

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH**

CP (CAA) 94 230-232 NCLT MB MAH 2018

Under section 230-232 of the Company Act, 2013

In the matter of

M/s. Aurionpro Solution Limited  
.....1<sup>st</sup> Petitioner  
(Demerged Company)

M s. Trejhara Solutions Limited  
.....2<sup>nd</sup> Petitioner  
(Resulting Company)

Order pronounced on : 27.07.2018

**Coram :**

Hon'ble M. K. Shrawat, Member (J)

**For the Petitioners :**

Mr. Hemant Sethi, Advocate i/b. Hemant Sethi & Co. – Advocates for the Petitioners.

**For the Regional Director :**

Mr. R. S. Meena – Jt. Director (WR).

*Per : M. K. Shrawat, Member (J)*

**ORDER**

1. The sanction of this Tribunal is sought under Sections 230 to 232 of the Company Act, 2013, to a Scheme of Arrangement of M/s. Aurionpro Solution Limited (Demerged Company) with M/s. Trejhara Solutions Limited (Resulting Company) and their respective shareholders.
2. The Petitioner Companies have approved the said Scheme of Arrangement by passing the Board Resolutions in the meetings held on 09.05.2017 and thereafter they have approached the Tribunal for sanction of the Scheme.
3. The Demerged Company is engaged in the business of providing solutions in corporate banking, treasury, fraud prevention and risk management, internet banking, governance and compliance and it is a leading provider of intellectual property led information technology solutions for the banking and financial service segments. It



also provides self-service technologies which enables financial institutions, utility, telecom and government organization to migrate, automate and managed customer facing business process to self-service channels.

4. The Resulting Company is primarily engaged in the business as designers, developers, buyers, sellers, importers, exporters and dealers in all kinds of computer software, computer technology and information technology products including cloud hosted business platforms and computer application products, systems, peripherals and materials, and to undertake the business of system and network integration and development, product application and development, computer maintenance and technical support services, internet access, networking and electronic media, telecommunication and web commerce application services.
5. The rationale for the Scheme is that Core Businesses of Demerged Company has achieved the critical size and have reached the stage of self-sustainability and high growth. While the Demerged Businesses present significant value creation opportunity for shareholders but will need different focused leadership and strategies to maximize the resultant value. The Core Business and Demerged Business have distinct characteristics and are at a different maturity stage in their life cycles. The difference is not only in their revenue cycles but require different sales approach and methodologies, have varied technology skill sets, and hence associated risk profile. Both of them have a distinct attractiveness to divergent set of investors. In order to unlock the true potential, the businesses would require undiluted management bandwidth to execute the respective vision. Therefore, it may be prudent that Demerged Business may be transferred into a separate Company and whose shares would also be listed on the Stock Exchange as defined hereto after the demerger. Upon such demerger, Demerged Company continue to carry on the Remaining Undertaking and Resulting Company would continue to carry on the Demerged Business and would have their own independent management teams and Board of Directors, who can independently chart out their strategies to maximize value creation for their respective stakeholders. It is believed that the proposed demerger will create enhanced value for shareholders and would enable focused strategy in operations, which would be in the best interest of the Resulting Company, its shareholders, creditors and all persons connected with the Demerged Company (Defined hereinafter), the demerged Company, (defined hereinafter), their respective shareholders, Creditors and all persons connected with the respective Companies.





6. The averments made in the Petition and the submissions made by the Learned Representative for the Petitioners are:

- a) The Petitioner Companies have complied with all requirements as per directions of the Tribunal and they have filed necessary Affidavits of compliance in this Tribunal. Moreover, the Petitioner Company undertake to comply with all the statutory requirements if any, as required under the Company Act, 2013 and the Rules made there under whichever is applicable.
- b) The Regional Director has filed his Report dated 05.03.2018, stating therein that save and except as stated in paragraph IV (a) to (c), it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraph IV of the said Affidavit, the Regional Director has stated that:

*IV. The observation of the Regional Director on the proposed Scheme to be considered by the Hon'ble NCLT are as under:*

*(a) As per Clause 2.1 "Definitions" of the Scheme "The Appointed Date" means 31<sup>st</sup> March, 2017 or such other date as the Tribunal may direct or may be decided by the respective Board of Directors of the Demerged Company and Resulting Company, being the time and date with effect from which this Scheme shall be deemed to be effective, in the matter described in clause 1.6 of the Scheme. "In this regard, it is submitted in terms of provisions of Section 232(6) of the Companies Act, 2013 it should be specific as 31<sup>st</sup> Day of March, 2017.*

*(b) As regards Clause 7.1 in the Part-C of the Scheme, it is stated that split of the Authorised Share Capital of the Demerged Company under Section 232 is not permitted. It only allows combination of the Authorised Share Capital of the Transferor Company with the Transferee Company under Section 232(3)(i) of the Act in case of dissolutions of the Transferor Company. Therefore, the Resulting Company may be directed to pay requisite fees as per Rule 12 of the Companies (Registration Offices and Fees) Rules, 2014 and applicable Stamp duty for increase in its Authorised Share*



*Capital to Rs. 12,00,00,000/- for allotment of shares to the members of the Demerged Company.*

*(c) Since the Demerged Company has Non-Resident Shareholders and the Company prefers to issue Equity Shares to NRIs, it is subject to the Compliance of the Section 55 of the Companies Act, 2013 and FEMA Regulations/RBI Guidelines by the Transferee Company*

- c) Apropos the observation of the Regional Director, Western Region, Mumbai, as stated in paragraph IV (a) of his report are concerned, the Petitioners through their Counsel, submit that the "Appointed Date" of the Scheme shall be 31st March, 2017 in terms of provisions of Section 232(6) of the Companies Act, 2013.
- d) Apropos the observation of the Regional Director, Western Region, Mumbai, as stated in paragraph IV (b) of his report, the Petitioners through their Counsel submit that the Resulting Company shall not give effect to clause 7.1 in the Part C of the Scheme & shall pay requisite fees as per Rule 12 of the Companies (Registration Offices and Fees) Rules, 2014 and applicable Stamp duty for increase in its Authorised Share Capital to ₹ 12,00,00,000/- for allotment of shares to the members of the Demerged Company.
- e) Apropos the observation of the Regional Director, Western Region, Mumbai, as stated in paragraph IV (c) of his report, the Resulting Company through its Counsel undertakes to comply with relevant provisions of Companies Act, 2013 and FEMA Regulations RBI Guidelines for the allotment of equity Shares to Non-Resident Shareholders of the Demerged Company to the extent applicable.
- f) It is also stated that no objector has approached neither to the Petitioner nor before this Tribunal to oppose the Scheme.
7. From the material on record, the Scheme of Arrangement appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy. And hereby this bench, to the Petitioner Company, **do Order that:**





- a) All the Demerged liabilities including taxes and charges, if any, and duties of the Demerged Company, shall, pursuant to S. 232 of the Company Act, 2013, be transferred to and become the liabilities and duties of the Resulting Company.
- b) The clarifications and undertakings given by the Learned Counsel for the Petitioners to the observations made in the Report of the Regional Director are considered by this Bench and those are hereby accepted. Subsequently, this bench hereby directs petitioners to comply with the provisions/statements which the Petitioners undertakes herein.
- c) In lieu of the consideration of the Scheme, the Resulting Company shall issue and allot 1 Equity Share of ₹ 10/- each, credited as fully paid-up for every 2 Equity Shares of ₹ 10/-, credited as fully paid-up, to the Shareholders of the Demerged Company.
- d) The Petitioner Companies to lodge a copy of this order and the Scheme duly authenticated by the Deputy Director or the Assistant Registrar, as the case may be, National Company Law Tribunal, Mumbai Bench, with the concerned Superintendent of Stamps for the purpose of adjudication of stamp duty payable, if any, on the same within 60 days from the date of receipt of the order.
- e) Petitioner Companies are directed to file a certified copy of this order along with a copy of the Scheme with the concerned Registrar of Company, electronically, along with E-form INC 28 in addition to the physical copy, within 30 days from the date of issuance of the order by the Registry, duly certified by the Deputy Director or the Assistant Registrar, as the case may be, National Company Law Tribunal, Mumbai Bench.
- f) The Petitioner Companies to pay costs of ₹ 25,000/- to the Regional Director, Western Region, Mumbai. The cost is to be paid within four weeks from the date of the receipt of Order.
- g) All authorities concerned to act on a certified copy of this order along with Scheme duly certified by the Deputy Director or the Assistant Registrar, as the case may be, National Company Law Tribunal, Mumbai Bench.
- h) Any person interested shall be at liberty to apply to the Tribunal in the above matter for any direction that may be necessary.



