

IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH

CSP NO. 294 OF 2017

with

CSP NO.296 OF 2017

with

CSP NO. 291 OF 2017

Under Sections 391 to 394 and other applicable provisions of the Companies Act, 1956 and Sections 230 to 232 of the Companies Act, 2013

In the matter of the Scheme of Amalgamation of Zuari Fertilisers and Chemicals Limited (Transferor Company No. 1), Zuari Speciality Fertilisers Limited (Transferor Company No. 2) and Zuari Agri Sciences Limited (Transferor Company No. 3) with Zuari Agro Chemicals Limited (Transferee Company) and their respective shareholders and creditors

ZUARI FERTILISERS AND CHEMICALS LIMITED

....Petitioner Company
(Transferor Company No. 1)

WITH

ZUARI SPECIALITY FERTILISERS LIMITED

.....Petitioner Company
(Transferor Company No. 2)

WITH

ZUARI AGRI SCIENCES LIMITED

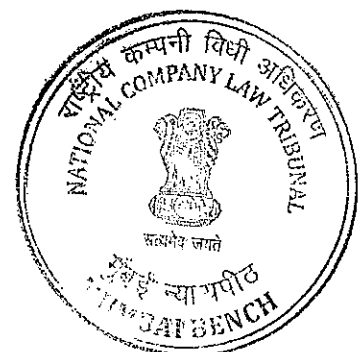
....Petitioner Company
(Transferor Company No. 3)

ORDER DELIVERED ON: 14TH SEPTEMBER, 2017

CORAM:

Hon'ble B.S.V. Prakash Kumar, Member (Judicial)

Hon'ble V. Nallasenapathy, Member (Technical)



For the Petitioners: 1. Gaurav Joshi, Senior Counsel
2. Advocate Sunila Chavan

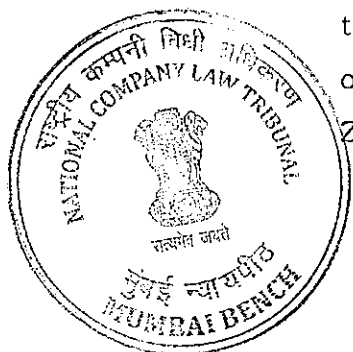
For Regional Director: 1. Ramesh Gholap, Assistant Director

For Official Liquidator: 1. Mr. Santosh Dalvi, representative

PER: HON'BLE V. NALLASENAPATHY, MEMBER (TECHNICAL)

ORDER

1. Heard Advocate for the parties. Neither any objector has come before the Hon'ble Tribunal to oppose the Scheme of Amalgamation nor has any party controverted any averments made in the Petitions.
2. The sanction of the Hon'ble Tribunal is sought under Sections 391 to 394 of the Companies Act, 1956, as amended and /or Sections 230 to 232 of the Companies Act, 2013 (as may be applicable) to the Scheme of Amalgamation Zuari Fertilisers and Chemicals Limited (Transferor Company No.1), Zuari Speciality Fertilisers Limited (Transferor Company No.2) and Zuari Agri Sciences Limited (Transferor Company No.3) with Zuari Agro Chemicals Limited (Transferee Company).
3. The Learned Counsel for the Petitioner Companies states that the Transferor Company No.1 is engaged in super phosphate manufacturing facility; Transferor Company No.2 is engaged in water soluble fertilizers manufacturing facility; the Transferor Company No.3 is engaged in production and trading of hybrid seeds and trading in pesticides and Transferee Company is engaged in business of production and trading of urea, complex fertilizers of various grades and also trades in seeds, micro nutrients and specialty fertilizers.
4. The Learned Counsel for the Petitioner Companies states that said Scheme will benefit in consolidation of the businesses of the Transferor Companies (all of which are wholly-owned subsidiaries of the Transferee Company and all engaged in agricultural support businesses) and the Transferee Company into a single entity which would result in the business activities to be carried out with greater focus and specialization, thus leading to the objective of achieving sustained growth and enable the shareholders of ZACL to get direct participation in the businesses of its present wholly



owned subsidiaries (being ZFCL, ZSFL and ZASL) and simplified group and business structure and elimination of multiplicity of the companies leading to synergies in operations, achieving costs, overheads, administrative and other expenditure and enable one consolidated company to provide all agri-inputs to the farmers who are the common end-users of products of all four companies, thus, resulting in better marketability of these products which should also assist the farmers to enhance their productivity.

5. The Learned Advocate for the Petitioner Companies states that since the Petitioner Companies are wholly owned subsidiaries of the Transferee Company viz. Zuari Agro Chemicals Limited, no new shares shall be issued pursuant to the Scheme and as such, there will be no change in capital structure of the Transferee Company and the Scheme does not affect the rights of the members and interest of the creditors of the Transferee Company and does not involve any re-organization of the paid up Share Capital of the Transferee Company and accordingly, filing of a separate Company Application and Company Petition for sanction of the Scheme by Zuari Agro Chemicals Limited, the Transferee Company, was dispensed with by the Hon'ble High Court of Bombay at Goa vide order dated 8th September, 2016 passed in High Court Company Application (Main) Nos. 62 of 2016 to 64 of 2016.
6. The Learned Counsel for the Petitioner Companies states that the Board of Directors of the Petitioner Companies and Transferee Company have approved the said Scheme of Amalgamation by passing Board Resolutions which are annexed to the Company Petitions.
7. The Learned Counsel for the Petitioner Companies further states that the Petitioner Companies have complied with all the directions passed in the Company Applications and that the Company Petitions have been filed in consonance with the Orders passed in Company Applications.
8. The Learned Counsel appearing on behalf of the Petitioner Companies has stated that the Petitioner Companies have complied with all requirements as per directions of the Hon'ble Bombay High Court at Goa and they have filed necessary affidavit of compliance in the Hon'ble Bombay High Court at Goa. Moreover, the Petitioner Companies undertakes to comply with all statutory requirements, if any, as required under the Companies Act,



1956/ 2013 and the Rules made there under whichever is applicable. The said undertakings given by the Petitioner Companies are accepted.

9. The Official Liquidator has filed his report dated 6th April, 2017 in the Company Scheme Petition Nos. 294, 296 and 291 of 2017 stating therein that the affairs of the Transferor Companies have been conducted in a proper manner and that the Transferor Companies may be ordered to be dissolved. However, the Official Liquidator has made one observation in paragraph 11 (b) of his report in respect of Transferor Company No.2, which is as follows:

"b) It is observed by the Auditor from the Scheme of Amalgamation of Page 19, 2nd Para of point 4.2.3 (last para on the page). The total authorised share capital of Transferee Company after amalgamation will be 157,00,000,000/- which is inclusive of-

Rs.122,50,00,000/- Equity Shares Capital (face value Rs.10/- per share) Rs.34,50,00,000/- Preference Share Capital (face value Rs.10/- per share).

Therefore, the No. of Equity Shares should have been $122,50,00,000/10=12,25,00,000$ nos. But in the scheme of Amalgamation no. of equity shares is given as 12,50,00,000 which is not correct."

10. As far as the aforesaid observation made in the para 11(b) of the Official Liquidator's Report is concerned, the Learned Counsel for the Petitioner Companies states that the Petitioner Companies have accordingly modified paragraph 4.2.3 of the Scheme and have passed board resolutions approving the modified Scheme, and the said resolutions have been placed on record of this Hon'ble Tribunal as Annexure "B" by Additional Affidavit dated 7th September, 2017 filed by each of the Petitioner Companies as follows:

"4.2.3 Accordingly, the authorised share capital of the Transferee Company shall stand increased by an amount of Rs.92,00,00,000 and Clause V of the Memorandum of Association of ZACL (relating to the authorized share capital) shall, without any further act, instrument or deed, be and stand altered, modified and amended pursuant to Sections 13 and 61 of the Companies Act, 2013 and



Section 394 and other applicable provisions of the Companies Act as the case may be and be replaced by the following clause:

The Authorised Share Capital of the Company is Rs.157,00,00,000 (Rupees One hundred and fifty seven crores) divided into Equity Share Capital of Rs.122,50,00,000 (Rupees One hundred and twenty two crores fifty lakhs) consisting of 12,25,00,000 (Twelve crores twenty five lacs) Equity Shares of the face value of Rs.10 (Rupees Ten) each and Preference Share Capital of Rs. 34,50,00,000 (Rupees Thirty four crores fifty lakhs) consisting of 3,45,00,000 (Three crores forty five lakhs) Preference Shares of the face value of Rs.10/- (Rupees Ten) each with power to increase and reduce the capital of the Company and to divide the shares in the capital for the time being into several classes and attach thereto respectively such preferential qualified or special rights, privilege or conditions as may be determined by or in accordance with the Articles of the Company for the time being and to vary, modify or abrogate any such rights, privileges or conditions in such manner as may be permitted by the Act or provided by the Articles of the Company for the time being."

