



ORIENT ABRASIVES LIMITED

MEETING OF THE EQUITY SHAREHOLDERS	CONTENTS	PAGES
Date : 26th February, 2011	Notice convening Meeting of the Equity Shareholders of ORIENT ABRASIVES LIMITED	2
Time : 10.30 A.M.		
Venue : Hindi Bhawan, 11, Vishnu Digambar Marg, Near Bal Bhawan, New Delhi - 110002	Explanatory Statement under Section 393 of the Companies Act, 1956	4
	Scheme of Arrangement and Demerger under Sections 391 to 394 of the Companies Act, 1956	14
	Form of Proxy	23
	Attendance Slip	25

**IN THE HIGH COURT OF DELHI AT NEW DELHI
ORIGINAL JURISDICTION
COMPANY APPLICATION (M) NO. 3 OF 2011**

IN THE MATTER OF:

Sections 391 and 394 of the Companies Act, 1956;

AND IN THE MATTER OF:

Scheme of Arrangement (Demerger) between Orient Abrasives Limited and Orient Refractories Limited pursuant to Sections 391 to 394 and other relevant provisions of the Companies Act, 1956

AND IN THE MATTER OF:

Orient Abrasives Limited, a Company incorporated under the provisions of the Companies Act, 1956 having its Registered Office at 1307, Chiranjiv Tower, 43 Nehru Place, New Delhi-110019, within the aforesaid jurisdiction.

... APPLICANT / TRANSFEROR COMPANY

AND IN THE MATTER OF:

Orient Refractories Limited, a Company incorporated under the provisions of the Companies Act, 1956 having its Registered Office at 1307, Chiranjiv Tower, 43 Nehru Place, New Delhi-110019, within the aforesaid jurisdiction.

... TRANSFEREE COMPANY

NOTICE CONVENING MEETING OF THE EQUITY SHAREHOLDERS OF ORIENT ABRASIVES LTD.

To

**THE EQUITY SHAREHOLDERS OF
ORIENT ABRASIVES LTD.**

Take notice that by order dated 11th January, 2011, the Hon'ble High Court of Delhi at New Delhi has directed that separate meetings of the equity shareholders, secured creditors and the unsecured creditors of the above-mentioned Applicant/Transferor Company be held for the purpose of considering and if thought fit, approving with or without modification, the Scheme of Arrangement (Demerger) between Orient Abrasives Ltd. and Orient Refractories Ltd. (hereinafter referred to as "the Scheme").

In pursuance of the said order and as directed therein, further notice is hereby given that a meeting of the Equity Shareholders of the Company will be held at Hindi Bhawan, 11, Vishnu Digambar Marg, Near Bal Bhawan, New Delhi - 110002 on Saturday, the 26th day of February, 2011, at 10.30 A.M. at which time and place the said Equity Shareholders of the Applicant Company are requested to attend.

Take further notice that you may attend and vote at the meeting in person or by proxy, provided that a proxy in the prescribed form is deposited at the Registered Office of the Company at 1307, Chiranjiv Tower, 43 Nehru Place, New Delhi-110019 not later than 48 hours before the meeting.

The Court has appointed Mr. Dinesh Agnani, Advocate, as Chairman and Ms. Binny Kalra, Advocate, as the Alternate Chairperson of the said meeting of the Equity Shareholders of Orient Abrasives Limited.

The above-mentioned Scheme, if approved by the meeting, will be subject to the subsequent approval of the Court.

Copies of the Scheme, the Explanatory Statement under Section 393 and the Form of Proxy are enclosed herewith and can also be had free of charge at the Registered Office of the Company at 1307, Chiranjiv Tower, 43 Nehru Place, New Delhi-110019.

Dated this 24th day of January, 2011

Sd/-

(DINESH AGNANI)
CHAIRMAN APPOINTED FOR THE MEETING

**IN THE HIGH COURT OF DELHI AT NEW DELHI
ORIGINAL JURISDICTION
IN
COMPANY APPLICATION (M) NO. 3 OF 2011**

IN THE MATTER OF:

Sections 391 to 394 of the Companies Act, 1956

AND IN THE MATTER OF:

Scheme of Arrangement (Demerger) between Orient Abrasives Limited and Orient Refractories Limited pursuant to Section 391 to 394 and other relevant provisions of the Companies Act, 1956

AND IN THE MATTER OF:

Orient Abrasives Limited, a Company incorporated under the provisions of the Companies Act, 1956 having its Registered Office at 1307, Chiranjiv Tower, 43 Nehru Place, New Delhi-110019, within the aforesaid jurisdiction.

... APPLICANT / TRANSFEROR COMPANY

AND IN THE MATTER OF:

Orient Refractories Limited, a Company incorporated under the provisions of the Companies Act, 1956 having its Registered Office at 1307, Chiranjiv Tower, 43 Nehru Place, New Delhi-110019, within the aforesaid jurisdiction.

... APPLICANT / TRANSFEREE COMPANY

EXPLANATORY STATEMENT UNDER SECTION 393 OF THE COMPANIES ACT, 1956

1. Pursuant to the order dated 11th January, 2011 passed by the Hon'ble High Court of Delhi at New Delhi on the Company Application referred to above, separate meetings of the Equity Shareholders, Secured Creditors and Unsecured Creditors of Orient Abrasives Limited, the Applicant/Transferor Company, are being convened for the purpose of considering and if though fit, approving with or without modification(s), the Scheme of Arrangement (Demerger) between Orient Abrasives Limited, the Applicant / Transferor Company, and Orient Refractories Limited, the Applicant / Transferee Company. A certified copy of said order is available for inspection at the registered office of the abovementioned Applicant Companies situated at 1307, Chiranjiv Tower, 43 Nehru Place, New Delhi-110019 between 10 A.M. and 5 P.M. on any working day except Saturdays, Sundays and company holidays up to the date of the meeting.
2. The rationale for the proposed Scheme of Arrangement (Demerger) and its main benefits are, inter alia, summarized as under:
 - (a) The Applicant / Transferor Company has three distinct businesses, i.e., abrasive grains, refractories and power. Each of the businesses of the Applicant / Transferor Company has significant potential for growth and profitability. However, since the nature of risks, considerations, factors and commercial parameters applicable to the business of refractories being different and divergent in nature in comparison to that of abrasive grains and power and with an endeavour to enhance shareholder value and de-risk the businesses of the Applicant / Transferor Company, it is proposed to re-organize and segregate, by way of a Demerger, the Refractory Undertaking situated at Bhiwadi from the remaining businesses and vest it in a separate company, i.e., the Applicant / Transferee Company ('Proposed Demerger').
 - (b) The Proposed Demerger will result in better, efficient and economical management, control and running of the businesses and further development and growth of the businesses of both the Applicant Companies.
 - (c) The Proposed Demerger would allow a focused strategy in operations of the Refractory Undertaking alongwith providing scope for independent collaboration and expansion without committing the existing organization in its entirety and creating enhanced value for shareholders.
- (d) The Proposed Demerger, and vesting of the Refractory Undertaking from the Applicant / Transferor Company and in the Applicant / Transferee Company, with effect from the Appointed Date, i.e. 1st April, 2011, is in the interest of the shareholders, creditors, employees and all concerned. The Proposed Demerger will unlock significant value for the shareholders of the Applicant / Transferor Company and the Applicant / Transferee Company and would also provide greater business focus for both the Applicant Companies.
3. The Board of Directors of the Applicant Companies have approved the Scheme of Arrangement (Demerger) in their respective meetings held on 8th December, 2010.
4. The Applicant / Transferor Company was incorporated on 12th November, 1971 under the provisions of the Companies Act, 1956 as a Company limited by shares and was issued a Certificate of Incorporation by the Registrar of Companies, New Delhi.
5. The Authorised Share Capital of the Applicant/ Transferor Company as on 30th September, 2010 is Rs. 16,00,00,000/- (Rupees Sixteen Crores only) divided into 12,00,00,000 (Twelve Crores only) Equity Shares of Re.1/- (Rupee One only) each and 4,00,000 (Four Lacs only) Redeemable Cumulative Preference shares of Rs. 100/- (Rupees One Hundred only) each. The Issued and Subscribed Share Capital of the Applicant/ Transferor Company as on 30th September, 2010 is Rs.11,96,59,200 (Rupees Eleven Crores Ninety Six Lacs Fifty Nine Thousand Two Hundred only) divided into 11,96,59,200 (Eleven Crores Ninety Six Lacs Fifty Nine Thousand Two Hundred only) Equity Shares of Re.1/- (Rupees One only) each. The Paid-Up Share Capital of the Applicant/ Transferor Company as on 30th September, 2010 is Rs.11,96,52,244 (Rupees Eleven Crores Ninety Six Lacs Fifty Two Thousand Two Hundred Forty four only) divided into 11,96,39,200 (Eleven Crores Ninety Six Lacs Thirty Nine Thousand Two Hundred) Equity Shares of Re.1/- (Rupees One only) each and comprising of Rs. 13,044 (Rupees Thirteen Thousand and Forty Four only) being amount paid up on the forfeited shares.
6. The main objects of the Applicant/ Transferor Company have been set out in its Memorandum of Association. The Company upon obtaining Certificate of Commencement of Business commenced its business and has been carrying on the same. It is presently engaged in the business of abrasive grains, refractories and power.