- i) Any concerned Authority (i.e. RD, RoC, OL, Income Tax Authority etc.) is at liberty to approach this Bench for any clarification directions under this Scheme.
- j) The sanctioning of this Scheme shall not deter any concerned Authority (i.e. RD, RoC, OL, Income Tax Authority etc.) from assessing transactions, if need be, made under this Scheme.
- k) The Scheme is sanctioned hereby, and the appointed date of the Scheme is fixed as 31<sup>st</sup> March, 2017.
8. Ordered Accordingly. To be consigned to Records.

Dated : 27.07.2018

SD/-  
M. K. SHRAWAT  
MEMBER (JUDICIAL)

AMrashi

Certified True Copy  
Date of Application 28.06.2018  
Number of Pages 6  
Fee Paid Rs. 30  
Applicant called for collection copy on 31.07.2018  
Copy prepared on 31.07.2018  
Copy issued on 31.07.2018



Assistant Registrar  
National Company Law Tribunal, Mumbai Bench



**SCHEME OF ARRANGEMENT**

**UNDER SECTIONS 230 TO 232 READ WITH SECTION 52 & 66 OF THE  
COMPANIES ACT, 2013 AND RULES MADE THEREUNDER**

**AND**

**OTHER APPLICABLE AND RELEVANT PROVISIONS OF THE COMPANIES  
ACT, 1956**

**BETWEEN**

**AURIONPRO SOLUTIONS LIMITED**

**AND**

**TREJHARA SOLUTIONS LIMITED**

**AND**

**THEIR RESPECTIVE SHAREHOLDERS**





### **Preamble:**

This Scheme of Arrangement (as defined hereinafter) is presented pursuant to the provisions of Sections 230 to 232 of the Companies Act, 2013, and rules made thereunder, as may be applicable, for the demerger of certain business verticals of the Demerged Company (*defined hereinafter*) to the Resulting Company (*defined hereinafter*). The rational and the effects of such demerger and the terms of demerger have enumerated in detail in this Scheme. In addition, this Scheme also provides for various other matters consequential or otherwise integrally connected herewith.

#### **(A) Description of the Demerged Company:**

- a. Aurionpro Solutions Limited (the "Demerged Company" or the "Transferor Company" or "Aurionpro") is a public company, limited by shares, incorporated under the provisions of the Companies Act, 1956, under the Corporate Identity Number *L99999MH1997PLC111637* and having its registered office at 35<sup>th</sup> Floor, Sunshine Tower, Tulsi Pipe Road, Dadar (W), Mumbai – 400013.
- b. The equity shares of Demerged Company are listed on BSE Limited and National Stock Exchange of India Limited.
- c. Demerged Company is engaged in the business of providing solutions in corporate banking, treasury, fraud prevention and risk management, internet banking, governance and compliance and it is a leading provider of intellectual property led information technology solutions for the banking and financial service segments. Demerged Company also provides self-service technologies which enables financial institutions, utility, telecom and government organization to migrate, automate and managed customer facing business process to self-service channels.

#### **(B) Description of Resulting Company:**

- a. Trejhara Solutions Limited (the "Resulting Company" or the "Transferee Company" or "Trejhara") is a public company, limited by shares, incorporated under the provisions of the Companies Act, 2013, under the Corporate Identity Number *U72900MH2017PLC292340* and having its registered office at Unit No. 603, Sigma IT Park, Plot No. R-203, R-204, T.T.C. Industrial Estate, Thane Belapur Road, Rabale, Sector – 8, Navi Mumbai, Maharashtra 400 701.
- b. Resulting Company is incorporated with an object, *inter alia*, to engage in the business of providing IT and IT enabled services and software solutions which are available on cloud and on SAAS (Software as a Service) and PAAS (Platform as a Service) models.





**(C) Business Profile of Demerged Company:**

Over the period of time Demerged Company's vision has evolved to help businesses accelerate digital innovation securely and efficiently. Since inception, Demerged Company has invested heavily on key technologies and business offerings and has incubated and nurtured them to get a critical volume and become self-sustainable business. These offerings, which are core business strengths (hereinafter referred to as "Core Businesses") of Demerged Company, have grown into well-established business units with high growth rates and self-sustainable cash flows.

➤ **Enterprise Security** – includes Identity and Access provisioning, Cyber security (including malware protection), Cloud and Mobile Security & Security Info and Event Management (SIEM). Enterprise Security has been the largest business unit in terms of revenue. It has a strong and stable customer base globally including fortune 500 customers. With the recent acquisition of Spike Security, Demerged Company has added significant IP through "ISLA", a pioneering malware isolation product. Demerged Company's enterprise security business stands in a good position to harness and exponential growth rate in coming years.

➤ **Banking & Fintech** – includes Demerged Company's traditional and matured product lines for banking industry. This is Demerged Company's well established product lines and known as industry leader in this space. Banking & Fintech domain includes following offerings:

- Cash Management
- Loan Origination and Alternate Lending
- Digital Experience (DX) Platform
- Digital Payments platform

This vertical has established IP and is highly profitable and cash flow positive with some of the biggest marquee banks in APAC region as our clientele. The business is rapidly expanding in emerging markets such as Middle East and Africa with plans to expand in US and UK over next few years.

Demerged Company is well positioned in the market for the above referred Core Businesses but with the changing technology landscape, Demerged Company has invested significantly in Research and Development (R&D) and in developing cloud mobile social and analytics capabilities. Demerged Company is providing consulting and has also developed solutions which are available on cloud and on SAAS (Software as a Service) and PAAS (Platform as a Service) models. These businesses have a distinctly different business model, skill sets, operating margins, cash flow profile, investment needs, sales and revenue cycle from the





Core Businesses. These businesses (herein after referred to as the "Demerged Businesses") though do not belong to the Core Businesses of Demerged Company it does have potential to grow exponentially in future. It include following business verticals.

- **Consulting** - Demerged Company has been into IT consulting and provide resources to corporations in Asia. Demerged Company has trained consultants and provides bespoke development, Infrastructure management, database management and Analytics services. Demerged Company is constantly focusing on building newer skills and have developed unique skill sets in Cloud, Mobile, Social and Analytics. The group is also helping to internally build strong cloud based platforms.

**Following Subsidiaries of the Demerged Company are also engaged in consulting business.**

- ✓ **Aurionpro Solutions SPC., Bahrain;**
- ✓ **Auroscient Outsourcing Limited, India.**

- **Interactive Customer Communication (Interact DX)** - Demerged Company's Interact DX is an advanced customer communication product suite that provides any business with the ability to create all forms of customer communication that can be delivered across print, email, mobile and web. The platform can be used to create and curate customer communications such as: Bill Presentment, Statements and Receipts, and leverage them not just as information documents, but for interactive engagement.