11. The observation made by the Official Liquidator have been explained by the Petitioner Companies in Para 10 above. The clarifications and undertakings given by the Petitioner Companies are accepted by the Hon'ble Tribunal.
12. The observations of the Registrar of Companies as recorded in paragraph III(12) of the Report of the Regional Director dated 16th May, 2017 is as follows:

"12. Status of ROC Report:-

ROCGDD/Legal/Sec 391-394/3853 dated 20.03.2017 has mentioned that no complaints, Prosecution, and Scrutiny, and matter may be decided on merits. However, at Point 29 of the said letter mentioned that the company to submit a certificate by its Auditor to the Tribunal in terms of proviso to section 232(3) of the Companies Act, 2013."



as the observations of the Registrar of Companies in paragraph III of the Report of the Regional Director is concerned, the Learned

Counsel for the Petitioner Companies states the Statutory Auditors of the Transferee Company, i.e. M/s. S.R. Batliboi & Co. LLP, have issued a certificate dated 24th August, 2017, which is filed before this Tribunal by way of Additional Affidavits filed by each of the Petitioner Companies dated 7th September, 2017 (Annexure A), in terms of proviso to Section 232(3) of the Companies Act, 2013, confirming that the accounting treatment contained in the paragraph 5.1 and 5.2 of the Scheme is in conformity with the Accounting Standards prescribed under Section 133 of the Companies Act, 2013 read together with Rule 7 of the Companies (Accounts) Rules, 2014 as amended from time to time as applicable on the appointed date i.e. April 1, 2015.

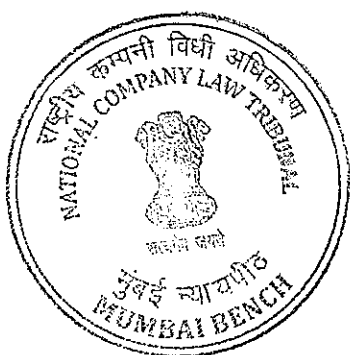
14. The Regional Director has filed his report dated 16th May, 2017 wherein it is stated that save and except as stated in paragraph IV(a) to IV(e), it appears that the Scheme is not prejudicial to the interest of shareholders and public. In paragraph IV of the said Report, the Regional Director has stated that:-

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

(a) In addition to compliance of AS-14 (IND AS-103) the Transferee Company shall pass such accounting entries which are necessary in connection with the scheme to comply with other applicable Accounting Standards such as AS-5 (IND AS-8) etc.;

(b) As per clause 1.1.1 of the scheme "The Appointed Date" means 1st April, 2015 or such other date as the High Court of Judicature at Bombay at Goa may direct, which shall be the date with effect from which this scheme shall become effective and with effect from which date the Transferor Companies shall amalgamate with the Transferee Company in terms of the scheme, upon the order sanctioning this scheme becoming effective. In this regard, it is submitted in terms of provisions of section 232(6) of the Companies Act, 2013 it should be 1st April, 2015;

(c) As per existing practice, the Petitioner Companies are required to serve Notice for Scheme of Arrangements to the Income Tax Department for their comments. It appears that the company vide letter dated 15th November 2016 has served a copy company scheme petition No. 62 to 64/2016 along with relevant orders etc.,



further the Regional Director has also issued a reminder 30th March 2017, to IT Department.

(d) The tax implication if any arising out of the scheme is subject to final decision of Income Tax Authorities. The approval of the scheme by this Hon'ble Court may not deter the Income Tax Authority to scrutinize the tax return filed by the transferee Company after giving effect to the scheme. The decision of the Income Tax Authority is binding on the petitioner Company.

(e) As per Clause 5.2.1 Part-V of the scheme (Accounting Treatment) it is stated that "the difference between the investment in the financial statements of the Transferee Company in the First Transferor Company and the Third Transferor Company and the amount of paid-up share capital of the First Transferor Company and Third Transferor Company, respectively, shall be adjusted against the business reconstruction reserve in the books of the Transferee Company"

In this regard, it is submitted that that the surplus if any arising out of the scheme shall be credited to Capital Reserve and deficit if any arising out of the same shall be debited to Goodwill Account and will not be adjusted against the business reconstruction reserve in the books of the Transferee Company"

15. As far as the observations in paragraph IV(a) of the Report of the Regional Director is concerned, the Learned Counsel for the Petitioner Companies states that the Transferee Company undertakes that in addition to compliance of AS-14 (IND AS-103) accounting treatment, the Transferee Company shall pass such accounting entries which are necessary in connection with the Scheme to comply with other applicable Accounting Standards such as AS-5 (IND AS-8) etc. to the extent applicable.

16. As far as the observations in paragraph IV(b) of the Report of the Regional Director is concerned, the Learned Counsel for the Petitioner Companies submits that the Appointed date will be 1st April, 2015.

17. As far as the observations in paragraph IV(c) and IV(d) of the Report of the Regional Director is concerned, the Learned Counsel for the Petitioner Companies states that each of the Petitioner Companies have served notices on the concerned Income Tax Department on 15th November, 2016 and filed the original acknowledgement with Hon'ble Bombay High Court

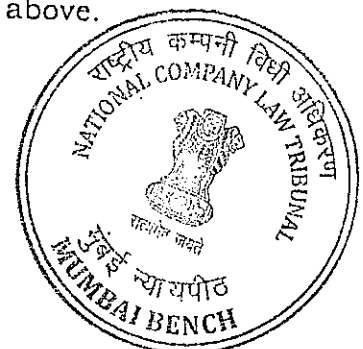


at Goa vide their respective Affidavits of Service each dated November 16, 2016 (Annexure IV). Further, the Learned Counsel for the Petitioner Companies states that the Income Tax Department has not raised any objections to the Scheme and as such, no further action is pending in this connection, in any case all tax issues arising out of the Scheme of Amalgamation will be met and answered in accordance with law.

18. As far as the observations in paragraph IV(e) of the Report of the Regional Director is concerned, the Learned Counsel for the Petitioner Companies states that as on the Appointed Date i.e. 1st April 2015, since the First and the Third Transferor Companies were entities under common control hence, in terms of the accounting prescribed under both accounting standards being, AS-14 and IND-AS 103, the accounting for the amalgamation of the First and the Third Transferor Companies under the proposed Scheme shall be done as per "pooling of interests method" and not as per the "purchase method". Under the pooling of interests method, goodwill is not required to be adjusted and instead capital reserves are required to be adjusted for difference between the amount recorded as the investment in the financial statements of the Transferee Company in the First Transferor Company and the Third Transferor Company and the amount of paid-up share capital of the First Transferor Company and Third Transferor Company.

The Learned Counsel for the Petitioner Companies has therefore submitted that since the pooling of interests method is being followed for both the First Transferor Company and the Third Transferor Company, thus, the difference, if any, of the cancellation of investment by the Transferee Company held in the First and Third Transferor Companies and their respective paid up share capital shall be credited or debited to capital reserve only, which will neither result in any goodwill nor in any adjustments to goodwill.

The Learned Counsel for the Petitioner Companies also states that the accounting treatment prescribed in the Scheme has been certified by the statutory auditor of the Transferee Company to be in conformity with *inter alia* the Accounting Standards prescribed under Section 133 of the Companies Act, 2013, as mentioned in para 13 above.



19. The observations made by the Registrar of Companies and Regional Director have been explained by the Petitioner Companies in Paras 13 and 15 to 18 above. The clarifications and undertakings given by the Petitioner Companies are accepted by the Tribunal.
20. From the material on record, the Scheme appears to be fair and reasonable and is not violative of any provisions of law and is not contrary to public policy.
21. Since all the requisite statutory compliances have been fulfilled, the Company Scheme Petitions Nos. 294, 296 and 291 of 2017 are made absolute in terms of prayer clauses (a) to (e) thereof.
22. The Petitioner Companies to lodge a copy of this Order and the amended Scheme, duly certified by the Deputy Director, National Company Law Tribunal, Mumbai Bench, with the concerned Superintendent of Stamps, for purposes of adjudication of stamp duty payable, if any, on the same within 60 days from the date of receipt of the Order.
23. The Petitioner Companies to lodge a copy of this order along with a copy of the amended Scheme with the concerned Registrar of Companies, electronically, along with e-Form INC 28, in addition to physical copy, as per relevant provisions of the Companies Act, 1956/2013.
24. The Petitioner Companies to pay a cost of Rs. 25,000/- each to the Regional Director, Western Region, Mumbai and to the Official Liquidator. Costs to be paid within four weeks from the date of the receipt of the order.
25. All concerned regulatory authorities to act on a copy of this order along with amended Scheme, duly authenticated by the Deputy Director, National Company Law Tribunal, Mumbai Bench, Mumbai.

Sd/-

V. Nallasenapathy, Member (T)

Sd/-

B.S.V. Prakash Kumar, Member (J)



Certified True Copy

Date of Application 03/10/2017

Number of Pages 9

Fee Paid Rs. 45

Applicant called for collection copy on 07/11/2017

Copy prepared on 07/11/2017

Copy issued on 07/11/2017

Deputy Director

National Company Law Tribunal, Mumbai Bench

SCHEME OF AMALGAMATION

UNDER SECTIONS 391 TO 394 AND OTHER PROVISIONS OF THE COMPANIES ACT,
1956 AND/OR COMPANIES ACT, 2013, AS MAY BE APPLICABLE

OF

ZUARI FERTILISERS AND CHEMICALS LIMITED
(The First Transferor Company)

AND

ZUARI SPECIALITY FERTILISERS LIMITED
(formerly known as *Zuari Rotem Speciality Fertilizers Limited*)
(The Second Transferor Company)

AND

ZUARI AGRI SCIENCES LIMITED
(The Third Transferor Company)

WITH

ZUARI AGRO CHEMICALS LIMITED
(The Transferee Company)



SCHEME OF AMALGAMATION

PREAMBLE

This scheme of amalgamation (hereinafter referred to as the "**Scheme**") provides for the amalgamation of Zuari Fertilisers and Chemicals Limited, Zuari Speciality Fertilisers Limited and Zuari Agri Sciences Limited with Zuari Agro Chemicals Limited pursuant to the provisions of Sections 391 to 394 of the Companies Act, 1956 and other applicable provisions of the Companies Act, 1956/ Companies Act, 2013. The Scheme also provides for other matters consequential thereto and/or otherwise integrally connected therewith.