7. The financial position of the Applicant/ Transferor Company as per its audited Balance Sheet as on 31st March, 2010 is as under:-

Particulars		Amount (Rs in thousands.)
(i)	Secured Loans	4,92,128
	Unsecured Loans	1,41,125
(ii)	Paid up Share Capital	1,19,652
	Reserves & Surplus	13,85,520
	Less: Miscellaneous expenditure not written off	Nil
	Net Shareholders Fund	15,05,172
(iii)	Deferred tax liabilities	55,983
	TOTAL	21,94,408
(iv)	Total Assets	27,24,657
	Current Liabilities	(5,30,249)
	Debit Balance in Profit and Loss Account	Nil
	TOTAL	21,94,408

8. Subsequent to the date of the aforesaid audited accounts, there has been a slight change in the financial position and net fixed assets as per the unaudited Balance Sheet as on 30th September, 2010 as under:

Amount (Rs. in thousands.)

		As on 31 st March, 2010 (Audited)	As on 30 th September, 2010 (Unaudited)
(i)	Secured Loans	4,92,128	8,60,539
	Unsecured Loans	1,41,125	17,635
(ii)	Paid up Share Capital	1,19,652	1,19,652
	Reserves & Surplus	13,85,520	16,08,532
	Less: Miscellaneous expenditure not written off	Nil	Nil
	Net Shareholders Fund	15,05,172	17,28,184
(iii)	Deferred tax liabilities	55,983	85,921
	TOTAL	21,94,408	26,92,279
(iv)	Total Assets	7,24,657	31,19,966
	Current Liabilities	(5,30,249)	(4,27,687)
	Debit Balance in Profit and Loss Account	Nil	Nil
	TOTAL	21,94,408	26,92,279

Apart from the aforesaid, there has been no substantial change between 31st March, 2010 and 30th September, 2010 in the financial position of the Applicant/Transferor Company, excepting those arising or resulting from the normal course of business.

9. The Applicant/Transferee Company was incorporated on 26th November, 2010 under the provisions of the Companies Act, 1956 as a company limited by shares and was issued a Certificate of Incorporation by the Registrar of Companies, New Delhi.
10. The Authorised Share Capital of the Applicant/ Transferee Company is Rs. 12,05,00,000/- (Rupees Twelve Crores Five Lacs only) divided into 12,05,00,000 (Twelve Crores Five Lacs only) Equity Shares of Re. 1/- (Rupee One Only) each. The Issued, Subscribed and Paid-Up Share Capital of the Applicant/ Transferee Company is Rs 5,00,000/- (Rupees Five Lacs only) divided into 5,00,000 (Five Lacs only) Equity Shares of Re. 1/ - (Rupee One only) each.
11. The main objects of the Applicant/Transferee Company have been set up in its Memorandum of Association. The Company currently has no operations and intends to, inter alia, be engaged in the business activities and operations pertaining to the refractories.

12. The Applicant/Transferee Company has maintained proper books of account as required by law. The assets and liabilities position of the Applicant/Transferee Company as on 31st December, 2010 is as follows:

Amount in Rs.

SOURCES OF FUNDS	
Shareholders' Funds	
Share Capital	500,000
Reserves & Surplus	Nil
	500,000
Loan funds	
Secured Loans	Nil
Unsecured Loans	Nil
	Nil
Total	500,000
APPLICATION OF FUNDS	
Fixed Assets	
Gross Block Nil	
Less: Accumulated Depreciation	Nil
	Nil
Current Assets, Loans and Advances	Nil
Inventories	Nil
Sundry Debtors	Nil
Cash and Bank Balances	500,000
Other Current Assets	Nil
Loans and Advances	Nil
	500,000
Less: Current Liabilities and Provisions Current Liabilities	Nil
Provisions	Nil
	Nil
Net Current Assets	500,000
Total	500,000

13. Subsequent to the date of the aforesaid statement, there has not been any substantial change in the financial position of the Applicant/Transferee Company.

14. In the circumstances, it is considered desirable and expedient to demerge the Refractory Undertaking of the Applicant/Transferor Company and transfer it to the Applicant/Transferee Company in the manner and on the terms and conditions stated in the said Scheme of Arrangement (Demerger).

15. The salient features of the said Scheme of Arrangement (Demerger) between the Applicant Companies are as follows (as have been detailed in the Scheme of Arrangement (Demerger)):-

(I) "Appointed Date" means the commencement of business on April 01, 2011, the date with effect from which the Scheme of Arrangement and Demerger shall be applicable.

(II) "Demerged Undertaking" means the undertaking of the Transferor Company comprising of the business, activities and operations pertaining to refractories being carried on by the Transferor Company at its manufacturing unit at Bhiwadi, Plot No. S P – 148 A & B, Industrial Area, Bhiwadi, (District Alwar), Rajasthan - 301019 and alongwith its related marketing and distribution units, branch offices and godowns situated all over India and including specifically the following (without limitation):

(i) all assets, whether movable or immovable, whether tangible or intangible, leasehold or freehold, including all rights, title, derivative instruments, interest, covenant, undertakings, liabilities relating thereto, and all loans and advances, appertaining to the Demerged Undertaking of the Transferor Company;

(ii) All debts, borrowings and liabilities, present or future, whether secured or unsecured, pertaining to the Demerged Undertaking of the Transferor Company;

(iii) All rights, entitlements, permissions, licenses, registrations, tenancies, privileges and benefits of all contracts including customer contracts, agreements and all other rights including lease rights, powers and facilities of every kind and description whatsoever appertaining to the Demerged Undertaking of the Transferor Company; and

(iv) All employees of the Transferor Company engaged in or in relation to the Demerged Undertaking of the Transferor Company at their respective offices, at their current terms and conditions.

(III) "Effective Date" or "upon this Scheme becoming effective" or "upon coming into effect of this Scheme" shall mean the date or the last of the dates on which the certified copy of the formal order of the High Court sanctioning this Scheme, as defined hereunder, is filed with the Registrar of Companies, New Delhi by both Transferor Company and Transferee Company.

(IV) Upon the coming into effect of this Scheme and with effect from the Appointed Date:

(a) the Demerged Undertaking shall without any further act, deed, instrument, matter or thing be demerged and vested in the Transferee Company on a going concern basis at book value (i.e., values as stated in the books of accounts of the Transferor Company immediately before the Appointed Date) pursuant to the provisions of Section 394 of the Act, together with all estate, assets, debts, outstandings, credits, liabilities, rights, claims, title, interest and authorities including accretions and appurtenances so as to become the property of the Transferee Company free from any encumbrance subject to the clauses herein below.

