Assuming that the interpretation given by the objectors were to be accepted, it would result in deviation of the accounting standards. As aforesaid, provisions of Section 211 would answer this argument. Inasmuch as, Section 211 allows deviation of accounting standards subject to complying the parameters provided therein.
  20. Counsel for the objectors would then argue that none of the expenses referred to in clause 1.4 such as legal professional fees in connection with financing / refinancing acquisition or diminution in the value of investments in subsidiary companies can be adjusted against the Reserve Account. Besides, no justification is forthcoming as to why all the expenses referred to in 1.4 of the Scheme should be adjusted from the Reserve Account and not in the Profit and Loss Account. Once again this argument would be of no avail having regard to the view already taken that observing accounting standards is a norm, but deviation is impermissible. Deviation can be resorted to subject to complying with the requirement of section 211(3B). Moreover, the decision is expression of commercial wisdom or business decision of the shareholders, which cannot be lightly interfered with by this Court. Notably, the restructuring will not be prejudicial to the interest of the Shareholder, Creditors or Public. The reduction does not involve either diminution of any liability in respect of unpaid capital or the payment to any shareholder of any paid-up Capital. There is no reduction in the amount payable to any of the creditors. There is no compromise or arrangement with the creditors. The asset cover
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ratio as per the agreement with the creditors will continue even after the restructuring. The restructuring does not involve any cash outflow or affect the normal operation of the Petitioner. It will not impact the ability of the Company to honour its commitments and to pay its debts. Whereas, it is intended to project a more realistic picture of the financial position of the Company.

21. Taking over all view of the matter therefore, there is no substance in the objections taken to the proposed scheme either by the two objectors or the recommendation of the Regional Director for placing time limit upto 31st March, 2009. In that view of the matter, the Petition should succeed.
22. Since all the requisite statutory Compliances have been fulfilled, Company Petition No. 293 of 2009 filed by the Petitioner Company is made absolute in terms of prayer clauses (a) to (f).
23. The Petitioner in the Company Petition to pay cost of Rs. 7500/- to the Regional Director, Western Region. Costs to be paid within four Weeks from today.
24. Filing and issuance of the drawn up order is dispensed with.
25. All authorities concerned to act on a copy of this Order alongwith authenticated by the Company Registrar, High Court, Bombay.

By the Court  
For Prothonotary & Senior Master  
(A. M. Khanwilkar J)

Sealer  
Dated 29th day of June 2009

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SCHEME OF ARRANGEMENT  
BETWEEN  
HINDALCO INDUSTRIES LIMITED  
AND  
ITS SHAREHOLDERS

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This composite Scheme of Arrangement is presented under Section 391 of the Companies Act, 1956 for undertaking a financial restructuring exercise whereby Hindalco Industries Limited ("HIL" or "the Company") would create a "Reconstruction Reserve Account" from its Securities Premium Account balance to adjust the expenses as defined in clause 1.4. Further, as and when the Board of HIL determines that a part or whole of the balance remaining in the Reconstruction Reserve Account is no longer required, the same can be transferred to the Securities Premium Account of the Company (the "Financial Restructuring Exercise") as detailed in this Scheme as under:

Part I - PREAMBLE

**Background and Objectives:**

**WHEREAS:**

- A. HIL is the flagship Company of the Aditya Birla Group and a leading manufacturer of aluminium and copper.
- B. Over the years, Hindalco has grown into the largest vertically integrated non - ferrous metal company in the country and among the largest primary producers of aluminium and copper in Asia.
- C. In 2007, the acquisition of Novelis Inc., a world leader in aluminium rolling and can recycling, marked a significant milestone in the history of the aluminium industry in India.
- D. An important element of HIL's growth strategy has been to seek out opportunities for acquisitions and strategic partnerships in India as well as overseas with a view to diversify its product portfolio, consolidation of customer base and to extend the presence of the Company in overseas markets.
- E. Such an endeavor by the Company would not only provide HIL with an opportunity to widen its international footprint but also enable the newly acquired companies to increase their margins through reduction of labour and other costs.
- F. HIL has been successful in enhancing its presence in the international markets. However, this has resulted in HIL incurring various costs relating to organic as well as inorganic growth projects. In its endeavor to grow further, HIL would continue to incur these costs in the future.