A. Description of Companies

1.1 Zuari Fertilisers and Chemicals Limited ("ZFCL"), the First Transferor Company

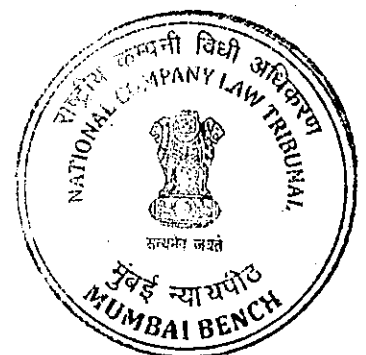
- (a) **Incorporation:** Zuari Fertilisers and Chemicals Limited (CIN: U24120GA2009PLC006158), an unlisted public company, was incorporated on 11th August 2009 under the Companies Act, 1956. Its registered office is situated at Jai Kisaan Bhawan, Zuarinagar, Goa-403726, India.
- (b) **Wholly-owned subsidiary of the Transferee Company:** ZFCL is a wholly owned subsidiary of Zuari Agro Chemicals Limited ("**ZACL**"), the Transferee Company.
- (c) **Business:** ZFCL owns and operates a single super phosphate manufacturing facility at Mahad Industrial Area, District Raigad, Mahad, Maharashtra with a manufacturing capacity of 600 Metric Tonnes per day.

1.2 Zuari Speciality Fertilisers Limited (formerly known as Zuari Rotem speciality Fertilizers Limited) ("ZSFL"), the Second Transferor Company

- (a) **Incorporation:** Zuari Speciality Fertilisers Limited (CIN: U01409GA2007PLC005489), an unlisted public company, was incorporated on 15th November 2007 under the Companies Act, 1956. Its registered office is situated at Jai Kisaan Bhawan, Zuarinagar, Goa-403726, India.
- (b) **Wholly-owned subsidiary of the Transferee Company:** ZSFL is a wholly owned subsidiary of ZACL, the Transferee Company. As on the Appointed Date (as defined hereinafter), ZACL held 50% of the total subscribed, issued and paid up capital of ZSFL. On 11th December 2015, ZSFL has become a wholly owned subsidiary of ZACL.
- (c) **Business:** ZSFL owns and operates a water soluble fertilisers manufacturing facility at Baramati, Maharashtra with manufacturing capacity of 24,000 Metric Tonnes per annum.

1.3 Zuari Agri Sciences Limited ("ZASL"), the Third Transferor Company

- (a) **Incorporation:** Zuari Agri Sciences Limited (CIN: U01122GA1995PLC001751), an unlisted public company, was incorporated on 12th January 1995 under the Companies Act, 1956. Its registered office is situated at Jai Kisaan Bhawan, Zuarinagar, Goa-403726, India.
- (b) **Wholly-owned subsidiary of the Transferee Company:** ZASL is a wholly owned subsidiary of ZACL, the Transferee Company.



- (c) **Business:** ZASL is engaged in production and trading of hybrid seeds and trading in pesticides.

1.4 Zuari Agro Chemicals Limited ("ZACL"), the Transferee Company

- (a) **Incorporation:** Zuari Agro Chemicals Limited (CIN: L65910GA2009PLC006177), a listed public company, was incorporated on 10th September 2009 under the Companies Act, 1956. Its registered office is situated at Jai Kisaan Bhawan, Zuarinagar, Goa-403726, India.
- (b) **Business:** ZACL produces and trades in urea, complex fertilizers of various grades and also trades in seeds, micro nutrients and speciality fertilisers and has a manufacturing facility for producing urea and complex fertilisers at Zuarinagar, Goa.

B. Purpose and Rationale of the Scheme

- 1.1 ZFCL, ZSFL and ZASL (collectively referred to as the "**Transferor Companies**") are wholly owned subsidiaries of ZACL, the Transferee Company. All the companies are part of the same group. ZFCL, ZSFL and ZACL are all engaged in the business relating to fertilisers and ZASL is engaged in the business of production & trading of seeds and trading of pesticides, i.e., all these four companies are engaged in agricultural support businesses which cater to the agricultural sector.
- 1.2 Accordingly, the Board of Directors of the Transferor Companies and the Transferee Company have decided to merge the three Transferor Companies together with their business and undertakings, with the Transferee Company, so as to achieve the following:
- (a) Consolidation of businesses of the Transferor Companies (all of which are wholly-owned subsidiaries of the Transferee Company and all engaged in agricultural support businesses) and the Transferee Company into a single entity which would result in the business activities to be carried out with greater focus and specialisation thus, leading to the objective of achieving sustained growth;
- (b) Enable the shareholders of ZACL to get direct participation in the businesses of its present wholly owned subsidiaries (being ZFCL, ZSFL and ZASL);
- (c) Simplified group and business structure;
- (d) Elimination of multiplicity of the companies leading to synergies in operations, achieving efficiencies and economies of scale and reduction in operational costs, overheads, administrative and other expenditure.
- (e) Enable one consolidated company to provide all agri-inputs to the farmers/ who are the common end-users of products of all four companies, thus, resulting in better marketability of these products which should also assist the farmers to enhance their productivity.
- 1.3 Thus, as a whole, amalgamation of the three Transferor Companies with the Transferee Company in terms of the Scheme will be beneficial for all the four companies, their shareholders, their creditors, employees, customers and all others concerned with the four companies.



C. Parts of the Scheme

The Scheme is divided into following parts:

- Part I : Definitions and Interpretations
- Part II : Capital Structure
- Part III : Amalgamation of the three Transferor Companies with the Transferee Company
- Part IV : Cancellation of Shares of Transferor Companies & Increase of Authorised Share Capital of Transferee Company
- Part V : Accounting treatment in the books of the Transferee Company
- Part VI : General terms and conditions

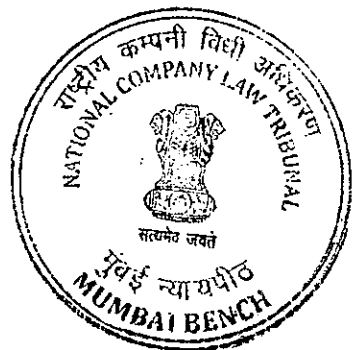


PART I

DEFINITIONS AND INTERPRETATIONS

1.1 Definitions

In addition to the words and expressions defined elsewhere in this Scheme, unless it is contrary or repugnant to the subject, context or meaning thereof, the following words and expressions shall have the meanings as set out hereunder:

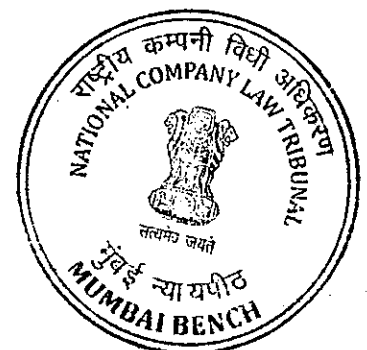


- 1.1.1 **"Appointed Date"** means 1st April 2015 or such other date as the Hon'ble High Court of Bombay at Goa may direct, which shall be the date with effect from which this Scheme shall become effective and with effect from which date the three Transferor Companies shall amalgamate with the Transferee Company in terms of the Scheme, upon the order sanctioning this Scheme becoming effective.
- 1.1.2 **"Board of Directors"** in relation to ZFCL or ZSFL or ZASL or ZACL, as the case may be, means the Board of Directors of the respective companies for the time being and shall include a committee of directors or any person authorised by the Board of Directors or such committee of directors.
- 1.1.3 **"Companies Act"** means the Companies Act, 1956 or the Companies Act 2013, as the case may be, the rules and regulations made thereunder and include any statutory modifications, re-enactments and amendments thereof.
- 1.1.4 **"Effective Date"** shall mean the last of the dates on which a certified copy of the order passed by the High Court sanctioning the Scheme, is filed by ZFCL, ZSFL, ZASL and ZACL, respectively, with the Registrar of Companies, Goa, Daman & Diu in terms of Section 394(3) of the Companies Act.
- 1.1.5 **"Financial Statements"** include standalone and consolidated accounts, i.e., balance sheet, statement of profit & loss, cash flow statement and notes to accounts of the Transferor Companies and the Transferee Company, as the context may require.
- 1.1.6 **"Governmental Authority"** means any applicable central, state or local government, legislative body, regulatory or administrative authority, agency or commission or committee or any court, tribunal, board, bureau, instrumentality, judicial or quasi-judicial or arbitral body having jurisdiction over the territory of India.
- 1.1.7 **"High Court"** means the Hon'ble High Court of Bombay at Goa that has jurisdiction over ZFCL, ZSFL, ZASL and ZACL, and shall include the National Company Law Tribunal or such other forum or authority, that may be vested with requisite powers under the Companies Act, in relation to provisions of sections 391 to 394 of the Companies Act/ corresponding provisions of the Companies Act, 2013 as and when enforced and made applicable, in place of the High Court.
- 1.1.8 **"Scheme"** means this Scheme of Amalgamation of Zuari Fertilisers and Chemicals Limited, Zuari Speciality Fertilisers Limited and Zuari Agri Sciences Limited with Zuari Agro Chemicals Limited, in its present form, or with any modification(s) made under paragraph 6.4 hereof.
- 1.1.9 **"Transferor Companies"** means collectively all the three companies merging into ZACL i.e. ZFCL, ZSFL and ZASL, in terms of the Scheme.
- 1.1.10 **"Transferee Company"** means Zuari Agro Chemicals Limited.
- (a) **"Transferred Undertaking"** means and includes the whole of the undertaking of the respective Transferor Companies together, as on the Appointed Date (further details of which are set out in Paragraph 3.2.1 hereof), and includes:
- (i) all assets of the respective Transferor Companies, wherever situated, as are movable in nature, whether present, future or contingent, tangible or intangible, in possession or reversion, corporeal or incorporeal, including without limitation current assets, capital work in progress including any capital expenditure on projects pending commencement of operations