(b) Without prejudice to the generality of the above clause, it is expressly provided that in respect of such of the assets of the Demerged Undertaking, including cash and bank balances, as are movable in nature or are otherwise capable of transfer by physical delivery, by paying over or by endorsement and delivery, the same shall be so transferred by the Transferor Company to the Transferee Company, with effect from the Appointed Date, after the Scheme is sanctioned by the High Court without requiring any deed or instrument of conveyance for the same and shall become the property of the Transferee Company as an integral part of the Demerged Undertaking.

(c) All the licenses, essentiality certificates, permits, quotas, approvals, permissions, incentives, sales tax deferrals, loans, subsidies, concessions, grants, rights, claims, leases, refund of monies, tenancy rights, liberties, rehabilitation schemes, special status and other benefits or privileges enjoyed by or conferred upon or held or availed of by and all rights and benefits that have accrued or which may accrue to the Transferor Company relating to the Demerged Undertaking shall, pursuant to the provisions of

Section 394(2) 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 transferred to and vested in and be available to the Transferee Company so as to become as and from the Appointed Date the licenses, essentiality certificates, permits, quotas, approvals, permissions, incentives, sales tax deferrals, loans, subsidies, concessions, grants, rights, claims, leases, refund of monies, tenancy rights, liberties, rehabilitation schemes, special status and other benefits or privileges of the Transferee Company and shall remain valid, effective and enforceable on the same terms and conditions to the extent permissible under applicable law.

(d) All assets, estate, rights, titles, interests, licenses, essentiality certificates and authorities (including for the operation of bank accounts) acquired by or permits, quotas, approvals, permissions, incentives, sales tax deferrals, loans or benefits, subsidies, concessions, grants, rights, claims, leases, tenancy rights, liberties, rehabilitation schemes and other assets, special status and other benefits or privileges enjoyed or conferred upon or held or availed of by and/or all rights and benefits that have accrued or which may accrue to the Transferor Company relating to the Demerged Undertaking on or after the Appointed Date and prior to the Effective Date in connection with or in relation to the operation of the Transferor Company relating to the Demerged Undertaking shall, upon the coming into effect of this Scheme, pursuant to the provisions of Section 394(2) of the Act, without any further act, instrument or deed, be and stand transferred to and vested or deemed to have been transferred to and vested in the Transferee Company.

(V) Upon the coming into effect of this Scheme and with effect from the Appointed Date:

(a) All debts, liabilities, duties and obligations of any kind, nature or description, secured or unsecured, whether provided for or not, whether disclosed or undisclosed in the books of accounts of Transferor Company, as on the Appointed Date, and relating to the Demerged Undertaking shall, pursuant to the provisions of Section 394(2) of the Act, without any further act, instrument

- or deed be and shall stand transferred to and vested in the Transferee Company, so as to become the debt, liabilities, duties and obligations of the Transferee Company. Further, it shall not be necessary to obtain the consent of any third party or other person who is a party to any contract or arrangement by virtue of which such debts, liabilities, duties and obligations have arisen in order to give effect to the provisions of this Clause.
- (b) It is clarified that in so far as the assets of the Transferor Company are concerned, the security or charge over such assets or any part thereof, relating to any loans, debentures or borrowings of the Transferor Company, shall, without any further act or deed continue to relate to such assets or any part thereof after the Effective Date and shall not relate to or be available as security or charge in relation to any or any part of the assets of the Transferee Company, save to the extent warranted by the terms of the existing security arrangements, if any. The term loan(s) outstanding in the books of the Transferor Company is related to the Retained Business of the Transferor Company and no part thereof is being transferred along with the Demerged Undertaking to the Transferee Company, therefore the charge, if any, on the assets of the Demerged Undertaking, shall not extend to the Transferee Company.
- (c) It is further clarified that, upon the coming into effect of the Scheme and in cases other than those referred to in Clause (IV)(a) above, proportionate part of the general or multipurpose borrowings and liabilities raised for financing the working capital of the Transferor Company shall, without any further act or deed be and shall stand transferred to the Transferee Company in the same proportion in which the value of the current assets transferred under this Scheme bears to the total value of the current assets of the Transferor Company immediately before the demerger of the Demerged Undertaking. The Charge on the assets of the Transferor Company in respect of the working capital loan(s) shall be transferred to the assets of the Transferee Company in proportion to the working capital transferred to the Transferee Company.
- (d) Where any of the liabilities and obligations of the Transferor Company as on the Appointed Date deemed to be 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.
- (e) All loans raised and used and all debts, duties, undertakings, liabilities and obligations incurred or undertaken by the Transferor Company in relation to or in connection with the operation of the Demerged Undertaking after the Appointed Date and prior to the Effective Date shall also 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 the Scheme, pursuant to the provisions of Section 394(2) 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 debt, duties, undertakings, liabilities and obligations of the Transferee Company which shall meet, discharge and satisfy the same.
- (f) Subject to the necessary consents being obtained in accordance with the terms of this Scheme, 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.
- (VI) With effect from the Appointed Date and until the Effective Date:
- (a) Transferor Company shall carry on and shall be deemed to have carried on all business and activities relating to the Demerged Undertaking of the Transferor Company for and on behalf of the Transferee Company.
- (b) All profits or incomes accruing or arising to the Transferor Company and all taxes thereon (including but not limited to the effect of advance tax, tax deducted at source, etc.), any expenditure incurred by or losses arising to the Transferor

Company relating to the Demerged Undertaking shall, for all purposes be treated and be deemed to be and accrue as the profits or incomes, taxes thereon (including but not limited to the effect of advance tax, tax deducted at source, etc.), expenditure or losses as the case may be, of the Transferee Company.

- (VII) Upon the coming into effect of this Scheme and subject to the provisions of this Scheme, all contracts including customer contracts, deeds, bonds, tenders, bid documents, expression of interest, memorandum of understanding, agreements, schemes, arrangements, and other instruments in relation to the Demerged Undertaking to which the Transferor Company is a party or the benefit of which the Transferor Company may be eligible, and which are subsisting or have effect immediately before the Effective Date, shall continue in full force and effect against or in favour of, as the case may be, the Transferee Company and may be enforced as fully and effectually as if, instead of the Transferor Company, Transferee Company had been a party or beneficiary thereto or thereunder.
- (VIII) Pursuant to the demerger of Demerged Undertaking, in case for the purpose of entering into any contract, tenders, bid documents, expression of interest, memorandum of understanding, agreements or any other such instruments, the Transferee Company is required to demonstrate experience, track record and credentials of the Demerged Undertaking, then the experience, track record and credentials gained by the Transferor Company in relation to Demerged Undertaking in the past prior to demerger would be considered to be equivalent as the experience, track record and credentials of the Transferee Company.
- (IX) The transfer of the said assets and liabilities of the Transferor Company to the Transferee Company relating to the Demerged Undertaking and the continuance of all the contracts or legal proceedings by or against the Transferee Company shall not affect any contract or proceedings relating to the said assets or the liabilities already concluded by the Transferor Company on or after the Appointed Date to the end and intent that the Transferee Company accepts and adopts all acts, deeds and things done, executed for and on behalf of the Transferor Company as acts, deeds and things done, executed for and on behalf of the Transferee Company.
- (X) Upon the coming into effect of this Scheme, all legal proceedings of whatever nature by or against the Transferor Company relating to Demerged Undertaking, if pending, on the Effective Date, shall not abate, be discontinued or be in any way prejudicially affected by reason of the vesting of the Demerged Undertaking of the Transferor Company in the Transferee Company or of anything contained in this Scheme but the proceedings may be continued, prosecuted and enforced by or against the Transferee Company in the same manner and to the same extent as it would or might have been continued, prosecuted and enforced by or against the Transferor Company as if this Scheme had not been made.
- (XI) The Transferee Company shall be entitled to file/ revise its tax returns, TDS certificates, TDS returns and other statutory returns, if required and shall have the right to claim refund/ credits and/ or set off all amounts paid by the Transferor Company in relation to the Demerged Undertaking under the relevant income tax, sales tax, service tax or any other tax laws. The right to make such revisions in the tax returns and to claim refunds/credits is expressly reserved in favor of the Transferee Company.
- (XII) (a) On the Scheme becoming effective, all employees of the Transferor Company engaged in or in relation to the Demerged Undertaking, and who are in such employment as on the date immediately preceding the Effective Date shall become the employees of the Transferee Company, and subject to the provisions of this Scheme, on terms and conditions not less favourable than those on which they are engaged as on the Effective Date by the Transferor Company and without any interruption of or break in services as a result of the transfer of the Demerged Undertaking.
- (b) Until such time that Transferee Company creates its own funds, Transferee Company and the employees of Transferor Company whose services are transferred under sub-clause (i) above shall continue to make contributions pertaining to the employees of the Demerged Undertaking to the relevant funds/trusts of the Transferor Company. Such contributions pertaining to the employees of the Demerged Undertaking shall be transferred to the funds/trusts created by Transferee