The present global economic scenario especially in the commodity space has had an adverse impact on HIL's domestic and overseas operations, which would result in impairment / diminution in value of assets / investments of HIL and its subsidiaries.

Since these expenses/costs are inevitable for the growth of HIL and its shareholders, HIL is now proposing to undertake the Financial Restructuring Exercise as detailed hereinafter in this Scheme.

- G. With a view to provide greater level of transparency and openness and to secure full involvement of all the shareholders/stakeholders, the Company has decided to present this proposal as a Scheme under Section 391 of the Companies Act, 1956.
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Part II - DEFINITIONS AND SHARE CAPITAL

1. **DEFINITIONS**

Unless repugnant to the context or meaning thereof, in this Scheme:

- 1.1. **"Act"** means the Companies Act, 1956, shall include any statutory modification, re-enactments or amendments, if any, thereto.
  - 1.2. **"Board"** means the Board of Directors of Hindalco Industries Limited or any committee thereof duly constituted or appointed by the board for this purpose.
  - 1.3. **"Effective Date"** means the date on which the authenticated copy or the certified copy of the Order, whichever is earlier issued by the Hon'ble High Court of Judicature at Bombay is filed with the Registrar of Companies at Mumbai, Maharashtra.
  - 1.4. **"Expenses"** means and without limiting the generality of the foregoing, includes inter-alia the following items accounted for in the financial statements of HIL:
    - 1.4.1. Impairment, amortization and / or write off of goodwill and other intangible assets, if any, arising on preparation of consolidated accounts of HIL;
    - 1.4.2. Interest and other financial charges paid / payable on borrowings for acquisitions by HIL and / or any of its subsidiaries and interest and other financial charges paid/ payable upon refinancing of such borrowings;
    - 1.4.3. Impairment of assets / investments / intangibles in the Financial Statements of HIL and / or any of its subsidiaries;
    - 1.4.4. Diminution in the value of investments in subsidiary companies in the Financial Statements of HIL and / or any of its subsidiaries;
    - 1.4.5. Costs associated with existing projects / divisions in part and/or whole by HIL and / or any of its subsidiaries and financial costs associated with delay in projects;
    - 1.4.6. Consultants, law firms fees and/or any fees payable towards professional services (say due diligence, etc) in connection with financing/refinancing acquisitions.
  - 1.5. **"Financial statements"** would include stand alone and consolidated quarterly / annual accounts of HIL(including cash flow statements, profit and loss account and other financials published along with annual accounts, and quarterly / public reported financial statements of HIL).
  - 1.6. **"High Court"** means the Hon'ble High Court of Judicature at Bombay having jurisdiction in respect of HIL.
  - 1.7. **"HIL"** or **"the Company"** means Hindalco Industries Limited, an existing Company under the Act and having its registered office at Century Bhavan, 3rd floor, Dr Annie Besant Road, Worli, Mumbai - 400 030.
  - 1.8. **"INR"** means Indian National Rupee.
  - 1.9. **"Scheme"** or **" the Scheme"** or **" this Scheme"** means this Scheme of Arrangement in its present form filed with the High Court of Judicature at Bombay or any other authority with any modifications approved or imposed or directed by the Hon'ble High Court of Judicature at Bombay or modifications made under clause (6) of this scheme.
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## 2. SHARE CAPITAL

The share capital of Hindalco Industries Limited as per the latest audited financial statement on 31st March, 2008 was as under:

	INR in million
<u>Authorized Share Capital</u>	
25,000,000 Redeemable Cumulative Preference Shares of Rs.2 each (pursuant to the Scheme of Amalgamation)	50.00
1,450,000,000 Equity shares of Re.1 each.	1,450.00
<b>TOTAL</b>	<b>1,500.00</b>
<u>Issued</u>	
1,227,190,692 equity shares of Re. 1 each	1,227.19
<u>Subscribed and Paid-Up Capital</u>	
1,227,190,692 equity shares of Re. 1 each	1,227.19
Less: Face Value of 60,500 equity shares forfeited	0.06
Add: Forfeited Shares Account (Amount Paid-up)	0.03
Less: Calls in Arrears	0.68
<b>TOTAL</b>	<b>1,226.48</b>

Post 31st March, 2008, the Company has made the Rights Issue with an issue price of Rs. 96 per equity share. The ratio of rights entitlement was 3 (three) equity shares for every 7 (seven) equity shares held in the Company. The Company has issued 525,802,403 equity shares of Re. 1 each on rights basis at a price of Rs. 96 per share as fully paid-up vide Letter of Offer dated 13th September, 2008 against which allotment has been made for 473,398,534 equity shares on 23rd October, 2008 and allotment of 718,769 have been kept in abeyance due to legal issues. Remaining 5,16,85,100 shares have been cancelled from the issued capital of the Company.

Further, the Company has issued 227,454 equity shares of Re. 1 each, fully paid-up, under Employees Stock Option Scheme and 376 equity shares of Re.1 each and 2,032,734 6% Redeemable Cumulative Preference Shares of Rs. 2 each pursuant to amalgamation of Indian Aluminium Company Limited, into the Company.

The share capital structure of the Company as on 31st December, 2008 was as under:

	INR in million
<u>Authorized Share Capital</u>	
25,000,000 Redeemable Cumulative Preference Shares of Rs.2 each (pursuant to the Scheme of Amalgamation)	50.00
1,950,000,000 Equity shares of Re. 1 each.	1,950.00
<b>TOTAL</b>	<b>2,000.00</b>

	INR in million
<u>Issued</u>	
1,701,535,825 equity shares of Re. 1 each	1,701.54
2,032,734 6% Redeemable Cumulative Preference Shares of Rs. 2 each	4.06
<b>TOTAL</b>	<b>1,705.60</b>
<u>Subscribed and Paid-Up Capital</u>	
1,700,817,056 equity shares of Re. 1 each	1,700.82
Less: Face Value of 546,249 shares forfeited	0.55
Add: Forfeited Shares Account (Amt. paid-up)	0.23
Less: Calls in Arrears	0.00
	<b>1700.50</b>
Add: 2,032,734 6% Redeemable Cumulative Preference Shares of Rs. 2 each	4.06
<b>TOTAL</b>	<b>1,704.56</b>

**Part III . FINANCIAL RESTRUCTURING OF HIL AND ACCOUNTING  
TREATMENT**

3. **CREATION AND UTILIZATION OF BUSINESS RECONSTRUCTION RESERVE ACCOUNT.**
  - 3.1. Securities Premium Account as appearing in the books of accounts of HIL as on 31st March, 2008 shall be credited to Business Reconstruction Reserve Account on 1st April, 2008, to such extent as may be determined by the Board.
  - 3.2. Further, additions to the Securities Premium Account appearing in the books of accounts of HIL as on 31st December, 2008, consequent to the Rights issue made by the Company in the month of October, 2008 shall be available for credit to the "Business Reconstruction Reserve Account", to such extent as may be considered appropriate by the Board.
  - 3.3. For the preparation of standalone financial statements of HIL on or at any time after 1st April, 2008, expenses incurred by HIL covered within clause 1.4 of the said scheme, would be adjusted against Business Reconstruction Reserve Account balance created pursuant to clause 3.1 and 3.2 above instead of being debited to standalone Profit & Loss Account of HIL on or at any time after 1st April, 2008.
  - 3.4. For the preparation of consolidated financial statements of HIL on or at any time after 1st April, 2008, expenses incurred by subsidiary of HIL covered within clause 1.4 of the said scheme, would be adjusted in Business Reconstruction Reserve Account created pursuant to clause 3.1 and 3.2 above instead of being shown in the consolidated Profit & Loss Account of HIL on or at any time after 1st April, 2008.
  - 3.5. The amounts credited to the Business Reconstruction Reserve Account as mentioned in clause 3.1 and 3.2 above, shall be utilized by HIL to adjust the Expenses as defined in clause 1.4, and as prescribed in other parts of the Scheme on an ongoing basis from 1st April, 2008 and thereafter for the subsequent financial years.