and project expenditure incurred, furniture, fixtures, appliances, accessories, office equipment, communication facilities, installations, vehicles, utilities, actionable claims, earnest monies, security deposits and sundry debtors, bills of exchange, inter corporate deposits, financial assets and accrued benefits thereto, insurance claims recoverable, prepaid expenses, outstanding loans and advances recoverable in cash or in kind or for value to be received (including capital advances), provisions, receivables, funds, cheques and other negotiable instruments, cash and bank balances and deposits including accrued interests thereto with Governmental Authority, other authorities, bodies, customers and other persons, benefits of any bank guarantees, performance guarantees, corporate guarantees, letters of credit and tax related assets (including service tax, input credits, CENVAT credits, value added tax, sales tax, entry tax credits or set-offs and any other tax benefits, exemptions and refunds);

- (ii) all immovable properties (i.e., land together with the buildings and structures standing thereon or under construction) (whether freehold, leasehold, leave and licensed or otherwise) including any tenancies in relation to office space, guest houses and residential premises including those provided to/occupied by the Transferred Employees (as defined hereinafter) and documents of title, rights and easements in relation thereto and all plant and machineries constructed on or embedded or attached to any such immovable properties and all rights, covenants, continuing rights, title and interests in connection with the said immovable properties;
- (iii) all investments of the respective Transferor Companies including in the form of shares, scrips, stocks, bonds, debentures, debenture stock, units or pass through certificates and other securities and instruments, including all rights, interest and entitlement in relation thereto and rights and options exercised and application, or subscription made for or in relation thereto ("**Investments**");
- (iv) all permits, licenses, permissions, approvals, consents, municipal permissions, benefits, registrations, rights, entitlements, certificates, clearances, authorities, allotments, quotas, no-objection certificates and exemptions of the respective Transferor Companies including those relating to privileges, powers, facilities of every kind and description of whatsoever nature and the benefits thereof, including applications made in relation thereto ("**Licenses**");
- (v) all benefits, entitlements, incentives and concessions under incentive schemes and policies including under customs, excise, service tax, VAT, sales tax and entry tax and income tax laws, subsidy receivables from Government, grants from any Governmental Authority, benefit availed under any incentives scheme of the Government including Package Scheme of Incentives-2013 of the Government of Maharashtra, all other direct tax benefit/ exemptions/ deductions, sales tax deferrals, to the extent statutorily available to the respective Transferor Companies, alongwith associated obligations;
- (vi) all contracts, agreements, memoranda of understanding, bids, tenders, expressions of interest, letters of intent, commitments including to clients, and other third parties, hire and purchase arrangements, other arrangements, undertakings, deeds, bonds, investments and interest in projects undertaken by the respective Transferor Companies, insurance covers and claims, clearances and other instruments of whatsoever nature and description, whether written, oral or otherwise, to which



either of the Transferor Companies are a party, or to the benefit of which the respective Transferor Companies may be eligible ("**Contracts**");

- (vii) all intellectual property rights of the respective Transferor Companies, including pending applications (including hardware, software, source codes, parameterization and scripts), registrations, goodwill, logos, trade names, trademarks, service marks, copyrights, patents, technical know-how, trade secrets, domain names, computer programmes, moral rights, development rights, finished and ongoing research and development programs and all such rights of whatsoever description and nature, whether or not registered, owned or licensed, including any form of intellectual property which is in progress ("**Intellectual Property**");
- (viii) all employees of the respective Transferor Companies, whether permanent or temporary, engaged in or in relation to the respective Transferor Companies as on the Effective Date and whose services are transferred to the Transferee Companies ("**Transferred Employees**") and contributions, if any, made towards any provident fund, employees state insurance, gratuity fund, staff welfare scheme or any other special schemes, funds or benefits, existing for the benefit of such Transferred Employees ("**Funds**"), together with such of the investments made by these Funds, which are referable to such Transferred Employees;
- (ix) all loans, debts, borrowings, obligations, duties, forward contract liability, cash credits, bills discounted, deferred income, contingent liability and liabilities (including present, future and contingent liabilities) pertaining to or arising out of activities or operations of the respective Transferor Companies, including obligations relating to guarantees in respect of borrowings and other guarantees ("**Transferred Liabilities**");
- (x) all legal (whether civil or criminal), taxation or other proceedings or investigations of whatsoever nature (including those before any Governmental Authority) that pertain to either of the Transferor Companies, initiated by or against the respective Transferor Companies or proceedings or investigations to which either of the Transferor Companies are party to, whether pending as on the Appointed Date or which may be instituted any time in the future ("**Proceedings**");
- (xi) all taxes, duties, cess, etc., that are allocable, referable or related to the respective Transferor Companies, including all credits under Income tax Act, including MAT credit, book losses (if any), all or any refunds, interest due thereon, credits and claims relating thereto; and
- (xii) all books, records, files, papers, engineering and process information, databases, catalogues, quotations, advertising materials, lists of present and former credit, and all other books and records, whether in physical or electronic form, of the respective Transferor Companies.



- 1.1.11 **"ZACL"** means Zuari Agro Chemicals Limited (CIN: L65910GA2009PLC006177), a listed public company, which was incorporated on 10th September 2009 under the Companies Act having its registered office at Jai Kisaan Bhawan, Zuarinagar, Goa-403726, India.
- 1.1.12 **"ZASL"** means Zuari Agri Sciences Limited (CIN: U01122GA1995PLC001751), an unlisted public company, which was incorporated on 12th January 1995 under the Companies Act having its registered office at Jai Kisaan Bhawan, Zuarinagar, Goa-403726, India.
- 1.1.13 **"ZFCL"** means Zuari Fertilisers and Chemicals Limited (CIN: U24120GA2009PLC006158), an unlisted public company, which was incorporated on 11th August 2009 under the Companies Act having its registered office at Jai Kisaan Bhawan, Zuarinagar, Goa-403726, India.
- 1.1.14 **"ZSFL"** means Zuari Speciality Fertilisers Limited (CIN: U01409GA2007PLC005489), an unlisted public company, which was incorporated on 15th November 2007 under the Companies Act having its registered office at Jai Kisaan Bhawan, Zuarinagar, Goa-403726, India.

1.2 Interpretations

In this Scheme, unless the context otherwise requires:

- 1.2.1 references in this Scheme to **"upon this Scheme becoming effective"** or **"effectiveness of this Scheme"** shall mean the Effective Date of the Scheme;
- 1.2.2 references to the singular includes a reference to plural and vice versa and reference to any gender includes a reference to all other genders;
- 1.2.3 reference to persons shall include individuals, bodies corporate (wherever incorporated or un-incorporated), associations and partnerships;
- 1.2.4 headings are inserted for ease of reference only and shall not affect the construction or interpretation of this Scheme;
- 1.2.5 references to a paragraph shall be deemed to be a reference to a paragraph or Schedule of this Scheme;
- 1.2.6 reference to the words 'hereof', 'herein' and 'hereby' and derivatives or similar words refer to this entire Scheme;
- 1.2.7 references to the words "including", "*inter alia*" or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- 1.2.8 any reference to any statute or statutory provision shall include:
- all subordinate legislations made from time to time under that provision (whether or not amended, modified, re-enacted or consolidated from time to time) and any retrospective amendment; and
 - such provision as from time to time amended, modified, re-enacted or consolidated (whether before or after the filing of this Scheme) to the extent such amendment, modification, re-enactment or consolidation applies or is capable of applying to the matters contemplated under this Scheme and (to the extent liability there under may exist or can arise) shall include any past statutory provision (as amended, modified, re-enacted or consolidated from time to time) which the provision referred to has directly or indirectly replaced.