- Company on creation of relevant funds/trusts by Transferee Company.
- (XIII)(a) With effect from the Effective Date, the Transferee Company shall commence and carry on and shall be authorized to carry on the business of Demerged Undertaking.
- (b) For the purpose of giving effect to the demerger order passed under Sections 391 to 394 of the Act in respect of this Scheme by the High Court, the Transferee Company shall, at any time pursuant to the order on this Scheme, be entitled to get the recordal of the change in the legal right(s) upon the demerger of the Demerged Undertaking of Transferor Company in accordance with the provisions of Sections 391 to 394 of the Act. The Transferee Company shall be authorized to execute any pleadings, applications, forms etc. as are required to remove any difficulties and carry out any formalities or compliance as are necessary for the implementation of this Scheme.
- (XIV) The Transferee Company unconditionally and irrevocably agrees and undertakes to pay, discharge and satisfy all the liabilities and obligations of the Transferor Company relating to the Demerged Undertaking with effect from the Appointed Date, in order to give effect to the foregoing provisions.
- (XV) The Transferee Company shall, with effect from the Appointed Date and upon the Scheme coming into effect, record the assets and liabilities of the Demerged Undertaking of Transferor Company vested in it pursuant to this Scheme, at the respective book values thereof and in the same form as appearing in the books of the Transferor Company at the close of business of the day immediately preceding the Appointed Date.
- (XVI)(a) With effect from the Effective Date, in consideration of the transfer of the Demerged Undertaking by the Transferor Company to the Transferee Company in terms of this Scheme, the Transferee Company shall without any further act, application, instrument or deed, issue and allot to the equity shareholders of the Transferor Company holding fully paid up shares in the Transferor Company and whose name appears in the Register of Members of the Transferor Company on the Record Date, one (1) equity share of the nominal value of Re. 1/- each, credited as fully paid in the capital of the Transferee Company (the “**Transferee Company New Equity Shares**”), for every one (1) equity share(s) of the nominal value of Re. 1/- each fully paid up held by them in the Transferor Company.
- (b) The said equity shares in Transferee Company to be issued to the members of Transferor Company shall be subject to the Memorandum and Articles of Association of Transferee Company and shall rank *pari passu* in all respects with the existing equity shares in Transferee Company and that the equity shares issued pursuant to this scheme will be entitled to dividend from the same date as the existing shares of the Transferee Company.
- (c) All the Equity shares of the Transferee Company to be issued and allotted in terms of sub-clause (a) above will be listed and/or admitted to trading on the National Stock Exchange and/or the Bombay Stock Exchange Ltd. where the existing shares of the Transferor Company are listed and/or admitted to trading in terms of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 and further amendments thereof. The Transferee Company shall enter into such arrangements and give such confirmations as may be necessary in accordance with the applicable laws or regulations for complying with the formalities of the said Stock Exchanges. On such formalities being fulfilled the said Stock exchanges shall list and / or admit such Equity Shares also for the purpose of trading.
- (d) The Transferee Company shall issue and allot Equity Shares to the equity shareholders of the Transferor Company in terms of sub-clause (a) in dematerialized form, except for those equity shareholders of the Transferor Company who hold the shares of the Transferor Company in Certificate form, unless the said equity shareholders, by notice in writing, inform 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, to receive the Equity Shares in dematerialized form. The members receiving the shares in dematerialized form shall be required to

- have an account with a depository participant and shall provide details thereof and such other confirmations as may be required. The Transferee Company shall issue and directly credit the dematerialized securities account of such members with the equity shares of the Transferee Company.
- (e) The shares allotted pursuant to the Scheme shall remain frozen in the depositories system till listing/trading permission is given by the designated stock exchange.
- (f) There shall be no change in the shareholding pattern or control in Transferee Company between the record date and the date of listing of the shares of Transferee Company on the National Stock Exchange and Bombay Stock Exchange.
- (XVII)(a) Upon coming into effect of this Scheme, the Transferor Company shall give effect to the following accounting treatment in its books as at the Appointed Date:
- (i) The book values of the assets and the liabilities of the Transferor Company being transferred as a part of the Demerged Undertaking to the Transferee Company shall be reduced in the books of the Transferor Company on the close of business on the day prior to the Appointed Date.
- (ii) The Reserve and Surplus of the Company specific to the Demerged Undertaking in the form of General Reserve, Profit & Loss Account shall be transferred as a part of the Demerged Undertaking to the Transferee Company as may be decided by the Board of Directors of the Transferor Company and the Transferee Company as on the Appointed Date. Pursuant to the demerger of the Demerged Undertaking of the Transferor Company in accordance with this Scheme, the difference, if any, arising between the net book value of assets and liabilities of the Demerged Undertaking and Reserve and Surplus so transferred, shall be debited to general reserve of the Transferor Company.
- (b) Upon coming into effect of this Scheme, the Transferee Company shall give effect to the following accounting treatment in its books as at the Appointed Date:
- (i) The Transferee Company shall, record the assets, liabilities and reserve and surplus of Demerged Undertaking vested in it pursuant to this Scheme, at the respective book values thereof as appearing in the books of the Transferor Company, at the close of business on the day prior to the Appointed Date.
- (ii) The Transferee Company shall credit to its Share Capital Account in its books of account the aggregate face value of the new equity shares issued by it to the members of the Transferor Company pursuant to Clause 4.1 of the Scheme.
- (iii) The excess or deficit remaining after recording the aforesaid entries in sub-clause (i) and (ii) above, shall be credited to its Capital Reserves or debited to General Reserve, as the case may be.
- (c) In case of any differences in accounting policy between the Transferor Company and the Transferee Company, the impact of such differences shall be quantified and adjusted with the reserves of Transferee Company to ensure that the true financial statements of Transferee Company on the Appointed Date are on the basis of consistent accounting policy.
16. None of the Directors of any of the Applicant Companies has any material interest in the said Scheme of Arrangement (Demerger), except as shareholders in general, the extent of which appears in the Register of Directors Shareholdings maintained by the respective companies.
17. After the demerger, the aggregate assets of the Applicant/Transferee Company shall be more than sufficient to meet all the liabilities of the Applicant / Transferee Company and the said Scheme will not adversely affect the rights of any of the creditors of any of the Applicant Companies in any manner whatsoever and due provisions have been made for payment of all liabilities as and when the same fall due in usual course.
18. There are no proceedings pending under Sections 235 to 251 of the Companies Act, 1956 against either the Applicant/Transferor Companies or the Applicant/Transferee Company.
19. The share allotment ratio of the Applicant/ Transferee Company for shares of the Applicant/ Transferor Company has been fixed on a fair and reasonable basis and on the basis of the valuation report of Aether Consulting Private Limited, and

Fairness Opinion given by D&A Financial Services Private Limited.

