

**SCHEME OF AMALGAMATION
OF
ABC LIMITED
WITH
XYZ LIMITED**

1. DEFINITIONS

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

- 1.1 “Act” means the Companies Act, 1956 or any statutory modification or re-enactment thereof for the time being in force.
- 1.2 “Appointed Date” means the 1st day of April, 2009 or such other date as the Hon’ble High Court of Gujarat / National Company Law Tribunal may direct.
- 1.3 “Effective Date” means the date on which certified copy of the Order of the High Court of Gujarat at Ahmedabad / National Company Law Tribunal vesting the assets, properties, liabilities, rights, duties, obligations and the like of the Transferor Company in the Transferee Company is filed with the Registrar of Companies, Gujarat at Ahmedabad after obtaining the consents, approvals, permissions, resolutions, agreements, sanctions and orders necessary therefor.
- 1.4 “Record Date” means a day following the Effective Date as fixed by the Board of Directors of Transferee Company or a committee thereof for the purpose of determining the members of the Transferor Company to whom shares will be allotted pursuant to this Scheme.
- 1.5 “Scheme” means this Scheme of Amalgamation in its present form or with any modification(s) approved by the High Court of Gujarat.
- 1.6 “Transferee Company” means XYZ Limited, a company incorporated under the Companies Act, 1956 having its Registered Office at _____ in the State of Gujarat.
- 1.7 “Transferor Company” means ABC Limited, a company incorporated under the Companies Act, 1956, having its Registered Office at _____ in the State of Gujarat.
- 1.8 “Undertaking” shall mean and include the whole of the undertakings/assets, investments etc. of the Transferor Company, as a going concern, including all secured and unsecured debts, liabilities, Direct Taxes paid, or refund of Direct Taxes Due or Receivable in respect of any appeals, Benefits of Set off & Carry Forward of Unabsorbed Losses, Unabsorbed Depreciation, Carry

Forward of Capital Gains etc. (Whether as per Books or Income Tax), duties and obligations and all the assets and properties, whether movable or immovable, real or personal, in possession or revision, corporeal or incorporeal, tangible or intangible, present or contingent and including but without being limited to Land and Building, all fixed and movable plant and machinery, vehicles, fixed assets, work in progress, current assets, investments, reserves, provisions, funds, quota rights, import quotas, licenses, registrations, copyrights, patents, trade names, trade marks and other industrial rights and licenses in respect thereof, applications for copyrights, patents, trade names, trade marks, leases, tenancy rights, premises, ownership flats, hire purchase and lease arrangements, computers, office equipment, telephones, telexes, facsimile connections, communication facilities, equipment and installations and utilities, electricity, water and other service connections, benefits of agreements, contracts and arrangements, powers, beneficial rights in any assets, authorities, permits, allotments, approvals, consents, privileges, liberties, advantages, easements and all the right, title, interest, goodwill, benefit and advantage, deposits, reserves, provisions, advances, receivables, funds, bank balances, accounts and all other rights, claims and powers, of whatsoever nature and wheresoever situated belonging to or in the possession of or granted in favour of or enjoyed by the Transferor Company, as on the Appointed Date and all earnest money and/or deposits including security deposits paid by the Transferor Company as on the Appointed Date.

2. SHARE CAPITAL

- (a) The Share Capital of ABC Limited, the transferor company as on 31st March, 2009 is as under :

AUTHORISED	(IN RUPEES)
50,00,000 Equity shares of Rs. 10/-	5,00,00,000
5,00,000 Redeemable Cumulative Preference Share of Rs. 100/- each	5,00,00,000
TOTAL	10,00,00,000

SUBSCRIBED AND PAID UP	(IN RUPEES)
50,00,000 Equity shares of Rs. 10/- each	5,00,00,000
5,00,000 12% Redeemable Cumulative Preference Shares of Rs. 100/- each	5,00,00,000
TOTAL	10,00,00,000

- (b) The Share Capital of XYZ Limited, the transferee company as on 31st March, 2009 is as under :