PART II

CAPITAL STRUCTURE

- 2.1. The capital structure of ZFCL as on 15th December 2015 is set out below:

| Share Capital | Amount in Rs. |
|--|---------------------|
| Authorised share capital comprising of: | |
| 2,00,00,000 equity shares of Rs. 10 each | 20,00,00,000 |
| 2,00,00,000 preference shares of Rs. 10 each | 20,00,00,000 |
| Total | 40,00,00,000 |
| Issued, Subscribed & Paid-up share capital comprising of: | |
| 1,53,50,000 equity shares of Rs. 10 each | 15,35,00,000 |
| Total | 15,35,00,000 |

- 2.2. The capital structure of ZSFL as on 15th December 2015 is set out below:

| Share Capital | Amount in Rs. |
|--|--------------------|
| Authorised share capital comprising of: | |
| 70,00,000 equity shares of Rs. 10 each | 7,00,00,000 |
| Total | 7,00,00,000 |
| Issued, Subscribed & Paid-up share capital comprising of: | |
| 69,15,002 equity shares of Rs. 10 each | 6,91,50,020 |
| Total | 6,91,50,020 |

- 2.3. The capital structure of ZASL as on 15th December 2015 is set out below:

| Share Capital | Amount in Rs. |
|--|---------------------|
| Authorised share capital comprising of: | |
| 3,05,00,000 equity shares of Rs. 10 each | 30,50,00,000 |
| 1,45,00,000 preference shares of Rs. 10 each | 14,50,00,000 |
| Total | 45,00,00,000 |
| Issued, Subscribed & Paid-up share capital comprising of: | |
| 3,04,24,162 equity shares of Rs. 10 each | 30,42,41,620 |
| 75,00,000 preference shares of Rs. 10 each | 7,50,00,000 |
| Total | 37,92,41,620 |

- 2.4. The capital structure of ZACL, the Transferee Company as on 15th December 2015 is set out below:

| Share Capital | Amount in Rs. |
|--|---------------------|
| Authorised share capital comprising of: | |
| 6,50,00,000 equity shares of Rs. 10 each | 65,00,00,000 |
| Total | 65,00,00,000 |
| Issued, Subscribed & Paid-up share capital comprising of: | |
| 4,20,58,006 equity shares of Rs. 10 each* | 42,05,80,060* |
| Total | 42,05,80,060 |

* Pursuant to a previous Scheme of Arrangement and Demerger between Zuari Agro Chemicals Limited and Zuari Global Limited ("Demerger Scheme") approved by the Hon'ble High Court of Bombay at Goa, ZACL had issued equity shares as per the share exchange ratio provided in the Demerger Scheme to the

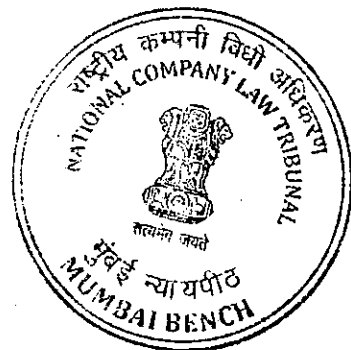


then shareholders of Zuari Global Limited during the financial year ending 31st March, 2013, which is included in the issued, subscribed and paid-up share capital of ZACL mentioned above. Out of these shares, entitlements in respect of 8,051 equity shares have been kept in abeyance pursuant to Section 206A of the Companies Act in accordance with instructions from the Special Court (Trial of Offences relating to Transactions in Securities) Act, 1992 and in respect of shareholders who could not exercise their rights in view of disputes, mistakes, discrepancy in holdings, etc.

- 2.5. Upto and as on the date of approval of the Scheme by the Board of Directors of ZFCL, ZSFL, ZASL and ZACL respectively, there is no change in the authorised, issued, subscribed and paid-up share capital of the respective companies.

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PART III

AMALGAMATION OF TRANSFEROR COMPANIES WITH TRANSFeree COMPANY

3.1 Transfer & Vesting of the Transferor Companies

Upon the order of the High Court sanctioning the Scheme becoming effective, on and from the Appointed Date, the Transferred Undertaking of each of the Transferor Companies shall, together with all its properties, assets, rights, benefits, interests, liabilities and obligations, subject to the provisions of Paragraph 3.2 hereof in relation to the mode of vesting, and without any further deed or act and in accordance with Sections 391 to 394 of the Companies Act and all other applicable provisions of law, be transferred to and vested in and be deemed to have been transferred to and vested in, the Transferee Company, as a going concern.

- 3.2 Without prejudice to the generality of the foregoing and to the extent applicable, unless otherwise stated herein, upon the order of the High Court sanctioning this Scheme becoming effective, on and from the Appointed Date:

3.2.1 Assets

- (a) In respect of such assets of the respective Transferor Companies as are moveable in nature or are otherwise capable of transfer by delivery of possession, payment or by endorsement and delivery, the same shall stand transferred to and be vested in the Transferee Company and shall become the property of the Transferee Company. The vesting pursuant to this paragraph shall be deemed to have occurred by manual delivery or endorsement, as appropriate to the property being vested and title to the property shall be deemed to have been transferred accordingly, without requiring execution of any deed or instrument of conveyance for the same.
- (b) In respect of such assets of the respective Transferor Companies as are or represent Investments registered and/or held in any form by or beneficial interest wherein is owned by the respective Transferor Companies, the same shall stand transferred/transmitted to and be vested in and/or be deemed to have been transferred/transmitted to and vested in the Transferee Company, together with all rights, benefits and interest therein or attached thereto, without any further act or deed and thereupon the concerned Transferor Company shall cease to be the registered and/or the beneficial owner of such investments. The concerned Transferor Company shall be deemed to be holding such investments for and on behalf of and in trust for and for the benefit of the Transferee Company and all profits or dividends and other rights or benefits accruing/paid/distributed on such investments and all taxes thereon, or losses arising or expenses incurred relating to such investments, shall, for all intent and purposes, be treated as the profits, dividends, rights, benefits, taxes, losses or expenses, as the case may be, of the Transferee Company.
- (c) In respect of such of the moveable assets belonging to the respective Transferor Companies other than those specified in paragraph 3.2.1(a) and (b) hereof, including sundry debtors, outstanding loans and advances, if any, recoverable in cash or in kind or value to be received, bank balances and deposits, if any, the same shall (notwithstanding whether there is any specific provision for transfer of credits, assets or refunds under the applicable laws, wherever applicable), without any further act, instrument or deed by the concerned Transferor Company or the Transferee Company or the need for any endorsements, stand transferred from the concerned Transferor Company to and in favour of the Transferee Company. Any security, lien, encumbrance or charge created over any assets in relation to the loans, debentures or



borrowings or any other dues of the respective Transferor Companies, shall, without any further act or deed, stand transferred to the benefit of the Transferee Company and the Transferee Company will have all the rights of the respective Transferor Companies to enforce such security, lien, encumbrance or charge, by virtue of this Scheme.

- (d) All immovable properties of the respective Transferor Companies(i.e., land together with the buildings and structures standing thereon or under construction) (whether freehold, leasehold, leave and licensed or otherwise) including any tenancies in relation to warehouses, office space, guest houses and residential premises including those provided to/occupied by the Transferred Employees and all documents of title, rights and easements in relation thereto and all plant and machineries constructed on or embedded or attached to any such immovable properties and all rights, covenants, continuing rights, title and interest in connection with the said immovable properties, shall stand transferred to and be vested in and be deemed to have been transferred to and vested in the Transferee Company, without any further act or deed done/executed or being required to be done/executed by the respective Transferor Company or the Transferee Company or both. The Transferee Company shall be entitled to exercise and enjoy all rights and privileges attached to the immovable properties and shall be liable to pay the ground rent and taxes and fulfill all obligations and be entitled to all rights in relation to or as applicable to such immovable properties.

3.2.2 Licenses

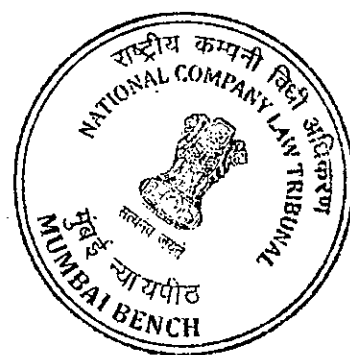
All Licenses relating to the respective Transferor Companies shall stand transferred to and be vested in the Transferee Company, without any further act or deed done by the concerned Transferor Companies or the Transferee Company and be in full force and effect in favour of the Transferee Company, as if the same were originally given to, issued to or executed in favour of the Transferee Company and the Transferee Company shall be bound by the terms thereof, the obligations and duties thereunder, and the rights and benefits under the same shall be available to the Transferee Company.

3.2.3 Benefits, Entitlements, Incentives and Concessions

All benefits, entitlements, incentives and concessions under incentive schemes and policies that the respective Transferor Companies is entitled to, including under customs, excise, service tax, VAT, sales tax and entry tax and income tax laws, subsidy receivables from Government, grants from any governmental authority, benefit availed under Package Scheme of Incentives-2013 of Government of Maharashtra, direct tax benefit/ exemptions/ deductions, shall, to the extent statutorily available and alongwith associated obligations, stand transferred to and be available to the Transferee Company as if the Transferee Company was originally entitled to all such benefits, entitlements, incentives and concessions.

3.2.4 Contracts

- (a) All Contracts of the respective Transferor Companies which are subsisting or having effect immediately before the Effective Date, shall stand transferred to and vested in the Transferee Company and be in full force and effect in favour of the Transferee Company and may be enforced by or against it as fully and effectually as if, instead of the concerned Transferor Companies, the Transferee Company had been a party or beneficiary or obligee thereto.



- (b) Any *inter-se* contracts between any of the Transferor Companies on one hand and the Transferee Company on the other hand shall stand cancelled and cease to operate upon the coming into effect of this Scheme.
- (c) All guarantees provided by any bank in favour of the respective Transferor Companies outstanding as on the Effective Date, shall vest in the Transferee Company and shall enure to the benefit of the Transferee Company and all guarantees issued by the bankers of the respective Transferor Companies at the request of the concerned Transferor Company favouring any third party shall be deemed to have been issued at the request of the Transferee Company and continue in favour of such third party till its maturity or earlier termination.