- 3.6. As and when the Board of HIL determines that a part or whole of the balance remaining in the Business Reconstruction Reserve Account is no longer required to adjust the expenses as defined in clause 1.4, then such part or whole of the balance, so determined can be transferred to the Securities Premium Account of the Company.
- 3.7. To the extent the amount is transferred to the Business Reconstruction Reserve Account as mentioned in Clauses 3.1 and 3.2 above, there shall be reduction of the Securities Premium Account which shall be effected as an integral part of the Scheme itself in accordance with the provisions of Section 78 and Sections 100 - 105 of the Act, as the same does not involve either diminution of liability in respect of unpaid share capital or payment to any shareholder of paid-up share capital and the order of the Hon'ble High Court sanctioning the Scheme, shall be deemed to be an order under Section 102 of the Act confirming reduction of Securities Premium Account. The provisions of Section 101 of the Act will not be applicable.
- 3.8. Notwithstanding the reduction as mentioned above, HIL shall not be required to add "and reduced" as a suffix to its name and HIL shall continue in its existing name.

#### 4. Alteration in the Articles of Association

As an integral part of this Scheme and upon the coming into effect of this Scheme, Article 71 of the Articles of Association of the Company shall stand amended without any further act, deed, permission and/or compliance, reading as under:

"The words "Share Premium Account" shall be substituted with the words 'Securities Premium Account' in Article 71 (c) of the Articles of Association of the Company."

#### 5. NO ISSUANCE OF SHARES

This Scheme as presented by the Company would result in the Company improving its financial status for the benefit of the shareholders/stakeholders and, it is therefore sufficient consideration for the members of the Company to agree and approve the Scheme in its present form. The Parties to the Scheme agree and acknowledge the adequacy and sufficiency of the consideration. It being further agreed and acknowledged that as the Scheme involves the creation of Business Reconstruction Reserve Account in the books of the Company on account of clause 3.1 and 3.2 and utilization of the same against the expenses defined in clause 1.4 and as prescribed in other parts of the Scheme, there would not be any issue of shares or discharge of any consideration in cash or otherwise.

#### 6. CONDUCT OF BUSINESS

- 6.1. Nothing contained in the Scheme shall affect the conduct of business of HIL and/or any deeds, bonds, contracts, agreements and any other instruments to which HIL is a party and/or all legal or other proceedings by or against HIL.
- 6.2. Further, nothing contained in the scheme shall affect the existing rights of the workers and employees of HIL.

### Part IV - GENERAL TERMS AND CONDITIONS

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

- 7.1. HIL shall by its Board or its committees thereof, may make and/or consent to any modifications/amendments to the Scheme or to any conditions or limitations that the Court or any other authority may deem fit to direct or impose or which may otherwise be considered necessary, desirable or appropriate by them.
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- 7.2. HIL by its Board or its committees thereof shall be authorised to take all such steps as may be necessary, desirable or proper to resolve any doubts, difficulties or questions whether by reason of any directive or order of any other authority or otherwise however arising out of or under or by virtue of the Scheme and/or any matter concerned or connected therewith.
- 7.3. 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 Board affect the adoption or validity or interpretation of the other parts and/or provisions of this Scheme. It is hereby clarified that the Board may in their absolute discretion, adopt any part of this Scheme or declare the entire Scheme to be null and void and in the event no rights and liabilities whatsoever shall accrue to its shareholders or creditors or employees or any other person.
- 7.4. In case of any doubts arising on account of interpretation of any of the clauses of the Scheme, the matter shall be referred to the Board or its committees thereof for the purpose of implementation of the Scheme.
- 7.5. On the approval of this Scheme by the members of the Company pursuant to Section 391 of the Act, it shall be deemed that the members have also accorded all relevant consents under Section 31 and any other provisions of the Act to the extent the same may be considered necessary or required.