Interact DX product currently has customers across the industry spectrum including Banking, Telecom, Media etc. It has been expanding geographically with global presence across US, UK, ME & India.

- **Supply Chain Solutions (Logistics)** - Demerged Company's Supply Chain Management product provides end-to-end integrated logistics solutions to its key customers across the globe. It covers all the aspects of Supply Chain Management including Sea & Air Freight, Land Freight & Distribution, Ware-housing, Project logistics, Express logistics, Industry standard SOPs and in-built SCM analytics.

All the functions and sales businesses of this product are overseen by Aurionpro Solutions SCM Pte Ltd., Singapore, a Wholly Owned Subsidiary of the Demerged Company.

**(D) Rationale:**

- Core Businesses of Demerged Company has achieved the critical size and have reached the stage of self-sustainability and high growth. While the Demerged Businesses present significant value creation opportunity.





for shareholders but will need different focused leadership and strategies to maximize the resultant value.

- The Core Businesses and Demerged Businesses have distinct characteristics and are at a different maturity stage in their life cycles. The difference is not only in their revenue cycles but require different sales approach and methodologies, have varied technology skill sets, and hence associated risk profile. Both of them have a distinct attractiveness to divergent set of investors. In order to unlock the true potential, the businesses would require undiluted management bandwidth to execute the respective vision. Therefore, it may be prudent that Demerged Businesses may be transferred into a separate Company and whose shares would also be listed on the Stock Exchange as defined hereto after the demerger. Upon such demerger, Demerged Company would continue to carry on the Remaining Undertaking and Resulting Company would continue to carry on the Demerged Businesses and would have their own independent management teams who can independently chart out their strategies to maximize value creation for their respective stakeholders.
- It is believed that the proposed demerger will create enhanced value for shareholders and would enable focused strategy in operations, which would be in the best interest of the Resulting Company (defined hereinafter), the Demerged Company (defined hereinafter), their respective shareholders, creditors and all persons connected with the respective companies.

(E) Upon the Scheme becoming effective, all the shareholders of the Demerged Company will also become shareholders of the Resulting Company.

**(F) Parts of the Scheme**

The Scheme is divided into following parts:

- a. **Parts A** deals with the introduction and definitions, interpretations and share capitals of the Demerged Company and the Resulting Company;
- b. **Part B** deals with the Demerger and/or Transfer and Vesting of the Demerged Undertaking (as defined hereinafter) and provisions regarding the Remaining Undertaking (as defined hereinafter).
- c. **Part C** deals with the issue of shares and accounting treatments in the Books of the Demerged Company and the Resulting Company.
- d. **Part D** deals with General Terms and Conditions applicable to the Scheme.





**PART A**  
**DEFINITIONS, INTERPRETATIONS AND SHARE CAPITAL**

**1. DEFINITIONS:**

In this Scheme, unless repugnant to the context, the following expressions shall have the following meanings:

- 1.1 **"Act"** or **"The Act"** means the Companies Act, 2013 and/or other applicable provisions of the Companies Act, 1956 or any statutory modifications, amendments or re-enactment thereof from time to time, and to the extent in force;
- 1.2 **"Appointed Date"** means the 31<sup>st</sup> day of March, 2017 or such other date as the Tribunal may direct or as may be decided by the respective Board of Directors of the Demerged Company and the Resulting Company, being the time and date with effect from which this Scheme shall be deemed to be effective, in the manner described in Clause 1.6 of this Scheme;
- 1.3 **"Board"** or **"Board of Directors"** means the Board of Directors or any committee there of the Demerged Company or the Resulting Company as the context may require;
- 1.4 **"Demerged Business"** means as defined in Para (D) "Business Profile of Demerged Company" as stated above;
- 1.5 **"Demerged Undertaking"** means the entire undertaking pertaining to the Demerged Business which includes all assets (whether movable or immovable) pertaining to the Demerged Business as on the Appointed Date;
  - 1.5.1. Without prejudice to the generality of the provisions stated above, Demerged Undertaking shall include without limitations the following:
    - i. All assets (whether moveable or immoveable) including freehold land, office premises, all other assets and properties (whether tangible or intangible, real or personal, corporeal or incorporeal, present, future or contingent) including, without limitation, interests, loans, deposits, advances (including accrued interest), investments including investments in overseas subsidiaries, receivables, cash on hand, investment in mutual funds, liquid funds, balance with banks (including bank fixed deposits), equipment, plant and machinery and the related assets and agreements, capital work in progress, unbilled revenue, furniture, fixtures, office equipment, appliances, accessories, vehicles, power connections, utilities and other service connections, all customer contracts, forward cover contracts, hedging contracts, receivables, claims, refunds, earnest moneys paid, rights and benefits under any agreements or security





arrangements and funds, contingent rights, rights arising under contracts and all other rights, title, interests, privileges and benefits of every kind wherever located (including in the possession of vendors, third parties or elsewhere) and used or held, by the Demerged Company in, or otherwise identified for use in, or relating to, the business activities and operations pertaining to the Demerged Businesses of the Demerged Company;

- ii. All liabilities and all debts, guarantees, assurances, commitments, obligations, loans, and undertakings of any kind, nature and description whatsoever and howsoever arising, present or future and including, without limitation, borrowings, working capital facilities, advances from customers, unearned revenues, bills payable, interest, whether fixed, contingent or absolute, secured or unsecured, asserted or un-asserted, matured or not, liquidated or unliquidated, accrued or not accrued, known or un-known, due or to become due, whenever or however arising, (including, without limitation, whether arising out of any contract or tort based on negligence or strict liability) pertaining to or relatable to the Demerged Businesses of the Demerged Company;
- iii. All contracts, agreements, leases, memoranda of understanding, memoranda of agreements, arrangements, undertakings, whether written or otherwise, deeds, bonds, schemes, arrangements, sales orders, purchase orders or other instruments of whatsoever nature to which the Demerged Company is a party, relating to its Demerged Business, or otherwise identified to be for the benefit of the same, approvals, electricity permits, telephone connections, building and parking rights, pending applications for consents or extension pertaining to or relatable to the Demerged Businesses of the Demerged Company;
- iv. All intellectual properties, labels, brands, trademarks, trade names, service marks, copyrights, patents, designs, software and computer programs, databases, domain names, including those pending registrations and applications for brands, trademarks, labels, trade names, service marks, copyrights, patents, designs, software and computer programs, databases and domain names, used by the Demerged Company or held for use by the Demerged Company in the business, activities and operations pertaining to its Demerged Business;





- v. All permits, licenses, consents, approvals, authorizations, quotas, rights, powers, permissions, arrangements, assignments, sanctions, entitlements, allotments, exemptions, incentives, tax benefits, deferrals, subsidies, concessions, grants, claims, liberties, special status, benefits and privileges enjoyed or conferred upon or held or availed of by the Demerged Company in relation to or pertaining to its Demerged Business, registrations, advantages, no-objection certificates, certifications, easements, and any waivers of the foregoing, issued by any legislative, executive or judicial unit of any Governmental or semi- Governmental entity or any department, commission, board, agency, bureau, official or other regulatory, local (including Municipal), administrative or judicial authority, used or held for use by the Demerged Company in respect of business, activities and operations pertaining to its Demerged Business;
- vi. All tax credits, including minimum alternate tax (MAT) credits, cenvat credits, refunds, reimbursements, claims, exemptions, benefits under service tax laws, value added tax (VAT), purchase tax, sales tax or any other duty or tax or cess or imposts under any Central or State law including sales tax deferrals, special economic zone benefits, excise duty benefits, tax deducted at source, right to carry forward and set-off unabsorbed losses, and depreciation, if any and exemptions, deductions, benefits and incentives under the Income-tax Act in respect of business, activities and operations pertaining to the Demerged Businesses of the Demerged Company;
- vii. All rights, benefits and other interest, whether held in trust or otherwise, contracts, agreements, powers, engagements, arrangements of all kind, privileges and all other rights including title, interests, other benefits (including tax benefits), easements, privileges, liberties and advantages of whatsoever nature and wheresoever situated, belonging to or in the ownership, possession, power or custody of or in the control of or vested in or granted in favour of or enjoyed by the Demerged Company, whether in India or abroad, all pertaining to or relatable to the Demerged Businesses of the Demerged Company;
- viii. All records, files, papers, manuals, data, sales and advertising materials, lists and other details of customers and suppliers, credit information, pricing information, whether in physical or electronic form, all pertaining to or relatable to the Demerged Businesses of the Demerged Company;