AUTHORISED	(IN RUPEES)
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40,00,000 Equity Shares of Rs. 10/-	4,00,00,000
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SUBSCRIBED AND PAID UP	(IN RUPEES)
40,00,000 Equity shares of Rs. 10/- each (of the above, _____ equity shares are allotted As fully paid-up bonus shares by capitalization Of General Reserve)	4,00,00,000

3. TRANSFER AND VESTING

- (a) Upon the coming into effect of this Scheme and with effect from the Appointed Date and subject to the provisions of this Scheme, the Undertaking of the Transferor Company shall, pursuant to Section 394 of the Act, and without any further act or deed, be transferred to and vested in or be deemed to have been transferred to and vested in the Transferee Company as a going concern so as to become as and from the Appointed Date, the undertaking with all estates, assets, properties, rights, title and interest of the Transferee Company.
- (b) Any statutory licenses, permissions, approvals or consents to carry on the operations of the Transferor Company shall stand vested in or transferred to the Transferee Company without any further act or deed and shall be appropriately mutated by the Statutory Authorities concerned in favour of the Transferee Company upon the vesting and transfer of the Undertaking pursuant to this Scheme. The benefit of all statutory and regulatory permissions, factory licenses, environmental approvals and consents, sales tax registrations or other licenses and consents shall vest in and become available to the Transferee Company pursuant to this Scheme. In so far as the various incentives, subsidies, rehabilitation Schemes, special status and other benefits or privileges enjoyed, granted by any Government body, local authority or by any other persons, or availed of by the Transferor Company are concerned, the same shall vest with and be available to the Transferee Company on the same terms and conditions.
- (c) With effect from the Appointed Date, all debts, liabilities, contingent liabilities, duties and obligations of every kind, nature and description of the Transferor Company shall also, pursuant to Section 394 of the Act, without any further act or deed, be transferred to or be deemed to be transferred to the Transferee Company so as to become as from the Appointed Date the debts, liabilities, contingent liabilities, duties and obligations of the Transferee Company and 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, contingent liabilities, duties and obligations have arisen, in order to give effect to the provisions of this Sub-Clause.
- (d) With effect from the Appointed date, all Direct Taxes paid, Direct Taxes Refund Due or Receivable, Carried forward losses, depreciation, capital losses, pending balances of amortizations etc., under Income

Tax and including those defined under Section 72 to 79 of the Income Tax Act in respect of any assessment and/or appeal, (whether as per Books or as per Income Tax) and any rights / refunds under Income Tax Act, Wealth Tax Act, including application for rectification, appeals filed with tax authorities of the Transferor Company shall also, pursuant to Section 394 of the Act, without any further act or deed, be transferred to or be deemed to be transferred to the Transferee Company, so as to become as from the Appointed Date the Direct Taxes paid, Direct Taxes Refund Due or Receivable, (whether as per Books or as per Income Tax) of the Transferee Company and it shall not be necessary to obtain the consent of any third party or other person, in order to give effect to the provision of this Sub-Clause.

- (e) The transfer and vesting of the assets and investments of the Transferor Company as aforesaid, shall be subject to the existing securities, charges etc., if any subsisting, over or in respect of the property and assets or any part thereof of the Transferor Company.

Provided, however, that any reference in any security documents or arrangements (to which the Transferor Company is a party) to the assets of the Transferor Company offered or agreed to be offered as security for any financial assistance or obligations, shall be construed as reference only to the assets pertaining to the undertaking of the Transferor Company as are vested in the Transferee Company by virtue of the aforesaid Clauses, to the end and intent that such security, charge and mortgage shall not extend or be deemed to extend, to any of the other assets of the Transferor Company or any of the assets of the Transferee Company.

Provided further that the securities, charges etc, (if any subsisting) over and in respect of the assets or any part thereof of the Transferee Company shall continue with respect to such assets or part thereof and this Scheme shall not operate to enlarge such securities, charges or mortgages to the end and intent that such securities, charges and mortgages shall not extend or be deemed to extend to the assets of the Transferor Company vested in the Transferee Company.