20. M/s S. R. Batliboi & Co, Chartered Accountants, being the Statutory Auditors of the Applicant / Transferor Company, have certified that the accounting treatment contained in the Scheme of Arrangement (Demerger) is in compliance with all the Accounting Standards specified by the Central Government in Section 211(3C) of the Companies Act, 1956.
21. The National Stock Exchange and Bombay Stock Exchange have approved the Scheme of Arrangement (Demerger) by letters dated 22nd December, 2010 and 29th December, 2010 respectively.
22. The Copies of the latest audited balance sheet of Applicant / Transferor Company and the unaudited financial statements of Applicant / Transferee Company can be inspected at their respective registered offices.
23. The statement may also be treated as an Explanatory Statement under Section 173 of the Companies Act, 1956.
24. The copies of the following documents are open for inspection at the registered office of the Applicant Companies between 10.00 am and 5.00 pm on any working day except Saturdays and Sundays and company holidays up to the date of the meeting and also at the meeting:
 - (a) Memorandum and Articles of Association of the Applicant Companies.
 - (b) Balance Sheet as on 31st March, 2010 along with Profit & Loss Account, the Directors' Report and Auditors' Report thereon of the Transferor Company.
 - (c) Unaudited balance sheet of the Transferor Company as on 30th September, 2010.
 - (d) Unaudited Financial statement of the Transferee Company as on 31st December, 2010.
 - (e) Registers of Directors, Register of Directors' shareholding and Register of members of the Applicant Companies.
 - (f) Valuation Report and Fairness Opinion in respect of the share allotment ratio.
 - (g) Certified copy of the order dated 11th January, 2011 passed by the Hon'ble High Court of Delhi in the Application bearing CA (M) No. 3 of 2011.

25. Members / Creditors are requested to read the entire text of the Scheme of Arrangement (Demerger) to get better acquainted with the provisions thereof.

Registered Office of the Applicant / Transferor Company:

Orient Abrasives Limited,
1307, Chiranjiv Tower,
43 Nehru Place,
New Delhi-110019

Registered Office of the Applicant / Transferee Company:

Orient Refractories Limited,
1307, Chiranjiv Tower,
43 Nehru Place,
New Delhi-110019.

Dated the 24th day of January, 2011

Sd/-

(Dinesh Agnani)

Chairman Appointed for the Meeting

**SCHEME OF ARRANGEMENT AND
DEMERGER
BETWEEN
ORIENT ABRASIVES LIMITED
AND
ORIENT REFRACTORIES LIMITED
AND THEIR RESPECTIVE SHAREHOLDERS
AND CREDITORS
UNDER SECTIONS 391 TO 394 OF THE
COMPANIES ACT, 1956**

PART-I GENERAL

WHEREAS

- A. Orient Abrasives Limited (“**Transferor Company**”) is an existing company within the meaning of the Companies Act, 1956, having its registered office situated at 1307, Chiranjiv Tower, 43 Nehru Place, New Delhi – 110019.
- B. Orient Refractories Limited (“**Transferee Company**”) is a company registered under the Companies Act, 1956, having its registered office situated at 1307, Chiranjiv Tower, 43 Nehru Place, New Delhi – 110019.
- C. The Transferor Company has three distinct businesses, i.e., abrasive grains, refractories and power. Each of the businesses of the Transferor Company has significant potential for growth and profitability. However, since the nature of risks, considerations, factors and commercial parameters applicable to the business of refractories being different and divergent in nature in comparison to that of abrasive grains and power and with an endeavour to enhance shareholder value and de-risk the businesses of the Transferor Company, it is proposed to re-organize and segregate, by way of a Demerger, the Refractory business situated at Bhiwadi from the Retained Business and vest it in a separate company, i.e., the Transferee Company. The demerger will result in better, efficient and economical management, control and running of the businesses and further development and growth of the businesses of both the Transferor Company and the Transferee Company.
- D. The demerger would allow a focused strategy in operations of the Demerged Undertaking alongwith providing scope for independent collaboration and expansion without committing the existing organization in its entirety and creating enhanced value for shareholders.
- E. The demerger, and vesting of the Demerged Undertaking from the Transferor Company and in the Transferee Company, with effect from the Appointed Date, is in the interest of the

shareholders, creditors, employees and all concerned. The restructuring will unlock significant value for the shareholders of the Transferor Company and the Transferee Company and would also provide greater business focus for both the Companies.

1. DEFINITIONS

- 1.1 In this Scheme, unless repugnant to the meaning or context thereof, the following expressions shall have the meaning as mentioned hereinbelow: -
- (a) “**The Act**” means the Companies Act, 1956 (Act No.1 of 1956) and includes any statutory re-enactments or modification thereof, or amendment thereto, from time to time.
- (b) “**Appointed Date**” means the commencement of business on April 01, 2011, the date with effect from which the Scheme of Arrangement and Demerger shall be applicable.
- (c) “**Effective Date**” or “**upon this Scheme becoming effective**” or “**upon coming into effect of this Scheme**” shall mean the date or the last of the dates on which the certified copy of the formal order of the High Court sanctioning this Scheme, as defined hereunder, is filed with the Registrar of Companies, New Delhi by both Transferor Company and Transferee Company.
- (d) “**High Court**” means the Hon’ble High Court of Delhi at Delhi.
- (e) “**Demerged Undertaking**” or “**Refractory Undertaking**” means the undertaking of the Transferor Company comprising of the business, activities and operations pertaining to refractories being carried on by the Transferor Company at its manufacturing unit at Bhiwadi, Plot No. S P – 148 A & B, Industrial Area, Bhiwadi, (District Alwar), Rajasthan - 301019 and alongwith its related marketing and distribution units, branch offices and godowns situated all over India and including specifically the following (without limitation):
- (i) all assets, whether movable or immovable, whether tangible or intangible, leasehold or freehold, including all rights, title, derivative instruments, interest, covenant, undertakings, liabilities relating thereto, and all loans and advances, appertaining to the Demerged Undertaking of the Transferor Company;
- (ii) All debts, borrowings and liabilities, present or future, whether secured or unsecured, pertaining to the Demerged Undertaking of the Transferor Company;

(iii) All rights, entitlements, permissions, licenses, registrations, tenancies, privileges and benefits of all contracts including customer contracts, agreements and all other rights including lease rights, powers and facilities of every kind and description whatsoever appertaining to the Demerged Undertaking of the Transferor Company; and

(iv) All employees of the Transferor Company engaged in or in relation to the Demerged Undertaking of the Transferor Company at their respective offices, at their current terms and conditions.

(f) “**Record Date**” means the date to be fixed by the Board of Directors or a Committee thereof of the Demerged Company for the purpose of determining the members of the Transferor Company to whom equity shares will be allotted pursuant to this Scheme.

(g) “**Retained Business**” means all the businesses of the Transferor Company excluding the Demerged Undertaking.

(h) “**Scheme**” means this Scheme of Arrangement and Demerger in its present form or with any modifications.

1.2 Although the Scheme comes into operation from the Appointed Date, it shall only become effective from the Effective Date.

PART-II

2. SHARE CAPITAL

2.1 The share capital of the Transferor Company as on September 30, 2010 is as under:-

A. Authorized Share Capital	Amount (Rs.)
12,00,00,000 Equity Shares of Re. 1/- each	12,00,00,000
4,00,000 6% Redeemable Cumulative Preference Shares of Rs. 100/- each	4,00,00,000
B. Issued and Subscribed Share Capital	Amount (Rs.)
11,96,59,200 Equity Shares of Re. 1/- each	11,96,59,200
C. Paid Up Share Capital	Amount (Rs.)
11,96,39,200 Equity Shares of Re. 1/- each	11,96,39,200

2.2 The share capital of Transferee Company as at December 8, 2010 is as under: -

A. Authorized Share Capital	Amount (Rs.)
12,05,00,000 Equity shares of Re. 1/- each	12,05,00,000
B. Issued, Subscribed and Paid Up Share Capital	Amount (Rs.)
5,00,000 Equity shares of Re. 1/- each	5,00,000

PART-III

3. TRANSFER AND VESTING OF DEMERGED UNDERTAKING

3.1 Upon the coming into effect of this Scheme and with effect from the Appointed Date:

(i) The Demerged Undertaking shall without any further act, deed, instrument, matter or thing be demerged and vested in the Transferee Company on a going concern basis at book value (i.e., values as stated in the books of accounts of the Transferor Company immediately before the Appointed Date) pursuant to the provisions of Section 394 of the Act, together with all estate, assets, debts, outstandings, credits, liabilities, rights, claims, title, interest and authorities including accretions and appurtenances so as to become the property of the Transferee Company free from any encumbrance subject to the clauses hereinbelow.