- ix. All such employees including contract employees of the Demerged Company, as are primarily engaged in or in relation to the business activities and operations pertaining to the Demerged Businesses of the Demerged Company at its respective offices, branches, or by its subsidiaries, etc, and any other employees/personnel hired by the Demerged Company on and after the date hereof who are primarily engaged in or in relation to the business, activities and operations pertaining to its Demerged Business;

Any question that may arise as to whether a specific asset or liability or any other property or employee pertains or does not pertain to the Demerged Businesses of the Demerged Company or whether it arises out of the activities or operations of the Demerged Businesses of the Demerged Company shall be decided by mutual agreement between the Board of Directors of the Demerged Company and the Resulting Company.

- 1.6 **"Effective Date"** means the last of the dates on which certified copies of the NCLT's Orders sanctioning this Scheme of Arrangement are filed with respective Registrar of Companies by the Demerged Company and the Resulting Company.
- 1.7 **"National Company Law Tribunal" or "NCLT"** means tribunal as constituted pursuant to section 408 of the Companies Act, 2013;
- 1.8 **"Record Date"** shall mean the date to be fixed by the Board of Directors of the Resulting Company or a committee thereof in consultation with the Board of Directors of the Demerged Company or a committee thereof for the purpose of determining the members of the Demerged Company to whom shares of the Resulting Company are to be issued;
- 1.9 **"Remaining Business"** of the Demerged Company means all the undertakings, businesses, activities and operations of Demerged Company other than Demerged Undertaking;
- 1.10 **"RoC"** means the Registrar of Companies, Maharashtra;
- 1.11 **"Scheme" or "the Scheme" or "this Scheme"** means this Scheme of Arrangement in its present form or with any modification(s) made under Clause 11 of this Scheme as approved or directed by the NCLT or any other appropriate authority;
- 1.12 **"SEBI"** means Securities and Exchange Board of India;
- 1.13 **"SEBI Listing Regulations"** means the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 to the extent notified from time to time, any amendments thereof and shall include any guidelines, rules, frequently





asked questions, circulars issued under such regulations from time to time

1.14 **"Stock Exchanges"** means BSE Limited and National Stock Exchange of India Limited.

1.15 **"The Transferor Company"** or **"the Demerged Company"** or **"AURIONPRO"** means Aurionpro Solutions Limited, a Company incorporated under the Companies Act, 1956 on 31/10/1997 having its registered office at 35<sup>th</sup> Floor, Sunshine Tower, Tulsi Pipe Road, Dadar (W), Mumbai – 400013.

1.16 **"The Transferee Company"** or **"the Resulting Company"** or **"Trejhara"** means Trejhara Solutions Limited, a Company incorporated under the Companies Act, 2013 on and having its registered office at 35<sup>th</sup> Floor, Sunshine Tower, Tulsi Pipe Road, Dadar (W), Mumbai – 400013.

## 2. INTERPRETATIONS

- (a) The expressions, which are used in this Scheme and not defined in this Scheme shall, unless repugnant or contrary to the context or meaning thereof, have the same meaning assigned to them under the Companies Act, the IT Act and other Applicable Laws.
- (b) Any references to Sections of the 1956 Act shall be deemed to include references to the corresponding provisions of the 2013 Act, as and when such provisions are made effective in accordance with Applicable Laws.
- (c) In this Scheme, unless the context otherwise requires:
  - (i) the words "including", "include" or "includes" shall be interpreted in a manner as though the words "without limitation" immediately followed the same;
  - (ii) any document or agreement includes a reference to that document or agreement as varied, amended, supplemented, substituted, novated or assigned, from time to time, in accordance with the provisions of such a document or agreement;
  - (iii) the words "other", "or otherwise" and "whatsoever" shall not be construed *ejusdem generis* or be construed as any limitation upon the generality of any preceding words or matters specifically referred to;
  - (iv) the headings are inserted for ease of reference only and shall not affect the construction or interpretation of the relevant provisions of this Scheme;
  - (v) the term "Clause" refers to the specified clause of this Scheme as the case may be;





- (vi) reference to any legislation, statute, regulation, rule, notification or any other provision of law means and includes references to such legal provisions as amended, supplemented or re-enacted from time to time, and any reference to legislation or statute includes any subordinate legislation made from time to time under such a legislation or statute and regulations, rules, notifications or circulars issued under such a legislation or statute;
- (vii) words in the singular shall include the plural and *vice versa*

### 3. SHARE CAPITAL

#### 3.1 Demerged Company:

The Share Capital structure of the Demerged Company as on 31 March, 2017 is as under:

<u>Particulars</u>	<u>Rupees</u>
<b><u>Authorized Capital</u></b>	
6,61,50,000 Equity Shares of Rs.10/- each	66,15,00,000
<b>TOTAL</b>	<b>66,15,00,000</b>
<b><u>Issued, Subscribed and Paid –up</u></b>	
2,19,50,301 Equity Shares of Rs. 10/- each	21,95,03,010
<b>TOTAL</b>	<b>21,95,03,010</b>

The equity shares of the Demerged Company are currently listed on the Stock Exchanges.

Note: As on 31 March 2017, 12,40,000 convertible warrants were outstanding to be converted into equity shares.

On an application for conversion of warrants from the respective warrant holders 1,50,000 and 9,35,000 warrants were converted into equity shares on 03 April 2017 and 28 April 2017, respectively.

Pursuant to conversion of warrants into equity shares, Companies issued, subscribed and paid up capital has been increased to Rupees 23,03,53,010/- divided into 2,30,35,301 equity shares of Rupees 10/- each.

#### 3.2 Resulting Company:

The Share Capital structure of the Resulting Company as on 31 March, 2017 is as under:

<u>Particulars</u>	<u>Rupees</u>
<b><u>Authorized Capital</u></b>	
10,00,000 Equity Shares of Rs.10/- each	Rs.1,00,00,000/-





<b>TOTAL</b>	<b>Rs.1,00,00,000/-</b>
<b><u>Issued, Subscribed and Paid –up</u></b>	
10,000 Equity Shares of Rs. 10/- each	<b>Rs.1,00,000/-</b>
<b>TOTAL</b>	