- (f) In so far as the Equity Shares or Preference Shares, if any, issued by the Transferor Company and held by the Transferee Company, and vice versa shall, unless sold or transferred by such Transferor Company or the Transferee Company, as the case may be, at any time prior to the Effective Date, stand cancelled as on the Effective Date, and shall be of no effect and such Transferor Company or the Transferee Company, as the case may be, shall have no further obligation outstanding in that behalf.

4. CONTRACT, DEEDS, BONDS AND OTHER INSTRUMENTS:

- (a) Upon the coming into effect of this Scheme and subject to the other provisions contained in the Scheme, all contracts, deeds, bonds,

agreements, Schemes, arrangements and other instruments of whatsoever nature to which the Transferor Company is a party or to the benefit of which the Transferor Company is or may be eligible, and which are subsisting or having effect immediately before the Effective Date, shall remain in full force and effect against or in favour, as the case may be, of the Transferee Company, and may be enforced as fully and effectually as if, instead of the Transferor Company, the Transferee Company had been a party or beneficiary or obligee thereto.

- (b) All deposits including public deposits, debentures or bonds and any amount remaining unpaid / unclaimed relating thereto of the Transferor Company shall be kept distinctly identified in the records of the Transferee Company for all intents and purposes including taxation and accounting and shall not be combined with any existing outstanding deposit scheme or series of debentures or bonds of the Transferee Company.
- (c) 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, execute deeds, confirmations or other writings or tripartite arrangements with any party to any contract or arrangement to which the Transferor Company is a party or any writings as may be necessary to be executed in order to give formal effect to the above provisions.

5. LEGAL PROCEEDINGS:

- (a) Upon the coming into effect of the Scheme, all suits, actions and proceedings by or against the Transferor Company pending and/or arising on or before the Effective Date shall be continued and be enforced by or against the Transferee Company as effectually as if the same had been pending and/or arising by or against the Transferee Company.
- (b) The Transferee Company undertakes to have all legal or other proceedings initiated by or against the Transferor Company referred to in sub-clause (a) above transferred into its name and to have the same continued, prosecuted and enforced by or against the Transferee Company.

6. CONDUCT OF BUSINESS BY TRANSFEROR COMPANY TILL EFFECTIVE DATE:

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

- (a) The Transferor Company shall carry on and be deemed to carry on all its businesses and activities and stand possessed of its properties and assets for and on account of and in trust for the Transferee Company.

- (b) All the profits accruing to the Transferor Company or losses arising or incurred (including the effect of taxes, if any, thereon) by it shall, for all purposes, be treated as the profits or losses of the Transferee Company as the case may be.
- (c) The Transferor Company hereby undertakes to carry on its business until the Effective Date with reasonable diligence and shall not, without the written consent of the Transferee Company, alienate, charge or encumber or otherwise deal with the assets or any part thereof except in the ordinary course of its business.
- (d) The Transferor Company shall not undertake any additional financial commitments of any nature whatsoever, borrow any amounts or incur any other liabilities or expenditure without the written consent of the Transferee Company, except in the ordinary course of business.
- (e) The Transferor Company shall not, without the written consent of the Transferee Company, undertake any new business.
- (f) Save as specifically provided in this Scheme, neither the Transferor Company nor the Transferee Company shall make any change in their capital structure by way of increase (whether by a rights issue, issue of equity or preference shares, bonus shares, convertible debentures or otherwise), decrease, reduction, reclassification, sub-division or consolidation, reorganisation or in any manner which may in any manner affect the Share Exchange Ratio prescribed in Clause 8 except by mutual consent of the Board of Directors of both the companies.
- (g) The Transferor Company shall not vary the terms and conditions of the service of its staff, workmen and employees except in the ordinary course of business.

7. OPERATIVE DATE OF THE SCHEME:

The Scheme, although operative from the Appointed Date, shall become effective from the Effective Date.