3.2.5 Intellectual Property

All Intellectual Property of the respective Transferor Companies shall stand transferred to and be vested in the Transferee Company and be in full force and effect in favour of the Transferee Company and may be enforced by or against it as fully and effectually as if, instead of the concerned Transferor Company, the Transferee Company had been a party or beneficiary or obligee thereto.

3.2.6 Transferred Employees

- (a) All Transferred Employees of the respective Transferor Companies shall be deemed to have become the employees and staff of the Transferee Company with effect from the Appointed Date, and shall stand transferred to the Transferee Company without any interruption of service and on terms and conditions no less favourable than those on which they are engaged by the respective Transferor Companies, as on the Effective Date, including in relation to the level of remuneration and contractual and statutory benefit, incentive plans, terminal benefits, gratuity plans, provident plans and any other retirement benefits.
- (b) The Transferee Company agrees that the services of all Transferred Employees with the respective Transferor Companies prior to the transfer, shall be taken into account for the purposes of all benefits to which such Transferred Employees may be eligible, including in relation to the level of remuneration and contractual and statutory benefits, incentive plans, terminal benefits, gratuity plans, provident plans and other retirement benefits and accordingly, shall be reckoned from the date of their respective appointment in the respective Transferor Companies. The Transferee Company undertakes to pay the same, as and when payable under applicable laws.

For avoidance of doubt, in relation to those Transferred Employees for whom the concerned Transferor Company is making contributions to the Government provident fund, the Transferee Company shall stand substituted for the respective Transferor Companies for all purposes whatsoever, including in relation to the obligation to make contributions to such funds in accordance with the provisions of such funds, bye-laws, etc. in respect of the Transferred Employees.

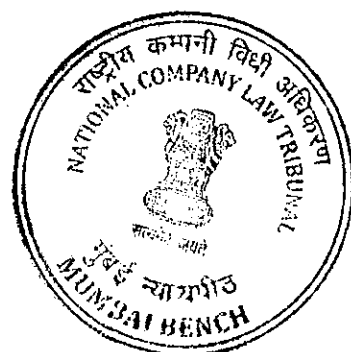
- (c) All contributions made by the respective Transferor Companies on behalf of the Transferred Employees and all contributions made by the Transferred Employees including the interests arising thereon, to the Funds and standing to the credit of such Transferred Employees' account with such Funds, shall, upon this Scheme becoming effective, be transferred to the funds maintained by the Transferee Company along with such of the investments made by such Funds which are referable and allocable to the Transferred Employees and the Transferee Company shall stand substituted for the concerned Transferor Company with regard to the obligation to make the said contributions.



- (d) The contributions made by the respective Transferor Companies under applicable law in connection with the Transferred Employees, to the Funds, for the period after the Appointed Date shall be deemed to be contributions made by the Transferee Company.
- (e) The Transferee Company shall continue to abide by the agreement(s) and settlement(s) entered into with the employees by the respective Transferor Companies, if any, in terms of such agreement(s) and settlement(s) subsisting on the Effective Date, in relation to the Transferred Employees.

3.2.7 Transferred Liabilities and Security

- (a) All Transferred Liabilities of the respective Transferor Companies, shall, to the extent they are outstanding as on the Effective Date, without any further act, instrument or deed, stand transferred to and be deemed to be the debts, liabilities, contingent liabilities, duties and obligations, etc., as the case may be, of the Transferee Company and shall be exercised by or against the Transferee Company, as if it had incurred such Transferred Liabilities.
- (b) The Transferee Company alone shall be liable to meet, discharge and satisfy the Transferred Liabilities as the borrower/creditor in respect thereof.
- (c) This Scheme shall not operate to enlarge or extend the security for any of the Transferred Liabilities and the Transferee Company shall not be obliged to create any further or additional securities after the Effective Date, unless otherwise agreed to by the Transferee Company with such secured creditors and subject to the consent and approval of the existing secured creditors of the Transferee Company, if any. Further, this Scheme shall not operate to enlarge or extend the security for any loan, deposit, credit or other facility availed by the Transferee Company, in as much as the security shall not extend to any of the assets forming part of the Transferred Undertakings.
- (d) In so far as the existing security in respect of the Transferred Liabilities is concerned, such security shall, without any further act, instrument or deed, be modified and shall be extended to and shall operate only over the assets forming part of the Transferred Undertakings of the respective Transferor Companies, which have been charged and secured and subsisting as on the Effective Date, in respect of the Transferred Liabilities. Provided that if any of the assets forming part of the Transferred Undertakings of the concerned Transferor Company have not been charged or secured in respect of the Transferred Liabilities, such assets shall remain unencumbered and the existing security referred to above shall not be extended to and shall not operate over such assets.
- (e) 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 Transferred Liabilities have arisen in order to give effect to the provisions of this paragraph.
- (f) It is expressly provided that, save as mentioned in this paragraph 3.2.7, no other term or condition of the Transferred Liabilities is modified by virtue of this Scheme, except to the extent that such amendment is required by necessary implication.
- (g) The Transferred Liabilities, if any, due or which may at any time in the future become due only *inter-se* the respective Transferor Companies and the Transferee Company, shall stand discharged and there shall be no liability in that behalf on either company and corresponding effect shall be given in the



books of account and records of the Transferee Company, in accordance with Part V of this Scheme.

3.2.8 Legal and other such Proceedings

All Proceedings transferred to the Transferee Company pursuant to the Scheme, shall not abate or be discontinued or in any way be prejudicially affected by reason of the amalgamation of the Transferor Companies or by anything contained in this Scheme and the proceedings shall continue and any prosecution shall be enforced by or against the Transferee Company in the same manner and to the same extent as it would or might have been continued, prosecuted or enforced by or against the respective Transferor Companies, as if this Scheme had not been made. The Transferee Company undertakes to have such Proceedings relating to or in connection with the respective Transferor Companies, initiated by or against the said Transferor Companies, transferred in the name of the Transferee Company as soon as possible, after the Effective Date, and to have the same continued, prosecuted and enforced by or against the Transferee Company. The Transferee Company also undertakes to pay all amounts including interest, penalties, damages, etc., which the respective Transferor Companies may be called upon to pay or secure in respect of any liability or obligation relating to the respective Transferor Companies for the period from the Appointed Date up to the Effective Date and any costs incurred by the respective Transferor Companies in respect of such proceedings started by or against it relating to the period from the Appointed Date up to the Effective Date upon submission of necessary evidence by the said Transferor Companies to the Transferee Company for making such payment.

3.2.9 Tax Treatment

All taxes, duties, cess, MAT credit, tax related assets (including service tax, input credit, CENVAT, value added tax, sales tax, entry tax etc that are allocable, referable or related to the respective Transferor Companies and payable, whether due or not, upto a day immediately preceding the Appointed Date, including all advance tax payments, tax deducted at source, tax liabilities or any refunds, tax obligations, credit and claims, shall, for all intent and purposes, be treated as the liability or refunds, credit and claims, as the case may be, of the Transferee Company.

3.2.10 Books and Records

All books, records, files, papers, engineering and process information, catalogues, quotations, advertising materials, if any, lists of present and former clients and all other books and records, whether in physical or electronic form, of the respective Transferor Companies, to the extent possible and permitted under applicable laws, be handed over by them to the Transferee Company.

3.3 Conduct of Business

3.3.1 With effect from the Appointed Date and upto the Effective Date:

- (a) The respective Transferor Companies shall carry on their respective businesses with reasonable diligence and commercial prudence and in the same manner as it had been doing hitherto;
- (b) The respective Transferor Company shall carry on and shall be deemed to have carried on all their respective business activities and shall hold and stand possessed and shall be deemed to have held and stood possessed of all the said



assets, rights, title, interests, authorities, Contracts, investments and decisions, benefits for and on account of and in trust for the Transferee Company;

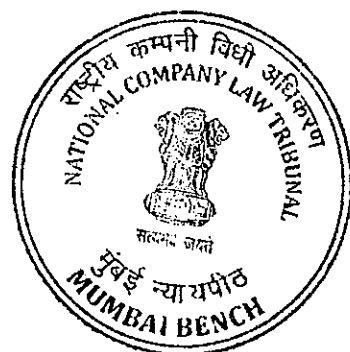
- (c) All obligations, liabilities, duties and commitments attached, related or pertaining to the respective Transferor Companies shall be undertaken and shall be deemed to have been undertaken for and on account of and in trust for the Transferee Company; and
- (d) All the profits and incomes accruing or arising to the respective Transferor Companies and all expenditure or losses arising or incurred by the respective Transferor Companies shall, for all purposes, be treated and be deemed to be the profits and incomes or expenditures and losses, as the case may be, of the Transferee Company.

3.3.2 All assets acquired, leased or licensed, Licenses obtained, benefits, entitlements, incentives and concessions granted, Contracts entered into, Intellectual Property developed or registered or applications made thereto, Transferred Liabilities incurred and Proceedings initiated or made party to, between the Appointed Date and till the Effective Date by the respective Transferor Companies shall be deemed to be transferred and vested in the Transferee Company. For avoidance of doubt, where any of the Transferred Liabilities as on the Appointed Date (deemed to have been transferred to the Transferee Company) have been discharged by either of the Transferor Companies on or after the Appointed Date but before the Effective Date, such discharge shall be deemed to have been for and on behalf of the Transferee Company for all intent and purposes and under all applicable laws. Further, in connection with any transactions between any of the Transferor Companies and the Transferee Company between the Appointed Date and upto the Effective date, if any service tax has been paid by the Transferor Companies, then upon the Scheme coming into effect, the Transferee Company shall be entitled to claim refund of such service tax paid by the Transferor Companies.