## **PART B**

### **4. DEMERGER AND/OR TRANSFER AND VESTING OF THE DEMERGED UNDERTAKING INTO THE RESULTING COMPANY**

- 4.1 Subject to the provisions of the Scheme in relation to the modalities of the demerger and vesting thereof, on the coming into effect of this Scheme and with effect from the Appointed Date, the Demerged Undertaking shall, pursuant to the provisions of Sections 230 to 232 of the Companies Act, 2013, without any further act, instrument, deed, matter or thing, shall stand transferred to and vested in and/or be deemed to have transferred to and vested in the Resulting Company on a going concern basis, so as to vest in the Resulting Company all rights, title and interest pertaining to the Demerged Undertaking;
- 4.2 The demerger of the Demerged Undertaking under this Scheme shall be in compliance with the conditions of "demerger" as specified under Section 2(19AA) of the Income-tax Act, 1961. If any of the terms of this Scheme are inconsistent with the provisions of Section 2(19AA) of the Income-tax Act, the provisions of Section 2(19AA) of the Income-tax Act shall to the extent of such inconsistency, prevail and the Scheme shall, stand and be deemed to be modified to that extent to comply with the said provisions and such modifications shall not affect the other parts of the Scheme
- 4.3 Transfer of Assets:
- i. Upon the coming into effect of this Scheme and with effect from the Appointed Date, all the estate, assets rights, claims, title, interest and authorities including accretions and appurtenances pertaining to the Demerged Undertaking, pursuant to the provisions of Sections 230 to 232 of the Act, without any further act, deed matter or thing shall stand transferred to and vested in and shall be deemed to be transferred to and vested in t the Resulting Company.
  - ii. All assets and properties, whether movable or immovable, real or personal, in possession or reversion, leasehold land, buildings, corporeal or incorporeal, tangible or intangible, present or contingent of whatsoever nature and where so ever situated, belonging to or in the





ownership, power or possession and / or in the control of or vested in or granted in favour of or enjoyed by the Demerged Undertaking of the Demerged Company, such as licenses, permits, approvals, registrations, contracts, registration with various government, semi government, local bodies, or any other corporate or enterprises or undertakings, agreements, bonds, understandings, engagements, deeds and instruments of whatever nature relating to the Demerged Undertaking and to which the Demerged Company is a party or to the benefit of which the Demerged Company is eligible and subsisting or having effect on the Effective Date, shall in force and effect against or in favour of the Resulting Company as fully and effectually as if, instead of Demerged Company, the said Resulting Company had been a party or beneficiary or oblige thereto to there under, all deposits including security deposits, inventories/ stocks, funds, electrical installation, office equipment, Air-conditioning, plant, fixtures, computers, appliances, accessories, vehicles, incentives, if any, and all other rights, title, interest, labels and brand registrations, trademarks, patents and copyrights, technical know-how, trade names and other industrial rights of any nature whatsoever, contracts, agreements, consent, approvals or powers of every kind nature and description.

- iii. All arrangements with remisiers, clients, hire purchase arrangements, bids, tenders, letters of intent, expressions of interest, municipal and other statutory permissions, approvals, consents, registrations, subsidies, Bank Guarantees, Fixed Deposit Receipts, Bonds, concessions, exemptions, remissions, tax deferrals, tenancies in relation to office, bank accounts, lease rights, powers and facilities of every kind, nature and description whatsoever, rights to use and avail of v-sats, lease-lines, internet connections, telephones, telexes, facsimile connections and installations, utilities, electricity and other services, provisions, funds, benefits of all other interests in connection with or relating to the Demerged Undertaking of the Demerged Company be transferred to and vested in the Resulting Company.

#### 4.4 Transfer of Liabilities:

- i. Upon the coming into effect of this Scheme, all debts, liabilities, loans raised and used, liabilities and obligations incurred, duties or obligations of any kind, nature or description related to the Demerged Undertaking (as on the Appointed Date) be and stand transferred to the Resulting Company.
- ii. Existing Corporate Guarantees issued by the Demerged Company to secure obligations that shall arise out of borrowings transferred to the





Resulting Company as part of the Demerged Undertaking shall continue to be effective post Scheme till the due date for complete repayment of the said borrowings. For this purpose and to the extent of obligations guaranteed and continued under the Scheme, approval of the Scheme by the members of the Demerged Company at meeting held as per direction of NCLT shall be deemed to be approval of shareholders for the purpose of section 186 of the Companies Act 2013 and other applicable provisions of the Companies Act 2013.

- iii. For the purpose of this Scheme, it is clarified that liabilities pertaining to the Demerged Undertaking of the Demerged Company are:
  - a. The liabilities which arise out of the activities or operations of the Demerged Business of the Demerged Company,
  - b. Specific loans and borrowings raised, incurred and utilized solely for the activities or operation of the Demerged Business of the Demerged Company, and
  - c. Liabilities other than those referred to in sub-Clauses (a) and (b) above, and not directly relatable to the remaining business of the Demerged Company, being the amounts of general or multipurpose borrowings of Demerged Company, allocated to the Demerged Undertaking of the Demerged Company in the same proportion which the value of the assets transferred bears to the total value of the assets of the Demerged Company immediately before giving effect to this Scheme.
- iv. All employees of the Demerged Company employed for the Demerged Undertaking of the Demerged Company as on the Effective Date be transferred to and vested in the Resulting Company.
- v. Any question that may arise as to whether a specific assets or liabilities pertains or does not pertain to the Demerged Undertaking of the Demerged Company or whether it arises out of the activities or operations of the Demerged Undertaking shall be decided by mutual agreement between the Boards of Directors of the Resulting Company and the Demerged Company.

4.5 All legal, taxation or other proceeding whether civil or criminal (including before any statutory or quasi-judicial authority or tribunal) by or against the Demerged Businesses 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 Demerged Businesses shall be continued and enforced by or against the Resulting Company after the Effective Date. The Demerged Company shall in no event be responsible or liable in relation to any such





legal, taxation or other proceeding against the Resulting Company, which relate to the Demerged Business.

## REMAINING UNDERTAKING OF THE DEMERGED COMPANY

### 5. REMAINING BUSINESSES TO CONTINUE WITH DEMERGED COMPANY

- 5.1 The **Remaining Undertaking**" means all the business, undertaking, activities, operations and all the properties and investments and liabilities of the Demerged Company to be retained after demerger / Transfer by the Demerged Company after transfer of the Demerged Undertaking pursuant to this Scheme.
- 5.2 The Remaining Business Undertaking 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.
- 5.3 All legal, taxation or other proceeding 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 Undertaking (Including those relating to any property right, power, liability, obligation or duties of the Demerged Company in respect of the Remaining Undertaking) 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 Undertaking.
- 5.4 If proceedings are taken against the Resulting Company in respect of the matters referred to 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.
- 5.5 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 Undertaking 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 undertaking shall for all purpose, be treated





as the profits & losses, as the case may be, of the Demerged Company; and

- (c) All assets and properties acquired by the Demerged Company in relation to the remaining undertaking on and after the Appointed Date shall belong to and continue to remain vested in the Demerged Company.

#### 5.6 DATE OF TAKING EFFECT AND OPERATIVE DATE

The Scheme set out herein in its present form or with any modification(s) and amendment(s) made under Clause 11 of the Scheme shall be effective from the Appointed Date but shall be operative from the Effective Date.

### PART C

#### ISSUE OF SHARES AND ACCOUNTING TREATMENT

#### 6 CONSIDERATION BY THE RESULTING COMPANY

- 6.1 Upon this Scheme becoming operative and upon vesting of the whole of the Demerged Undertaking of the Demerged Company in Resulting Company in terms of this Scheme, the Resulting Company shall without any further application or deed, issue and allot Equity Shares of the face value of Rs. 10/- each (Rupees Ten each) credited as fully paid-up to the Members of the Demerged Company (the Demerged Company) whose name appears in the Register of Members of the Demerged Company on the Record Date, his/her heirs, executors, administrators, successors in the title as the case may be in the ratio of One Equity share of Resulting Company of the Face Value of Rs. 10/- (Rupees Ten each) credited as fully paid up for every Two Equity Shares of Rs. 10/- each (Rupees Ten each) fully paid held by each such Member or his/her heirs, executors, administrators, successors in the Demerged Company.

Such Equity Shares to be issued by Resulting Company to the Shareholders of Demerged Company is referred to as "Resulting Company's New Equity Shares" and the ratio in which equity shares of the Resulting Company are to be issued and allotted to the shareholders of the Demerged Company is referred to as the "Share Entitlement Ratio".