8. TRANSFEROR COMPANY'S STAFF, WORKMEN AND EMPLOYEES:

- (a) All employees of the Transferor Company in service on the Effective Date, shall become employees of the Transferee Company on such date without any break or interruption in service and on terms and conditions as to remuneration not less favourable than those subsisting with reference to the Transferor Company as on the said date.
- (b) It is provided that so far as the Provident Fund, Gratuity Fund, or any other Special Scheme(s)/Fund(s), if any, created or existing for the

benefit of the employees of the Transferor Company are concerned, upon the coming into effect of this Scheme, the Transferee Company shall stand substituted for the Transferor Company for all purposes whatsoever related to the administration or operation of such Schemes or Funds or in relation to the obligation to make contributions to the said Schemes/Funds in accordance with provisions of such Schemes/Funds as per the terms provided in the respective Trust Deeds, to the end and intent that all the rights, duties, powers and obligations of the Transferor Company in relation to such Schemes/Funds shall become those of the Transferee Company. It is clarified that the services of the employees of the Transferor Company will be treated as having been continuous for the purpose of the aforesaid Schemes/Funds.

9. ISSUE OF SHARES BY THE TRANSFEE COMPANY

(a) Upon the coming into effect of the Scheme, in consideration of the transfer and vesting of the Undertaking and the liabilities of the Transferor Company to the Transferee Company in terms of this Scheme, Subject to what is provided for in clause 3(f) above, the Transferee Company shall, without any further application, act or deed, issue and allot at par, the Equity Shares of Rs.10/- (Rupees Ten Only) each and Preference Shares of Rs. 100/- (Rupees Hundred only) each credited as fully paid-up in the Capital of the Transferee Company respectively to the equity and preference shareholders of the Transferor Company whose names are recorded in the Register of Members of the Transferor Company, on the Record Date, or to such of their respective heirs, executors, administrators or other legal representatives or other successors in title as may be recognized by the Board of Directors of the Transferee Company and approved by them to be placed on its register of names in the following proportion :

(i) **1 (One)** Equity Share of Rs.10/- each credited as fully Paid up of the Transferee Company i.e. XYZ Limited shall be issued and allotted at par against **6 (six)** Equity Shares of Rs. 10/- each to the Shareholders of the Transferor Company i.e. ABC Limited, whose names are recorded in its Register of Members, or their heirs, executors, administrators or other legal representatives or their successors in title as the case may be, for Equity Shares held by the said Shareholders in the Transferor Company viz. ABC Limited.

(ii) 1 (one) 12% Redeemable Cumulative Preference Share of Rs. 100/- fully paid up of XYZ Limited, the Transferee Company shall be issued and allotted at par against 1 (one) 12% Redeemable Cumulative Preference Shares of Rs. 100/- each fully paid up of ABC

Limited, on the same terms and conditions including arrears of accumulated dividend on the shares held in Transferor Company. The Preference Shares of the Transferor Company shall stand cancelled upon the issuance of the preference shares by Transferee Company as aforesaid. Nothing contained in this Clause shall affect the redemption on maturity of any of the Preference Shares of the Transferor Company prior to the Effective Date.

The said new Equity Shares shall rank for voting rights and in all other respects pari-passu with the Equity Shares of the Transferee Company.

- (b) The Share Certificates in relation to the shares held by the Equity and Preference Shareholders of the Transferor Company whose names are recorded in the Register of Members of the Transferor Company on the Record Date, fixed by the Board of Directors of the Transferee Company, shall be deemed to have been automatically cancelled and be of no effect on and from such Record Date, without any further act, instrument or deed.
- (c) In so far as the equity/preference shares of the Transferor Company held by the Transferee Company if any, on the Effective Date are concerned, such shares would be cancelled and to that extent the Transferee Company is required to issue less number of shares.
- (c-1) In so far as the equity/preference shares of the Transferee Company held by the Transferor Company are concerned, such shares would be cancelled, on the Effective Date and the capital of the Transferee Company shall be reduced to that extent.
- (d) No fractional certificates shall be issued by the Transferee Company in respect of fractional entitlements, if any, to any Member of the Transferor Company. The Board of Directors of the Transferee Company shall, instead consolidate all such fractional entitlements and thereupon issue and allot equity shares in lieu thereof to the Trust or a Director or an Officer of the Transferee Company or such other person as the Transferee Company shall appoint in this behalf who shall hold the shares in trust on behalf of the Members entitled to fractional entitlements with the express understanding that such Trust, Director(s) or Officer(s) or person shall sell the same in the market at such time or times and at such price or prices in the market and to such person or persons, as it/he/they deem fit, and pay to the Transferee Company, the net sale proceeds thereof, whereupon the Transferee Company shall distribute such net sale proceeds to the Members of the Transferor Company in proportion to their respective fractional entitlements.
- (e) For the purpose as aforesaid the Transferee Company shall, if and to the extent required, increase its Authorised Capital after the Scheme