(ii) Without prejudice to the generality of sub-clause 3.1(i) above, it is expressly provided that in respect of such of the assets of the Demerged Undertaking, including cash and bank balances, as are movable in nature or are otherwise capable of transfer by physical delivery, by paying over or by endorsement and delivery, the same shall be so transferred by the Transferor Company to the Transferee Company, with effect from the Appointed Date, after the Scheme is sanctioned by the High Court without requiring any deed or instrument of conveyance for the same and shall become the property of the Transferee Company as an integral part of the Demerged Undertaking.

(iii) All the licenses, essentiality certificates, permits, quotas, approvals, permissions, incentives, sales tax deferrals, loans, subsidies, concessions, grants, rights, claims, leases, refund of monies, tenancy rights, liberties, rehabilitation schemes, special status and other benefits or privileges enjoyed by or conferred upon or held or availed of by and all rights and benefits that have accrued or

which may accrue to the Transferor Company relating to the Demerged Undertaking shall, pursuant to the provisions of Section 394(2) 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 transferred to and vested in and be available to the Transferee Company so as to become as and from the Appointed Date the licenses, essentiality certificates, permits, quotas, approvals, permissions, incentives, sales tax deferrals, loans, subsidies, concessions, grants, rights, claims, leases, refund of monies, tenancy rights, liberties, rehabilitation schemes, special status and other benefits or privileges of the Transferee Company and shall remain valid, effective and enforceable on the same terms and conditions to the extent permissible under applicable law.

- (iv) All assets, estate, rights, titles, interests, licenses, essentiality certificates and authorities (including for the operation of bank accounts) acquired by or permits, quotas, approvals, permissions, incentives, sales tax deferrals, loans or benefits, subsidies, concessions, grants, rights, claims, leases, tenancy rights, liberties, rehabilitation schemes and other assets, special status and other benefits or privileges enjoyed or conferred upon or held or availed of by and/or all rights and benefits that have accrued or which may accrue to the Transferor Company relating to the Demerged Undertaking on or after the Appointed Date and prior to the Effective Date in connection with or in relation to the operation of the Transferor Company relating to the Demerged Undertaking shall, upon the coming into effect of this Scheme, pursuant to the provisions of Section 394(2) of the Act, without any further act, instrument or deed, be and stand transferred to and vested or deemed to have been transferred to and vested in the Transferee Company.

3.2 Upon coming into effect of this Scheme and with effect from the Appointed Date:

- (i) All debts, liabilities, duties and obligations of any kind, nature or description, secured or unsecured, whether provided for or not, whether disclosed or undisclosed in the books of accounts of Transferor Company, as on the Appointed Date, and relating to the Demerged Undertaking shall, pursuant to the provisions of Section 394(2) of the Act, without any further act, instrument or deed be and shall stand transferred to and vested in the Transferee Company, so as to become the debt, liabilities, duties and obligations of the Transferee Company. Further, it shall not be necessary to obtain the consent of any third party or

other person who is a party to any contract or arrangement by virtue of which such debts, liabilities, duties and obligations have arisen in order to give effect to the provisions of this Clause.

- (ii) It is clarified that in so far as the assets of the Transferor Company are concerned, the security or charge over such assets or any part thereof, relating to any loans, debentures or borrowings of the Transferor Company, shall, without any further act or deed continue to relate to such assets or any part thereof after the Effective Date and shall not relate to or be available as security or charge in relation to any or any part of the assets of the Transferee Company, save to the extent warranted by the terms of the existing security arrangements, if any. The term loan(s) outstanding in the books of the Transferor Company is related to the Retained Business of the Transferor Company and no part thereof is being transferred alongwith the Demerged Undertaking to the Transferee Company, therefore the charge, if any, on the assets of the Demerged Undertaking, shall not extend to the Transferee Company.
- (iii) It is further clarified that, upon the coming into effect of the Scheme and in cases other than those referred to in Clause 3.2(i) above, proportionate part of the general or multipurpose borrowings and liabilities raised for financing the working capital of the Transferor Company shall, without any further act or deed be and shall stand transferred to the Transferee Company in the same proportion in which the value of the current assets transferred under this Scheme bears to the total value of the current assets of the Transferor Company immediately before the demerger of the Demerged Undertaking. The Charge on the assets of the Transferor Company in respect of the working capital loan(s) shall be transferred to the assets of the Transferee Company in proportion to the working capital transferred to the Transferee Company.
- (iv) Where any of the liabilities and obligations of the Transferor Company as on the Appointed Date deemed to be 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.
- (v) All loans raised and used and all debts, duties, undertakings, liabilities and obligations incurred or undertaken by the Transferor

Company in relation to or in connection with the operation of the Demerged Undertaking after the Appointed Date and prior to the Effective Date shall also 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 the Scheme, pursuant to the provisions of Section 394(2) 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 debt, duties, undertakings, liabilities and obligations of the Transferee Company which shall meet, discharge and satisfy the same.

- (vi) Subject to the necessary consents being obtained in accordance with the terms of this Scheme, 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.

3.3 With effect from the Appointed Date and until the Effective Date:

- (i) Transferor Company shall carry on and shall be deemed to have carried on all business and activities relating to the Demerged Undertaking of the Transferor Company for and on behalf of the Transferee Company. Transferor Company shall carry on all such business and activities relating to the Demerged Undertaking of Transferor Company with due care and diligence. The business shall be carried out by the Transferee Company with prudence and in a manner as was operated by the Transferor Company.
- (ii) All profits or incomes accruing or arising to the Transferor Company and all taxes thereon (including but not limited to the effect of advance tax, tax deducted at source, etc.), any expenditure incurred by or losses arising to the Transferor Company relating to the Demerged Undertaking shall, for all purposes be treated and be deemed to be and accrue as the profits or incomes, taxes thereon (including but not limited to the effect of advance tax, tax deducted at source, etc.), expenditure or losses as the case may be, of the Transferee Company.

- (iii) Any of the rights, powers, authorities, privileges related or pertaining to the Demerged Undertaking exercised by the Transferor Company shall be deemed to have been exercised by the Transferee Company for and on behalf of, and in trust for and as an agent of the Transferee Company.

3.4 Upon the coming into effect of this Scheme and subject to the provisions of this Scheme, all contracts including customer contracts, deeds, bonds, tenders, bid documents, expression of interest, memorandum of understanding, agreements, schemes, arrangements, and other instruments including those relating to tenancies, lease, licences, trademarks, patents, copy rights or other intellectual property rights, other assurances privileges, powers, facilities of every kind and description and of whatsoever nature in relation to the Demerged Undertaking to which the Transferor Company is a party or the benefit of which the Transferor Company may be eligible, and which are subsisting or have effect immediately before the Effective Date, shall continue in full force and effect against or in favour of, as the case may be, the Transferee Company and may be enforced as fully and effectually as if, instead of the Transferor Company, Transferee Company had been a party or beneficiary thereto or thereunder.

3.5 Pursuant to the demerger of Demerged Undertaking, in case for the purpose of entering into any contract, tenders, bid documents, expression of interest, memorandum of understanding, agreements or any other such instruments, the Transferee Company is required to demonstrate experience, track record and credentials of the Demerged Undertaking, then the experience, track record and credentials gained by the Transferor Company in relation to Demerged Undertaking in the past prior to demerger would be considered to be equivalent as the experience, track record and credentials of the Transferee Company.