However, the fully paid up shares in the Resulting Company to the shareholders of the Demerged Company are to be allotted in absolute numbers only after application of the Share Entitlement Ratio. No fractional Share shall be issued by the Resulting Company in respect of the fractional Share entitlement, if any, arising out of such allotment which shall be rounded off to the nearest complete Share.

- 6.2 The equity shares in the Resulting Company to be issued to the shareholders of the Demerged Company pursuant to this Scheme shall be





subject to the Memorandum and Articles of Association of the Resulting Company and shall rank *pari passu* with the existing equity shares of the Resulting Company, save and except in relation to dividend to which they will be entitled proportionately from the Date of allotment of such shares.

- 6.3 The Resulting Company's New Equity Shares to be issued pursuant to Clause 6.1 above shall be issued in dematerialized form by the Resulting Company, unless otherwise notified in writing by any non-promoter shareholders of the Demerged Company to the Resulting Company on or before such date as may be determined and communicated by the Board of the Demerged Company. In the event that such notice has not been received by the Resulting Company in respect of any of the shareholders of the Demerged Company, the Resulting Company's New Equity Shares shall be issued to such shareholders in dematerialized form provided that the shareholders of the Resulting Company shall be required to have an account with a depository participant and shall be required to provide details thereof and such other confirmations as may be required. In the event that the Resulting Company has received notice from any shareholder that Resulting Company's New Equity Shares are to be issued in physical form or if any shareholder has not provided the requisite details relating to his/her/its account with a depository participant or other confirmations as may be required or if the details furnished by any shareholder do not permit electronic credit of the shares of the Resulting Company, then the Resulting Company shall issue Resulting Company's New Equity Shares in physical form to such non-promoter shareholder or shareholders.
- 6.4 In the event of there being any pending share transfers, whether lodged or outstanding, of any shareholders of the Demerged Company, the Board of the Demerged Company shall be empowered to effectuate such transfers in the Demerged Company as if such changes in registered holders were operative as on the Record Date, in order to remove any difficulties arising to the transferors of the shares in relation to the shares issued by the Resulting Company. The Board of the Demerged Company shall be empowered to remove such difficulties that may arise in the course of implementation of this Scheme and registration of new shareholders in the Resulting Company on account of difficulties faced in the transition period.
- 6.5 The issue and allotment of the Resulting Company's New Equity Shares in terms of this Scheme shall be deemed to have been carried out as if the procedure laid down under section 62 of the Companies Act, 2013 and any other applicable provisions of the Act have been complied with.
- 6.6 In the event that the Demerged Company restructures its equity share capital by way of share split/ consolidation/ issue of bonus shares during the





pendency of the Scheme, the Share Entitlement Ratio shall be adjusted accordingly to take into account the effect of any such corporate actions.

6.7 There shall be no change in the shareholding pattern of the Resulting Company between the Record Date and the listing which may affect the basis on which approval is received from the Stock Exchanges.

6.8 Approval of this Scheme by the Equity Shareholders of the Resulting Company shall be deemed to be in due compliance of the provisions of Section 62 and other relevant and applicable provisions of the Act relating to the issuance and allotment of Resulting Company's New Equity Shares by the Resulting Company to the Equity Shareholders of the Demerged Company, as provided in this Scheme

**7 COMBINATION OF AUTHORISED SHARE CAPITAL OF DEMERGED COMPANY WITH THE RESULTING COMPANY:**

7.1 With effect from the Appointed Date and upon the Scheme becoming effective, out of the total Authorized Share Capital of the Demerged Company of Rs. 66,15,00,000, Authorized Share Capital representing Rs.11,00,00,000/- divided into 1,10,00,000 Equity Shares of Rs.10/- each, shall automatically stand transferred and be included in the Authorized Share Capital of the Resulting Company, without any further act, instrument or deed on the part of the Resulting Company including filing of statutory forms with the RoC and payment of stamp duty and fees payable to the RoC, thereby increasing the Authorized Share Capital of the Resulting Company to Rs.12,00,00,000/- divided into 1,20,00,000 equity shares of Rs.10 each. The paid-up and subscribed share capital of the Demerged Company shall remain unchanged on becoming effective of this Scheme.

7.1.1 With effect from the Appointed Date and upon Scheme becoming effective the clause V of the Memorandum of Association of the Demerged Company shall, without any further act, deed, matter or thing be replaced by the following new clause:

*"The Authorised Share Capital of the Company is Rs. 55,15,00,000 (Rupees Fifty Five Crores Fifteen Lacs only) divided into 5,51,50,000 (Five Crore Fifty One Lacs Fifty Thousand only) equity shares of Rs. 10 (Rupees Ten only) each."*

7.1.2 With effect from the Appointed Date and upon Scheme becoming effective the capital clause V of the Memorandum of Association of the Resulting Company shall, without any further act, deed, matter or thing be replaced by the following new clause:





*"The Authorised Share Capital of the Company is Rs. 12,00,00,000 (Rupees Twelve Crores only) divided into 1,20,00,000 (One Crore Twenty Lacs only) equity shares of Rs. 10 (Rupees Ten only) each. The minimum paid up capital of the Company is Rs. 1,00,000."*

- 7.1.3 Article \_\_\_ of the Articles of Association of the Resulting Company shall, with effect from the Appointed Date and upon the Scheme becoming effective and without any further act, deed, matter or thing be replaced by the following clause:

*"The Authorised Share Capital of the Company is 12,00,00,000 (Rupees Twelve Crores only) divided into 1,20,00,000 (One Crore Twenty Lacs only) equity shares of Rs. 10 (Rupees Ten only) each and with power to the Company to increase, reduce or modify the capital and to divide all or any of the share capital in the Company, for the time being and to classify and re-classify such shares from shares of one class to other class or classes and attach thereto and respectively such preferential, deferred, qualified or other special rights, privileges, conditions, or restrictions as may be determined by the Company in accordance with the Articles of Association of the Company to vary, modify or abrogate any such rights, privileges, conditions or restrictions, in such manner, by such persons, as may, for the time being, be permitted under the provisions of the Articles of Association of the Company or legislative provisions for the time being in force in that behalf."*

The approval of the Scheme by the shareholders of the Demerged Company and the Resulting Company, shall be deemed to be the due compliance of all other relevant and applicable provisions of the Act to give effect to the increase and reduction in the Authorized Share Capital of the Resulting Company and Demerged Company respectively as contemplated in Clause 5.3 of this Scheme.

- 7.2 As an integral part of the Scheme, the issued, subscribed and paid-up share capital of the Resulting Company shall stand suitably increased consequent on the issue of the New Equity Shares. It is clarified that no special resolution under Section 62(1)(c) of the Companies Act, 2013 shall be required to be passed by the Resulting Company in a general meeting for issue of the New Equity Shares under this Scheme and on the Members of the Resulting Company approving this Scheme, it shall be deemed that they have given





their consent to the issue of New Equity Shares of the Resulting Company as provided in this Scheme.

### **7.3 Issue in Dematerialized Form**

7.3.1 All New Equity Shares to be issued and allotted under Clause 5.1 by the Resulting Company shall be issued in dematerialized form unless otherwise notified in writing by the shareholders of the Demerged Company to the Resulting Company on or before such date as 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, the New Equity Shares shall be issued in dematerialized form as per details pertaining to their respective demat accounts furnished by the shareholders to the Demerged Company and as made available to the Resulting Company.

7.3.2 If the requisite details of the account of any shareholder with a depository participant are not recorded with the Demerged Company, such shareholder concerned will be required to provide the said details to enable the Resulting Company to allot the New Equity Shares in dematerialized form to the concerned shareholder.