3.3.3 With effect from the Effective Date, the Transferee Company shall carry on and shall be authorised to carry on the business of the respective Transferor Companies and till such time as the name of account holder in the respective bank accounts of the respective Transferor Companies is substituted by the bank in the name of the Transferee Company, the Transferee Company shall be entitled to operate such bank accounts of the respective Transferor Companies, in its name, in so far as may be necessary.

3.3.4 Without prejudice to the other provisions of this Scheme and notwithstanding the fact that vesting of the respective Transferor Companies occurs by virtue of Part III of this Scheme itself, the Transferee Company may, at any time after the Effective Date, in accordance with the provisions hereof, if so required under applicable law or otherwise, give notice in such form, as may be required or as it may deem fit and proper or enter into or execute deeds (including deeds of adherence), confirmations, novations, declarations or other writings or documents as may be necessary and carry out and perform all such formalities and compliances, for and on behalf of the concerned Transferor Company, including, with or in favour of and required by (i) any party to any Contract to which the respective Transferor Companies is a party; or (ii) any Governmental Authority or non-government authority, in order to give formal effect to the provisions of this Scheme. Provided however, that execution of any confirmation or novation or other writings or arrangements shall in no event postpone the giving effect to this Scheme from the Effective Date.

3.3.5 To the extent possible, pending sanction of this Scheme, the respective Transferor Companies or the Transferee Company shall be entitled to apply to the relevant Governmental Authorities and other third parties concerned, as



may be necessary under any law or contract for transfer or modification of such consents, approvals and sanctions which the Transferee Company may require to own and carry on the business of the respective Transferor Companies with effect from the Effective Date and subject to this Scheme being sanctioned by the High Court.

- 3.3.6 For the purpose of giving effect to the order passed under Sections 391 to 394 of the Companies Act in respect of this Scheme by the High Court, the Transferee Company shall, upon the Scheme becoming effective, be entitled to get the record of the change in the legal right(s) standing in the name of the respective Transferor Companies, in its favour in accordance with such order and the provisions of Sections 391 to 394 of the Companies Act.

3.4 **Saving of Concluded Transactions**

The transfer and vesting of the Transferor Companies with and into the Transferee Company under Part III of the Scheme, shall not affect any transaction or proceedings already completed or liabilities incurred by each of the Transferor Companies, either prior to or on or after the Appointed Date till the Effective Date, to the end and intent that the Transferee Company shall accept and adopt all acts, deeds and things done and executed by or on behalf of the respective Transferor Companies in respect thereto as acts, deeds and things done and executed by and on behalf of itself.

3.5 **Dissolution of Transferor Companies**

Upon this Scheme becoming effective, ZFCL, ZSFL and ZASL shall stand dissolved without being wound-up.



PART IV

CANCELLATION OF SHARES OF TRANSFEROR COMPANIES & INCREASE OF AUTHORISED SHARE CAPITAL OF TRANSFeree COMPANY

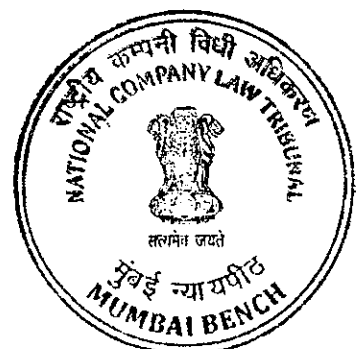
4.1 Cancellation of Shares of Transferor Companies

- 4.1.1 The Transferor Companies are wholly owned subsidiaries of Transferee Company and therefore upon amalgamation of Transferor Companies with Transferee Company in terms of the Scheme becoming effective, the entire paid-up share capital (i.e., equity share capital and preference share capital, if any) of the Transferor Companies held by the Transferee Company shall without any act or deed stand automatically cancelled and be extinguished and in lieu thereof and the Transferee Company shall not be required to issue and / or allot any shares to the members of the Transferor Companies.

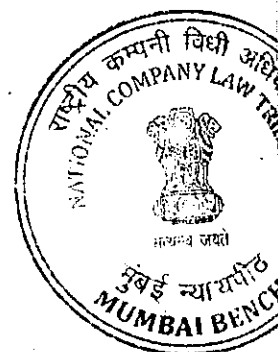
4.2 Increase of authorised share capital of the Transferee Company

- 4.2.1 Upon this Scheme becoming effective and upon the transfer and vesting of ZFCL, ZSFL and ZASL into ZACL pursuant to this Scheme, the entire authorised share capital of ZFCL equal to Rs. 40,00,00,000 (divided into 2,00,00,000 equity shares of Rs. 10 each and 2,00,00,000 preference shares of Rs. 10 each), the entire authorised share capital of ZSFL equal to Rs. 7,00,00,000 (divided into 70,00,000 equity shares of Rs. 10 each) and that of ZASL equal to Rs. 45,00,00,000 (divided into 3,05,00,000 equity shares of Rs. 10 each and 1,45,00,000 preference shares of Rs. 10 each) shall stand merged with the authorised share capital of the Transferee Company.
- 4.2.2 Thus, the authorised share capital of the Transferee Company of Rs.65,00,00,000 comprising of Equity Share Capital of Rs.65,00,00,000 divided into 6,50,00,000 Equity Shares of the face value of Rs.10/- each shall stand increased by Rs.92,00,00,000 to Rs.157,00,00,000 (divided into Equity Share Capital of Rs.122,50,00,000 consisting of 12,25,00,000 Equity Shares of the face value of Rs.10 each and Preference Share Capital of Rs. 34,50,00,000 consisting of 3,45,00,000 Preference Shares of the face value of Rs.10/- each.)
- 4.2.3 Accordingly, the authorised share capital of the Transferee Company shall stand increased by an amount of Rs. 92,00,00,000 and Clause V of the Memorandum of Association of ZACL (relating to the authorized share capital) shall, without any further act, instrument or deed, be and stand altered, modified and amended pursuant to Sections 13 and 61 of the Companies Act, 2013 and Section 394 and other applicable provisions of the Companies Act as the case may be and be replaced by the following clause:

"The Authorised Share Capital of the Company is Rs.157,00,00,000 (Rupees One hundred and fifty seven crores) divided into Equity Share Capital of Rs.122,50,00,000 (Rupees One hundred and twenty two crores fifty lakhs) consisting of 12,25,00,000 (Twelve crores twenty five lacs) Equity Shares of the face value of Rs.10 (Rupees Ten) each and Preference Share Capital of Rs. 34,50,00,000 (Rupees Thirty four crores fifty lakhs) consisting of 3,45,00,000 (Three crores forty five lakhs) Preference Shares of the face value of Rs.10/- (Rupees Ten) each with power to increase and reduce the capital of the Company and to divide the shares in the capital for the time being into several classes and attach thereto respectively such preferential qualified or special rights, privilege or conditions as may be determined by or in accordance with the Articles of the Company for the time being and to vary, modify or abrogate any such rights, privileges or conditions in such manner as may be permitted by the Act or provided by the Articles of the Company for the time being."



4.2.4 The stamp duty or filing fees paid on the authorised share capital of each of the Transferor Companies is permitted to be utilized and applied towards the increase in the authorised share capital of the Transferee Company in accordance with this paragraph 4.2 and no additional stamp duty shall be payable and no additional fee shall be payable to any regulatory authorities in relation to such increase in the authorised share capital of the Transferee Company. The Transferee Company shall file the requisite documentation with the relevant Registrar of Companies, which has jurisdiction over the Transferee Company, for the increase of the authorised share capital of the Transferee Company as aforesaid. It is hereby clarified that for the purposes of increasing the authorised share capital in accordance with this paragraph 4.2, the sanction of the High Court shall be deemed to be sufficient for the purposes of effecting this amendment and that no further approval or resolution under any applicable provisions of the Companies Act, 2013 would be required to be separately passed.



PART V

ACCOUNTING TREATMENT IN THE BOOKS OF TRANSFeree COMPANY

5.1 Accounting treatment in respect of amalgamation of ZSFL, the Second Transferor Company, with ZACL, the Transferee Company

5.1.1 Accounting for the amalgamation of ZSFL (the "Second Transferor Company") and treatment of goodwill/ reserves, if any, in the Financial Statements of the Transferee Company shall be as per "purchase method" in accordance with the provisions of Accounting Standard 14 – "Accounting for Amalgamations" (AS-14) as notified under the Companies Act, 1956 (which continue to be applicable in respect of Section 133 of the Companies Act, 2013 in terms of General Circulars 15/2013 dated September 13, 2013 of the Ministry of Corporate Affairs). Accordingly, upon the Scheme coming into effect, with effect from the Appointed Date:

- (a) The Transferee Company shall record the assets and liabilities relating to Transferred Undertaking of ZSFL, the Second Transferor Company, vested in it pursuant to this Scheme, at their existing carrying amounts at the close of the business of the day immediately preceding the Appointed Date.
- (b) Any inter-company payables or receivables (including loans, advances, debtors, investment in ZSFL, the Second Transferor Company) shall be and stand cancelled.
- (c) The difference, if any, between the value of assets and value of the liabilities pertaining to Transferred Undertaking of ZSFL, the Second Transferor Company, after making adjustments as mentioned in Clause 5.1.1 (b) above, shall be treated as "Goodwill" in case of debit balance and "Capital Reserve" in case of a credit balance.
- (d) In case of any differences in the accounting policies between ZSFL, the Second Transferor Company, and ZACL, the Transferee Company, the impact of the same till the Appointed Date will be quantified and the same shall be appropriately adjusted and reported in accordance with applicable accounting standards notified under the Companies Act, 1956 or Companies Act, 2013, as applicable, so as to ensure that the financial statements of Transferee Company reflect the financial position on the basis of consistent accounting policies.