has been sanctioned by the High Court but before the issue and allotment of shares. It shall also, if and to the extent required, apply for and obtain the requisite approvals including that of SEBI, Reserve Bank of India and other appropriate authorities concerned for issue and allotment by the Transferee Company to the respective members of the Transferor company of the Equity Shares in the said re-organised share capital of the Transferee Company in the ratio as aforesaid.

- (f) The shares of the Transferor Company are presently not listed on any Stock Exchanges. The shares of Transferee Company will not be listed on any Stock Exchanges.

10. AMENDMENTS IN MEMORANDUM & ARTICLES OF ASSOCIATION OF THE TRANSFEE COMPANY

- (a) Upon coming into effect of the Scheme, the Objects Clause of the Memorandum of Association of the Transferee Company shall stand amended and the following clauses shall be added as Clause No. (4A) to (4D) to the Objects Clause of the Memorandum of Association of the Transferee Company :
- (b) Upon coming into effect of the Scheme, the Authorised Share Capital of the Transferor Company of Rs. _____ / -, as mentioned in Clause 2 (a) above, or such amount as may be on the effective date, shall be added to the Authorised Share Capital of the Transferee Company, as on the effective date, without any further act or deed and without any further payment of the stamp duty or the registration fees and Clause V of the Memorandum of Association of the Transferee Company shall be replaced accordingly.
- (c) Under the accepted principle of Single Window Clearance, it is hereby provided that the aforesaid alterations viz. Change in the Object Clause and Capital Clause, referred above, shall become operative on the scheme being effective by virtue of the fact that the Shareholders of the Transferee Company, while approving the scheme as a whole, have also resolved and accorded the relevant consents as required respectively under Section 17, 31, 94, and 81(1A) of the Companies Act, 1956 or any other provisions of the Act and shall not be required to pass separate resolutions as required under the Act.
- (d) Upon the Scheme being effective, the Transferee Company shall be entitled to commence and carry on the business and activities currently being carried on by the Transferor Company, without any further act or deed with effect from the appointed date. It is clarified that there will be no need to pass a separate Shareholders' resolution as required under Section 149(2A) of the Act.

11. ACCOUNTING TREATMENT IN THE BOOKS OF TRANSFEE COMPANY

- (a) For the purpose of this Scheme, the assets and liabilities of the Transferor Company shall be at the values appearing in the books of Transferor Company as on 31st March, 2009.
- (b) Upon the Scheme becoming effective, the liabilities of the Transferor Company shall be paid and discharged by the Transferee Company in accordance with the terms of borrowings as if the Scheme had not been implemented.
- (c) It is provided that upon the scheme coming in to effect, the respective balance/s appearing under the head "Miscellaneous Expenditure (to the extent not written off or adjusted)" in the books of the Transferor Companies shall be debited by the Transferee Company to Miscellaneous Expenditure (to the extent not written off or adjusted) Account" and the same shall thereafter be dealt with, in the same manner as they would have been, had they been incurred by the Transferee Company.
- (d) In case of any difference in accounting policy between the Transferor company and the Transferee Company, the impact of the same till the amalgamation will be quantified and adjusted in the Revenue Reserve(s) as mentioned earlier to ensure that the financial statement of the Transferee Company reflects the financial position on the basis of consistency in the accounting policy.
- (e) An amount equal to the balance lying in the Profit and Loss Account' in the books of the Transferor company shall be reflected by the Transferee Company in its Profit and Loss Account.
- (f) An amount equal to the balance lying in the Reserves and Surplus Account' in the books of the Transferor company including the Share Premium Account shall be reflected by the Transferee Company in its respective Reserves and Surplus Account.
- (g) The difference in the value of the net assets of the Transferor Company as on 31.03.2009 and the consideration value determined pursuant to this Scheme, if any, shall be accounted for in the books of the Transferee Company by adjusting / adding the same with the General Reserve of the Transferee Company.
- (h) Notwithstanding the above, the Board of Directors of the Transferee Company in consultation with the auditors, is authorised to account any of these balances in any manner whatsoever, as may be deemed fit.