### **7.4 New Equity Shares to be kept in abeyance:**

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 of the Demerged Company shall be empowered in appropriate cases, prior to or even subsequent to the Record Date, to effectuate such a transfer as if such changes in the registered holder were operative as on the Record Date, in order to remove any difficulties arising to the transferor or transferee of Equity Shares in the Demerged Company, after the effectiveness of this Scheme.

### **7.5 Listing:**

7.5.1 The Equity Shares issued by the Resulting Company under the Scheme will be listed and/or admitted to trading on the Stock Exchanges where the shares of the Demerged Company are listed and/or admitted to trading and all necessary applications will be made in this aspect by the Resulting Company.

7.5.2 The Equity Shares allotted by the Resulting Company pursuant to the Scheme, shall remain frozen in dematerialized form for listing and trading on respective Stock Exchanges pending permissions for the same from the respective Stock Exchanges.





**7.6 Resulting Company to obtain necessary approvals:**

The Resulting Company shall, if and to the extent required, apply for and obtain the required statutory approvals of the concerned Governmental Authority for the issue and allotment of the New Equity Shares.

**8 ACCOUNTING TREATMENT IN THE BOOKS OF DEMERGED COMPANY**

- 8.1 Upon the Scheme becoming effective, the Demerged Company shall reduce the book value of assets and liabilities pertaining to the Demerged Undertaking transferred to the Resulting Company.
- 8.2 The excess of the book value of assets transferred over the book value of liabilities transferred shall be first adjusted against the Capital Reserve Account and balance against General Reserve account of the Demerged Company and the balance, if any, shall be adjusted against Profit & Loss Account.
- 8.3 On the Scheme becoming effective, the equity interest of the Demerged Company in the equity share capital of the Resulting Company would get cancelled.
- 8.4 The inter-company balances, if any, appearing in the books of account of the Demerged Company and Resulting Company being transferred, will stand cancelled.

**9 ACCOUNTING TREATMENT IN THE BOOKS OF THE RESULTING COMPANY**

- 9.1 The Resulting Company shall, upon the Scheme becoming effective, record all assets and liabilities relating to the Demerged Undertaking of the Demerged Company vested in it pursuant to this Scheme, at respective book values, as appearing in the books of the Demerged Company, at the close of business on the day immediately preceding the Appointed Date.
- 9.2 The Resulting Company shall credit to its Share Capital account, the aggregate face value of the New Equity Shares issued by it pursuant to this Scheme.
- 9.3 On the Scheme becoming effective, the equity interest of the Demerged Company in the equity share capital of the Resulting Company would get cancelled.
- 9.4 The inter-company balances, if any, appearing in the books of accounts of the Resulting Company and the Demerged Company being transferred, will stand cancelled.





- 9.5 The difference being the excess of the net assets value (after giving adjustment to clause 7.2 above) of the Demerged Company transferred to the Resulting Company determined as per clause 7.1 above, over the value of New Equity Shares issued and allotted as per clause 5.1 by the Resulting Company reduced by the face value of the equity share capital of the Resulting Company cancelled on the Scheme being effective would be recorded as Capital Reserve. Shortfall, if any, shall be recorded as Goodwill.
- 9.6 In case of any differences in accounting policy between the Demerged Company and the Resulting Company, the accounting policies followed by Resulting Company will prevail and the differences till the Appointed Date will be qualified and adjusted against capital reserve/Goodwill Account to ensure that the financial statements of the Resulting Company reflect the financial position on the basis of consistent accounting policy. The treatment in this clause shall be applicable irrespective of any change in the accounting method.
- 9.7 Consideration for arrangement discharged by way of issuance of New Equity Shares shall be recorded at fair value. Equity Share Capital Account shall be credited with the aggregate face value of the New Equity Shares and Preference Shares issued by it to the members of Transferor Company. The fair value of New Equity Shares issued in excess of the face value of equity shares shall be recorded as securities premium in the financial statements of the Transferee Company.

#### **PART D**

### **10 GENERAL TERMS AND CONDITIONS/APPROVALS**

#### **10.1 Conduct of Business by the Demerged Company till Effective Date**

With effect from the Appointed Date and up to and including the Effective Date:

- a) The Demerged Company shall be deemed to have been carrying on and shall carry on the respective business and activities of the Demerged Undertaking and shall be deemed to have and stood possessed of and shall hold and stand possessed of the assets pertaining to the Demerged Undertaking, for and on account of and in trust for the Resulting Company, as applicable in each case. the Demerged Company hereby undertakes to hold the said assets with utmost prudence until the Effective Date.
- b) The Demerged Company shall carry on the respective business and activities of the Demerged Undertaking with reasonable diligence, business prudence and shall not, except in the ordinary course of





business or without prior written consent of the Resulting Company, as the case may be, alienate, charge, mortgage, encumber or otherwise deal with or dispose off the Demerged Undertaking or any part thereof otherwise in normal course of business.

- c) All the profits or income accruing or arising to the Demerged Company or expenditure or losses arising or incurred or suffered by the Demerged Company pertaining to the Demerged Undertaking for all purposes be treated and be deemed to be and accrue as the income or profits or losses or expenditure, as the case may be, of the Resulting Company.
- d) the Demerged Company shall not vary the terms and conditions of employment of any of the employees engaged in and for the Demerged Undertaking except in the ordinary course of business or without the prior consent of the Resulting Company or pursuant to any pre-existing obligation undertaken by the Demerged Company as the case may be, prior to the Appointed Date.
- e) The Resulting Company shall be entitled, pending the sanction of the Scheme, to apply to the Central/State Government, Union Territories, and all other agencies, departments and authorities (statutory, regulatory or otherwise) concerned as are necessary under any law or rules, for such consents, approvals and sanctions, which any or all of them may require to own and to operate respectively the Demerged Undertaking.

#### **10.2 Profits, Dividend, Bonus/Right Shares**

10.2.1 The Demerged Company shall not utilize profits, if any, of the Demerged Undertaking for any purpose including declaring or paying any dividend in respect of the period falling on and after the Appointed Date. The Demerged Company shall also not utilize profits, adjust or claim adjustment of the profits/loss as the case may be earned/incurred or suffered in respect of the Demerged Undertaking after the Appointed Date.

10.2.2 Until the Effective Date, the Demerged Company shall not issue or allot any further equity shares either rights or bonus or otherwise without prior consent of the Resulting Company, except those which have been issued prior to the Appointed Date.

#### **10.3 Employees of the Demerged Undertaking**

10.3.1 On the Scheme becoming effective all the employees of the Demerged Company in respect of the Demerged Undertaking as may be identified by the Board of Directors of the Demerged Company shall become the employees of the Resulting Company.





without any break or interruption in their services, on same terms and conditions on which they are engaged as on the Effective Date. The Resulting Company further agree that for the purpose of payment of any retirement benefit/compensation, such immediate uninterrupted past services with the Demerged Company in respect of the Demerged Undertaking shall also be taken into account. The Resulting Company undertakes to continue to abide by the terms of agreement/settlement entered into by the Demerged Company in respect of the Demerged Undertaking with any outside agency in respect of the Demerged Undertaking.

10.3.2 The accounts/ funds of the employees, whose services are transferred under Clause 8.3.1 above, relating to superannuation, provident fund and gratuity fund shall be identified, determined and transferred to the respective Trust/ Funds of the Resulting Company and such employees shall be deemed to have become members of such Trusts/ Funds of the Resulting Company.

#### 10.4 Legal Proceedings

10.4.1 All legal proceedings of whatsoever nature by or against the Demerged Company, if any, in respect of any or all of the Demerged Undertaking pending on and/or arising after at the Appointed Date, as and from the Effective Date shall not abate or be discontinued or be in any way prejudicially affected by reason of the Scheme of Arrangement or by anything contained in this Scheme but shall be continued and enforced by or against the Resulting Company, as the case may be, in the manner and to the same extent as would or might have been continued and enforced by or against the Demerged Company.