3.6 The transfer of the said assets and liabilities of the Transferor Company to the Transferee Company relating to the Demerged Undertaking and the continuance of all the contracts or legal proceedings by or against the Transferee Company shall not affect any contract or proceedings relating to the said assets or the liabilities already concluded by the Transferor Company on or after the Appointed Date to the end and intent that the Transferee Company accepts and adopts all acts, deeds and things done, executed for and on behalf of the Transferor Company as acts, deeds and things done, executed for and on behalf of the Transferee Company.

- 3.7 Without prejudice to the other provisions of this Scheme and the fact that the vesting of the Demerged Undertaking occurs by virtue of this Scheme itself, the Transferee Company may, at any time after the coming into effect of this Scheme in accordance with the provisions hereof, if so required under any law or otherwise, take such actions and execute such deeds (including deeds of adherence), confirmation or other writings or tripartite arrangement with any party to any contract or arrangement to which the Transferor Company is a party or any writings as may be necessary in order to give formal effect to the provisions of this Scheme or as are required to remove any difficulties and carry out any formalities or compliance for the implementation of this Scheme. The Transferor Company will, if necessary, also be a party to the above.
- 3.8 With effect from the Appointed Date, all taxes, duties, cess payable by Transferor Company relating to the Demerged Undertaking and all or any refunds/ credit/ claims relating thereto shall be treated as the liability or refund/ credit/ claims, as the case may be, of Transferee Company. The Transferee Company shall be entitled to file/ revise its tax returns, TDS certificates, TDS returns and other statutory returns, if required and shall have the right to claim refund/ credits and/ or set off all amounts paid by the Transferor Company in relation to the Demerged Undertaking under the relevant income tax, sales tax, service tax or any other tax laws. The right to make such revisions in the tax returns and to claim refunds/credits is expressly reserved in favor of the Transferee Company.
- 3.9 Any question that may arise as to whether a specified asset or liability pertains or does not pertain to the Demerged Undertaking or whether it arises out of the activities or operations of Demerged Undertaking shall be decided by mutual agreement between the Board of Directors of the Transferor Company and the Transferee Company.
- 3.10 Upon the coming into effect of this Scheme, all legal proceedings of whatever nature by or against the Transferor Company relating to Demerged Undertaking, if pending, on the Effective Date, shall not abate, be discontinued or be in any way prejudicially affected by reason of the vesting of the Demerged Undertaking of the Transferor Company in the Transferee Company or of anything contained in this Scheme but the proceedings may be continued, prosecuted and enforced by or against the Transferee Company in the same manner and to the same extent as it would or might have been continued, prosecuted and enforced by or against the Transferor Company as if this Scheme had not been made.
- 3.11 The Transferee Company undertakes to have all legal proceedings initiated by or against the Transferor Company referred to in Clause 3.10 above transferred into its name and to have the same continued, prosecuted and enforced by or against the Transferee Company to the exclusion of the Transferor Company. The Transferor Company too shall file the requisite application, if so requested by the Transferee Company.
- 3.12 Notwithstanding the above, in case the proceedings referred to in Clause 3.10 above cannot be transferred for any reason, the Transferor Company shall defend the same in accordance with the advice of the Transferee Company and at the cost of the Transferee Company, and the Transferee Company shall reimburse, indemnify and hold harmless the Transferor Company against all liabilities and obligations incurred by the Transferor Company in respect thereof.
- 3.13 Upon the coming into effect of this Scheme:
- (i) All employees of the Transferor Company engaged in or in relation to the Demerged Undertaking, and who are in such employment as on the date immediately preceding the Effective Date shall become the employees of the Transferee Company, and subject to the provisions of this Scheme, on terms and conditions not less favourable than those on which they are engaged as on the Effective Date by the Transferor Company and without any interruption of or break in services as a result of the transfer of the Demerged Undertaking.
 - (ii) The Transferee Company further agrees that for the purpose of payment of any retirement benefit/ compensation, such immediate uninterrupted past services with the Transferor Company shall also be taken into account. The Transferee Company undertakes to continue to abide by the terms of agreement/ settlement entered into by the Transferor Company with employees' union / employee or associations of the Transferor Company.
 - (iii) The accounts/funds of the employees whose services are transferred under sub-clause (i) above, relating to superannuation, provident fund and gratuity fund shall be identified, determined and transferred to the respective Trusts/Funds of Transferee Company and such employees shall be deemed to have become members of such Trusts/Funds of the Transferee Company.
 - (iv) Until such time that Transferee Company creates its own funds, Transferee Company and the employees of Transferor Company

whose services are transferred under sub-clause (i) above shall continue to make contributions pertaining to the employees of the Demerged Undertaking to the relevant funds/trusts of the Transferor Company. Such contributions pertaining to the employees of the Demerged Undertaking shall be transferred to the funds/trusts created by Transferee Company on creation of relevant funds/trusts by Transferee Company.

3.14 Transfer and vesting of the assets, liabilities and obligations of the Demerged Undertaking as per this Scheme and continuances of the proceedings by or against the Transferee Company shall not in any manner affect any transaction or proceedings already completed by the Transferor Company (in respect of the Demerged Undertaking) on or before the Appointed Date to the end and intent that the Transferee Company accepts all such acts, deeds and things done and executed by and/or on behalf of the Transferor Company as acts, deeds and things done and executed by and on behalf of the Transferee Company.

3.15 (i) With effect from the Effective Date, the Transferee Company shall commence and carry on and shall be authorized to carry on the business of Demerged Undertaking.

(ii) For the purpose of giving effect to the demerger order passed under Sections 391 to 394 of the Act in respect of this Scheme by the High Court, the Transferee Company shall, at any time pursuant to the order on this Scheme, be entitled to get the recordal of the change in the legal right(s) upon the demerger of the Demerged Undertaking of Transferor Company in accordance with the provisions of Sections 391 to 394 of the Act. The Transferee Company shall be authorized to execute any pleadings, applications, forms etc. as are required to remove any difficulties and carry out any formalities or compliance as are necessary for the implementation of this Scheme.

3.16 The Transferee Company unconditionally and irrevocably agrees and undertakes to pay, discharge and satisfy all the liabilities and obligations of the Transferor Company relating to the Demerged Undertaking with effect from the Appointed Date, in order to give effect to the foregoing provisions.

3.17 The Transferee Company shall, with effect from the Appointed Date and upon the Scheme coming into effect, record the assets and liabilities of the Demerged Undertaking of Transferor Company vested in it pursuant to this Scheme, at the respective book values thereof and in the same form as appearing in the books of the Transferor Company at the close of business of the day immediately preceding the Appointed Date.

PART IV

4. RIGHTS AND ENTITLEMENT OF MEMBERS OF DEMERGED COMPANY AND RESULTING COMPANY; MATTERS RELATING TO ACCOUNTS ETC.

4.1 ISSUE OF SHARES

4.1.1 With effect from the Effective Date, in consideration of the transfer of the Demerged Undertaking by the Transferor Company to the Transferee Company in terms of this Scheme, the Transferee Company shall without any further act, application, instrument or deed, issue and allot to the equity shareholders of the Transferor Company holding fully paid up shares in the Transferor Company and whose name appears in the Register of Members of the Transferor Company on the Record Date, one equity share of the nominal value of Re. 1 each, credited as fully paid in the capital of the Transferee Company (the "**Transferee Company New Equity Shares**"), for every one equity share(s) of the nominal value of Re. 1 each fully paid up held by them in the Transferor Company.

4.1.2 The said equity shares in Transferee Company to be issued to the members of Transferor Company shall be subject to the Memorandum and Articles of Association of Transferee Company and shall rank *pari passu* in all respects with the existing equity shares in Transferee Company and that the equity shares issued pursuant to this scheme will be entitled to dividend from the same date as the existing shares of the Transferee Company.

4.1.3 All the Equity shares of the Transferee Company to be issued and allotted in terms of sub-clause 4.1.1 above will be listed and/or admitted to trading on the National Stock Exchange and/or the Bombay Stock Exchange Ltd. where the existing shares of the Transferor Company are listed and/or admitted to trading in terms of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 and further amendments thereof. The Transferee Company shall enter into such arrangements and give such confirmations as may be necessary in accordance with the applicable laws or regulations for complying with the formalities of the said Stock Exchanges. On such formalities being fulfilled the said Stock exchanges shall list and / or admit such Equity Shares also for the purpose of trading.