12. DECLARATION OF DIVIDEND

- (i) The Transferor Company and the Transferee Company shall be entitled to declare and pay dividend, whether interim or final, to their respective shareholders in respect of the accounting period prior to the Effective Date, provided that the Transferor Company shall not

make any such declaration, except with the prior approval of the Board of Directors of the Transferee Company.

- (ii) It is clarified that the aforesaid provision in respect of declaration of dividends, whether interim or final, is an enabling provision only and shall not be deemed to confer any right on any member of any of the Transferor Company and/or the Transferee Company to demand or claim any dividends which, subject to the provisions of the Act, shall be entirely at the discretion of the respective Boards of Directors of the Transferor Company and the Transferee Company and subject, wherever necessary, to the approval of the shareholders of the Transferor Company and the Transferee Company respectively.

13. DISSOLUTION OF TRANSFEROR COMPANY:

On the Scheme becoming effective, the Transferor Company shall be dissolved without being wound up.

14. CHANGE OF NAME

Upon the Scheme becoming effective, the name of the Transferee Company shall be changed to 'ABC Limited' on compliance of necessary formalities by Transferee Company.

15. APPLICATIONS TO HIGH COURT

The Transferor Company and the Transferee Company shall with all reasonable dispatch make applications under Sections 391 and 394 and other applicable provisions of the Act to the High Court of Gujarat/ National Company Law Tribunal for sanctioning this Scheme and for dissolution of the Transferor Company without winding up.

16. MODIFICATION / AMENDMENT TO THE SCHEME

- (i) The Transferor Company and the Transferee Company, through their respective Board of Directors, may give consent to any modifications or amendments to the Scheme or agree to any terms or conditions which the High Court and/or other authorities under law may deem fit to impose or which may otherwise be considered necessary or desirable for settling any question or doubt or difficulty that may arise in implementing and/or carrying out the Scheme and do all acts, deeds and things as may be necessary, desirable or expedient for putting the Scheme into effect.
- (ii) For the purpose of giving effect to the Scheme or to any modification thereof, the Directors of the Transferee Company are authorised to give such directions and/or to take such steps as may be necessary or desirable including any directions for settling any question or doubt or difficulty whatsoever that may arise.

17. SCHEME CONDITIONAL ON APPROVAL / SANCTIONS

The Scheme is conditional on and subject to:

- (a) the approval to the Scheme by the requisite majorities of the shareholders and secured and unsecured creditors of the Transferor Company and the shareholders and secured and unsecured creditors of the Transferee Company.
- (b) the sanction of the High Court of Gujarat at Ahmedabad/ National Company Law Tribunal , under Sections 391 and 394 of the Act, in favour of the Transferor Company and the Transferee Company and to the necessary Orders under Section 394 of the Act, being obtained.
- (c) filing of the order obtained from the High Court of Gujarat at Ahmedabad/ National Company Law Tribunal, under Sections 391 and 394 of the Companies Act, 1956 with the Registrar of Companies, Gujarat State.
- (d) any other sanction or approval of any concerned authorities, as may be considered necessary and appropriate by the respective Board of Directors of the Transferor Company and the Transferee Company, being obtained and granted in respect of any of the matters for which such sanction or approval is required.

18. EXPENSES CONNECTED WITH THE SCHEME AND INCIDENTAL TO THE COMPLETION OF THE AMALGAMATION

All costs, charges and expenses of the Transferor Company and Transferee Company in relation to or in connection with the Scheme and of carrying out and completing the terms and provisions of the Scheme and/or incidental to the completion of Amalgamation of the Transferor Company in pursuance of the Scheme shall be borne by the respective companies.