10.4.2 After the Appointed Date, proceedings, if any are taken against the Demerged Company in respect of any or all of the Demerged Undertaking, it shall prosecute or defend the same, as the case may be, at the cost of the respective Resulting Company, and the said Resulting Company shall reimburse and indemnify the Demerged Company against all liabilities and obligations incurred by the Demerged Company in respect thereof.

10.4.3 The Resulting Company undertake to have all legal or other proceedings initiated by or against the Demerged Company referred to in Clauses 8.4.1 and/or 8.4.2 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.





**10.5 Contracts, Deeds, etc.**

10.5.1 Subject to the other provisions of this Scheme, all contracts with the customers, vendors or any other parties for annual maintenance or for any other purpose, deeds, bonds, insurance, Letters of intent, bank guarantee, letter of credit, undertakings, arrangements, policies, agreements and other instruments, if any, of whatsoever nature relating to any or all of the Demerged Undertaking and to which the Demerged Company is party and subsisting or having effect on the Effective date, shall be in full force and effect against or in favour of the Resulting Company, as the case may be, and may be enforced by or against Resulting Company as fully and effectually as if, instead of the Demerged Company, such Resulting Company had been a party thereto.

10.5.2 The Resulting Company shall enter into and/or issue and/or execute deeds, writings or confirmations or enter into any tripartite arrangements, confirmations or novation, to which the Demerged Company will, if necessary, also be party in order to give formal effect to the provisions of this Scheme, if so required or becomes necessary. The Resulting Company shall be deemed to be authorized to execute any such deeds, writings or confirmations on behalf of the Demerged Company and to implement or carry out all formalities required on the part of the Demerged Company to give effect to the provisions of this Scheme.

**11 REDUCTION OF EXISTING SHARE CAPITAL OF THE RESULTING COMPANY**

11.1 Upon the Scheme becoming effective and post the demerger of the demerged undertaking of Demerged Company into Resulting Company, the existing Paid-up Equity Share capital of the Resulting Company which is held by Demerged Company along with its nominees as on the Effective Date shall, without any application or deed, stand cancelled.

11.2 The cancellation of paid-up Equity share capital of the Resulting Company shall be effected as an integral part of the Scheme in accordance with the provisions of Section 66 of the Act and Rules thereto and the Order of the NCLT sanctioning the Scheme shall be deemed to be also the Order under Section 66 of the Act for the purpose of confirming the reduction of capital. The reduction would not involve either a diminution of liability in respect of unpaid Equity share capital or payment of paid-up equity share capital and the provisions of Section 66 of the Act will not be applicable.





**12 APPLICATION TO THE NATIONAL COMPANY LAW TRIBUNAL ("the NCLT")**

The Demerged Company and the Resulting Company shall with all reasonable dispatch make applications/petitions under Sections 230 to 232 and other applicable provisions of the Act to the NCLT for sanctioning of this Scheme of Arrangement under Sections 230 to 232 of the Act and for such other or further order or orders there under as the Tribunal may deem fit for carrying the Scheme into effect.

**13 SCHEME CONDITIONAL ON APPROVALS/SANCTIONS**

This Scheme is conditional upon the receipt of and subject to:

- 13.1 The requisite consent, approval or permission of the shareholders or the creditors or the Central Government or any other statutory or regulatory authority, which by law may be necessary for the implementation of this Scheme.
- 13.2 The sanction of the NCLT or any other authority under Section 230 to 232 of the Act for demerger/transfer of the of Demerged Undertaking of the Demerged company in favour of the Resulting Company under the said provisions and to the necessary order or orders under Section 230 to 232 of the said Act being obtained and the same being filed with the Registrar of Companies.

**14 FILING / AMENDMENT OF RETURNS, ETC.**

- 14.1 The Demerged Company and the Resulting Company are expressly permitted to file/revise/reopen their financial statements (including their balance sheet and profit and loss statement) and income tax, wealth tax, service tax, value added tax, minimum alternate tax and other statutory returns, consequent to the Scheme becoming effective, notwithstanding that the period for filing/ revising such statements/returns may have lapsed, in order to give full effect to the Scheme, without requiring/ seeking any additional consent or approval under any applicable laws/rules and regulations. The Demerged Company and the Resulting Company are expressly permitted to amend tax deduction at source and other statutory certificates and shall have the right to claim refunds, advance tax credits, minimum alternate tax, set offs and adjustments relating to their respective incomes/ transactions from the Appointed Date, as the case may be.
- 14.2 It is specifically declared that the taxes/ duties paid by the Demerged Company in relation to the business of its Demerged Undertaking, as the case may be, shall be deemed to be the taxes/ duties paid by the





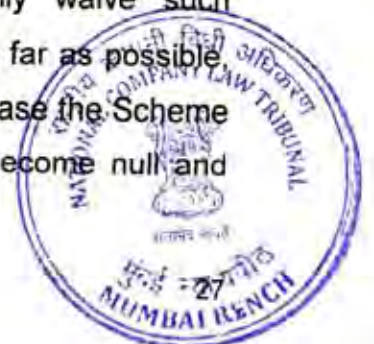
Resulting Company and the Resulting Company shall be entitled to claim credit for such taxes deducted/ paid against its tax/ duty liabilities notwithstanding that the certificates/ challans or other documents for payment of such taxes/duties are in the name of the Demerged Company.

## **15 MODIFICATIONS/AMENDMENTS TO THE SCHEME**

- 15.1 Subject to approval of the NCLT, the Demerged Company and Resulting Company by their respective Board of Directors or any duly authorized committee may make or consent to, on behalf of all persons concerned, any modifications or 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 the respective Board of Directors or committees, including withdrawal of this Scheme and solve all difficulties that may arise for carrying out the Scheme and do all acts, deeds and things necessary for putting the Scheme into effect. No modification or amendment to the Scheme will be carried out or effected by the Board without approaching the NCLT.
- 15.2 The Demerged Company and the Resulting Company shall be at liberty to withdraw from this Scheme, in case any condition or alteration is / are imposed by the NCLT or any other authority or any bank or financial institution, is unacceptable to them or otherwise if so mutually agreed.
- 15.3 For the purpose of giving effect to this Scheme or to any modification thereof, the Board of Directors of the Demerged Company and the Resulting Company or any other duly authorized committee thereof are authorized severally to give such directions including directions for settling any question of doubt or difficulty that may arise 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 in case of issue and allotment of shares), 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 the Scheme.

## **16 EFFECT OF NON RECEIPT OF APPROVALS/SANCTIONS**

In the event of any approvals or conditions enumerated in the Scheme not being obtained or complied with, or the Scheme not being sanctioned by the NCLT or for any other reason, the Scheme cannot be implemented as aforesaid before 31/12/2018 the Boards of Directors of the Demerged Company and the Resulting Company shall mutually waive such conditions as they consider appropriate to give effect, as far as possible to this Scheme and failing such mutual agreement, or in case the Scheme not being sanctioned by the NCLT, the Scheme shall become null and



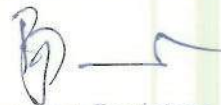


void and the Demerged Company shall bear and pay entire costs, charges and expenses in connection with the Scheme.

## 17 EXPENSES CONNECTED WITH THE SCHEME

All costs, charges and expenses, in connection with the Scheme, incurred upto the stage of the Scheme becoming effective shall be borne and paid by the Demerged Company. Subsequent to the said stage or in the event the Scheme does not take effect or stands withdrawn for any reason whatsoever, the Demerged Company shall pay and bear the costs.

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Assistant Registrar  
National Company Law Tribunal, Mumbai Bench