#### **8. CONDITIONALITY OF THE SCHEME**

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

- 8.1. This Scheme being approved by the respective requisite majorities of the various classes of members and creditors (where applicable) as required under the Act.
- 8.2. Sanction by the Hon'ble High Court, Bombay and authenticated copy or certified copy of the order of the Hon'ble High Court, sanctioning the Scheme being filed with the Registrar of Companies, Mumbai, Maharashtra.
- 8.3. All other sanctions and approvals as may be required by law in respect of this Scheme being obtained.

#### **9. BINDING EFFECT**

- 9.1. Upon the Scheme becoming effective, the same shall be binding on the Company and all concerned parties without any further act, deed, matter or thing.

#### **10. APPLICATION TO HIGH COURT**

- 10.1. HIL shall, with all reasonable dispatch, make applications to the Hon'ble High Court of Judicature at Bombay where the registered office of the Company is situated or such other authority having jurisdiction under law, under Section 391 of the Act, seeking orders for dispensing with or convening, holding and conducting of the meetings of the respective classes of the members and/or creditors of the Company as may be directed by the Hon'ble High Court or such other authority having jurisdiction under law.
  - 10.2. On the Scheme being agreed to by the requisite majorities of the classes of the members and/or creditors of the Company as directed by the Hon'ble High Court of Judicature at Bombay or such other authority having jurisdiction under law, the Company shall, with all reasonable dispatch, apply to the Hon'ble High Court of Judicature at Bombay or such other authority having jurisdiction under law, for sanctioning the Scheme under Section 391 and for such other order or orders, as the said Hon'ble High Court or such other authority having jurisdiction under law may deem fit for carrying this Scheme into effect.
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**11. EFFECT OF NON-RECEIPT OF APPROVALS**

- 11.1. In case the Scheme is not sanctioned by the Hon'ble High Court of Judicature at Bombay, or in the event any of consents, approvals, permissions, resolutions, agreements, sanctions or conditions enumerated in the Scheme not being obtained or complied or for any other reason, the Scheme cannot be implemented, the Scheme shall become null and void.

**12. COSTS, CHARGES & EXPENSES**

- 12.1. All costs, charges, taxes, stamp and other duties, levies and all other expenses, in connection with this Scheme and matters incidental thereto (including but not limited to legal fees and other costs, charges and expenses incurred in the preparation, execution and implementation of this Scheme) shall be paid and borne by HIL and would be adjusted against the Business Reconstruction Reserve Account on the Scheme becoming effective.
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IN THE HIGH COURT OF JUDICATURE  
AT BOMBAY

ORDINARY ORIGINAL CIVIL  
JURISDICTION

CO.PETN. NO. 293 OF 2009  
CONNECTED WITH  
CO.APPLN.NO. 234 OF 2009

In the matter of the Companies Act, 1956;

And

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

And

IN THE MATTER of Hindalco Industries Limited;

And

IN THE MATTER of Scheme of Arrangement involving  
financial restructuring of Hindalco Industries Limited and its  
Equity shareholders.

Hindalco Industries Limited...

Petitioner Company

Authenticated Copies of Minutes of Order  
dated 22nd June, 2009 along with Scheme  
of Arrangement

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Dated 29th day of June, 2009

M/s. Chitnis & Co.  
Advocates for the Petitioner  
1st Floor, 3/B, Ismail Building,  
381, Dr. D.N. Road,  
Near American Dryfruit,  
Fort, Mumbai - 400 023.

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