4.1.4 The Transferee Company shall issue and allot Equity Shares to the equity shareholders of the Transferor Company in terms of sub-clause 4.1.1 in dematerialized form, except for those equity shareholders of the Transferor Company who hold the shares of the Transferor Company in Certificate form, unless the said equity shareholders, by notice in writing, inform 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, to receive the Equity Shares in dematerialized form. The members receiving the shares in dematerialized form shall be required to have an account with a depository participant and shall provide details thereof and such other confirmations as may be required. The Transferee Company shall issue and directly credit the dematerialized securities account of such members with the equity shares of the Transferee Company.

4.2 ACCOUNTING TREATMENT

Upon coming into effect of this Scheme, the Transferor Company and the Transferee Company shall give effect to the following accounting treatment as at the Appointed Date:

4.2.1 In the books of the Transferor Company

Upon coming into effect of this Scheme, the Transferor Company shall give effect to the following accounting treatment as at the Appointed Date:

- (i) The book values of the assets and the liabilities of the Transferor Company being transferred as a part of the Demerged Undertaking to the Transferee Company shall be reduced in the books of the Transferor Company on the close of business on the day prior to the Appointed Date.
- (ii) The Reserve and Surplus of the Company specific to the Demerged Undertaking in the form of General Reserve, Profit & Loss Account shall be transferred as a part of the Demerged Undertaking to the Transferee Company as may be decided by the Board of Directors of the Transferor Company and the Transferee Company as on the Appointed Date. Pursuant to the demerger of the Demerged Undertaking of the Transferor Company in accordance with this Scheme, the difference, if any, arising between the net book value of assets and liabilities of the Demerged Undertaking and Reserve and Surplus so transferred, shall be debited to general reserve of the Transferor Company.

4.2.2 In the books of the Transferee Company

Upon coming into effect of this Scheme, the Transferee Company shall give effect to the following accounting treatment as at the Appointed Date :

- (i) The Transferee Company shall, record the assets, liabilities and reserve and surplus of Demerged Undertaking vested in it pursuant to this Scheme, at the respective book values thereof as appearing in the books of the Transferor Company, at the close of business on the day prior to the Appointed Date.
- (ii) The Transferee Company shall credit to its Share Capital Account in its books of account the aggregate face value of the new equity shares issued by it to the members of the Transferor Company pursuant to Clause 4.1 of the Scheme.
- (iii) The excess or deficit remaining after recording the aforesaid entries in sub-clause (i) and (ii) above, shall be credited to its Capital Reserves or debited to General Reserve, as the case may be.

4.2.3 The accounts of Transferor Company and Transferee Company shall be revised and reconstructed in accordance with the terms of this Scheme with effect from the Appointed Date.

4.2.4 In case of any differences in accounting policy between the Transferor Company and the Transferee Company, the impact of such differences shall be quantified and adjusted with the reserves of Transferee Company to ensure that the true financial statements of Transferee Company on the Appointed Date are on the basis of consistent accounting policy.

4.2.5 Notwithstanding the above, the Board of Directors of the Transferee Company is authorised to account for any of these balances in any manner whatsoever, as may be deemed fit, in accordance with the prescribed Accounting Standards issued by the Institute of Chartered Accountants of India and applicable generally accepted accounting principles.

PART V

5. GENERAL TERMS AND CONDITIONS

5.1 Transferor Company and Transferee Company shall, with all reasonable dispatch, make applications to the High Court where the registered offices of the Transferor Company and the Transferee Company are situated, for sanctioning this Scheme under Sections 391 to 394 of the Act

and any questions or issues or disputes arising out of this agreement shall be subject to the jurisdiction of the High Court only.

- 5.2 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 Boards of Directors or a committee or committees of the concerned Board of Directors authorized in that behalf by the concerned Board of Directors (hereinafter referred to as the “**Delegates**”) of the Transferor Company and the Transferee Company deem fit, or which the High Court 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 to resolve all doubts or difficulties that may arise for carrying out this Scheme and to do and execute all acts, deeds, matters and things necessary for bringing this Scheme into effect, or to review the position relating to the satisfaction of the conditions to this Scheme and if necessary, to waive any of those (to the extent permissible under law) for bringing this Scheme into effect.
- 5.3 In the event that the Transferor Company or the Transferee Company may find any of the modifications or conditions which may be imposed by the High Court or other authorities 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 the Delegates of the respective Companies.
- 5.4 For the purpose of giving effect to this Scheme or to any modifications or amendments thereof or additions thereto, the Transferor Company and the Transferee Company or their Delegates may give and are authorized to determine and give all such directions as may be necessary including directions for settling 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 parties, in the same manner as if the same were specifically incorporated in this Scheme.
- 5.5 The Scheme is conditional upon and subject to:
- (a) The Scheme being agreed to by the respective requisite majorities of the members and creditors (where applicable) of both, the Transferor Company and Transferee Company, as may be required by the High Court either at a meeting or through consent/ No-objection Letters on the application made for direction under Section 391 of the Act for calling/ dispensing of a meeting and necessary resolution if any, been passed under the Act for the purpose.
- (b) Sanction of the High Court under section 391 to 394 of the Act and necessary order or orders under section 394 of the Act being obtained.
- (c) Such other sanction and approvals as may be required by law in respect of the Scheme being obtained.
- (d) This Scheme, although to come into operation from the Appointed Date, shall not become effective until the date on which the certified copies of the orders of the High Court under Sections 391 to 394 of the Act are duly filed with the offices of the Registrar of Companies, New Delhi.
- 5.6 Transferor Company and Transferee Company reserve their right to and are expressly permitted to revise their Income Tax returns and related TDS certificates and the right to claim refunds, advance tax credits, etc. upon this Scheme becoming effective.
- 5.7 All costs, charges, taxes, duties, levies and fees including registration fee of any deed, document, instrument or Court's order including this Scheme or in relation to or in connection with negotiations leading upto the Scheme and all other expenses, if any, arising out of or incurred in carrying out and implementing the terms and conditions or provisions of this Scheme and incidental thereto but excluding stamp duty shall be borne by Transferor Company and shall be treated as costs relating to the demerger under this Scheme. The applicable stamp duty costs shall be borne by the Transferee Company.
- 5.8 The demerger complies with the provisions of Section 2(19AA) of the Income Tax Act, 1961, such that:
- a) All the properties of the Demerged Undertaking being transferred by Transferor Company immediately before the Demerger become the properties of the Transferee Company by virtue of the Demerger;
- b) All the liabilities relating to the Demerged Undertaking being transferred by Transferor Company, immediately before the Demerger become the liabilities of the Transferee Company by virtue of the Demerger;
- c) The properties and the liabilities, if any, relating to the Demerged Undertaking being transferred by Transferor Company are transferred to the Transferee Company at the values appearing in the books of account of Transferor Company immediately before the Demerger;
- d) The Transferee Company issues shares to the shareholders of Transferor Company in consideration of the Demerger on a proportionate basis;

e) The shareholders of Transferor Company shall become the shareholders of the Transferee Company by virtue of the Demerger; and

f) The transfer of the Demerged Undertaking will be on a going concern basis.

5.9 Upon the sanction of this Scheme and upon this Scheme becoming effective, with effect from the Appointed Date, the following shall be deemed to have occurred in the sequence and in the order stated as under:

a) The demerger of the Demerged Undertaking of Transferor Company as defined under Section 2 (19AA) of the Income Tax Act, 1961; and

b) Issue and allotment of fully paid-up equity shares by the Transferee Company to the equity shareholders of Transferor Company as per sub-clause 4.1.1 above.

5.10 Transferor Company and Transferee Company shall also take all such other steps as may be necessary or expedient to give full and formal effect to and implement to the provisions of this Scheme.