5.1.2 Notwithstanding anything mentioned in Paragraph 5.1.1 above, the Board of Directors of Transferee Company, is authorised to account for any of the above mentioned transactions balances in accordance with the applicable accounting standards and generally accepted accounting principles.

5.2 Accounting treatment in respect of amalgamation of First Transferor Company and Third Transferor Company with Transferee Company

5.2.1 Accounting for the amalgamation of ZFCL (the "First Transferor Company"), and ZASL (the "Third Transferor Company"), and treatment of reserves, if any, in the Financial Statements of the Transferee Company shall be as per "pooling of interest method" in accordance with the provisions of Accounting Standard 14 – "Accounting for Amalgamations" (AS-14) as notified under the Companies Act, 1956 (which continue to be applicable in respect of Section 133 of the Companies Act, 2013 in terms of General Circulars 15/2013 dated September 13, 2013 of the Ministry of Corporate Affairs). Accordingly, upon the Scheme coming into effect, with effect from Appointed Date:



- (a) Transferee Company shall record the assets, liabilities and reserves relating to Transferred Undertaking of First Transferor Company and Third Transferor Company vested in it pursuant to this Scheme, at their respective carrying amounts at the close of the business of the day immediately preceding the Appointed Date. 6.1
- (b) Any inter-company payables or receivables (including loans, advances, debtors, etc) shall be and stand cancelled. 6.1
- (c) The difference between the investment in the financial statements of the Transferee Company in the First Transferor Company and the Third Transferor Company and the amount of paid-up share capital of the First Transferor Company and Third Transferor Company, respectively, shall be adjusted against the business reconstruction reserve in the books of the Transferee Company.
- (d) In case of any differences in the accounting policies between First Transferor Company and/or Third Transferor Company as compared to ZACL, the impact of the same till the Appointed Date will be quantified and the same shall be appropriately adjusted and reported in accordance with applicable accounting standards notified under the Companies Act, 1956 or Companies Act, 2013, as applicable, so as to ensure that the financial statements of Transferee Company reflect the financial position on the basis of consistent accounting policies. 6.2
- 5.2.2 Notwithstanding anything mentioned in Paragraph 5.2.1 above, the Board of Directors of the Transferee Company are authorised to account for any of the above mentioned transactions balances in accordance with the applicable accounting standards and generally accepted accounting principles. 6.2



PART VI

GENERAL TERMS AND CONDITIONS

6.1. Application(s) to the High Court

- 6.1.1 The respective Transferor Companies shall make, as applicable, joint or separate applications/petitions under Section 391 to 394 and other applicable provisions of the Companies Act to the High Court, as necessary, *inter alia*, to seek orders for dispensing with or for convening, holding or conducting of the meetings of their respective shareholders and creditors, sanctioning of this Scheme and for consequent actions including for dissolution of the Transferor Companies without winding up and further applications/petitions under Sections 391 to 394 and other applicable provisions of the Companies Act including for sanction/confirmation/clarification of the Scheme or connected therewith, as necessary.

6.2. Revision of accounts and tax filings, modification of charge

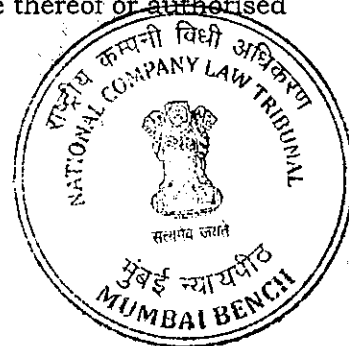
- 6.2.1 Upon this Scheme becoming effective and from the Appointed Date, the Transferee Company is expressly permitted to revise and file its income tax returns and other statutory returns, including tax deducted at source returns, services tax returns, excise tax returns, sales tax and value added tax returns, as may be applicable and has expressly reserved the right to make such provisions in its returns and to claim refunds or credits etc, if any. Such returns may be revised and filed notwithstanding that the statutory period for such revision and filing may have lapsed.
- 6.2.2 Filing of the certified copy of the order of the High Court sanctioning this Scheme with the relevant Registrar of Companies shall be deemed to be sufficient for creating or modifying the charges in favour of the secured creditors, if any, of the respective Transferor Companies, as required as per the provisions of this Scheme.

6.3. Tax neutrality

- 6.3.1 The amalgamation in accordance with this Scheme shall be pursuant to and in compliance with the provisions of Section 2(1B) of the Income-tax Act, 1961, or any modification or re-enactment thereof.
- 6.3.2 If any terms or provisions of this Scheme are found to be or interpreted to be inconsistent with any of the said provisions at a later date, whether as a result of any amendment of law or any judicial or executive interpretation or for any other reason whatsoever, the Scheme shall then stand modified to the extent determined necessary to comply with the said provisions. Such modification will, however, not affect other parts of this Scheme.

6.4. Modifications and Amendments to the Scheme

- 6.4.1 Notwithstanding anything to the contrary contained in this Scheme, the respective Transferor Companies and the Transferee Company (acting through their respective Board of Directors or a committee thereof or authorised representatives) may make or assent, from time to time, to any modifications, amendments, clarifications or confirmations to this Scheme, which they deem necessary and expedient or beneficial to the interests of the stakeholders and the High Court.
- 6.4.2 The respective Transferor Companies and the Transferee Company (acting through their respective Board of Directors or a committee thereof or authorised



representatives) shall be authorised to take all such steps and give such directions, as may be necessary, desirable or proper, to resolve any doubts, difficulties or questions that may arise in regard to and of the meaning or interpretation of this Scheme or implementation thereof or in any manner whatsoever connected therewith, whether by reason of any directive or orders of the High Court or any other authorities or otherwise, howsoever arising out of or under or by virtue of this Scheme or any matter concerned or connected therewith and to do and execute all acts, deeds, matters and things necessary for giving effect to this Scheme.

6.4.3 For the purpose of giving effect to this Scheme or to any modifications or amendments thereof or additions thereto, the delegate of the respective Transferor Companies and the Transferee Company may give and are hereby authorised to determine and give all such directions as are necessary and such determination or directions, as the case may be, shall be binding on all parties, in the same manner as if the same were specifically incorporated in this Scheme.

6.5. **Conditionality of the Scheme**

6.5.1 This Scheme is conditional upon and subject to the following:

- (a) this Scheme being sanctioned by the High Court; and
- (b) certified copies of the orders of the High court sanctioning the Scheme being filed by the respective Transferor Companies and the Transferee Company, with the Registrar of Companies, Goa, Daman & Diu.

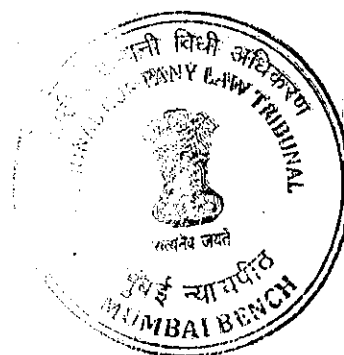
6.5.2 Notwithstanding anything to the contrary contained herein, the non-receipt of any sanctions or approvals for transfer of a particular asset or liability forming part of either of the Transferor Companies to the Transferee Company pursuant to this Scheme, shall not affect the effectiveness of this Scheme, if the Board of Directors of the respective Transferor Companies and the Transferee Company so decide.

6.5.3 On the sanction of this Scheme and upon this Scheme becoming effective, the following shall be deemed to have occurred on the Appointed Date and become effective and operative only in the sequence and in the order mentioned hereunder:

- (a) amalgamation of ZFCL, ZSFL and ZASL and transfer and vesting thereof in ZACL;
- (b) transfer of the authorised share capital of ZFCL, ZSFL and ZASL to ZACL and consequential increase in the authorised share capital of the Transferee Company (in accordance with paragraph 4.2 hereof).

6.6. **Revocation and withdrawal of this Scheme**

The Board of Directors of the respective Transferor Companies and the Transferee Company shall be entitled to revoke, cancel, withdraw and declare this Scheme to be of no effect at any stage, but before the Effective date, and where applicable re-file, at any stage in case (a) this Scheme is not approved by the High Court or if any other consents, approvals, permissions, resolutions, agreements, sanctions and conditions required for giving effect to this Scheme are not received or delayed; (b) any condition or modification imposed by the High Court and/or any other authority is not acceptable; (c) the coming into effect of this Scheme in terms of the provisions hereof or filing of the drawn up order(s) with any Governmental Authority could have adverse implication on



either of the Transferor Companies and/or the Transferee Company; or (d) for any other reason whatsoever, and do all such acts, deeds and things as they may deem necessary and desirable in connection therewith and incidental thereto. On revocation, cancellation or withdrawal, this Scheme shall stand revoked, cancelled or withdrawn and be of no effect and in that event, no rights and liabilities whatsoever shall accrue to or be incurred *inter se* between the respective Transferor Companies and the Transferee Company or their respective shareholders or creditors or employees or any other person, save and except in respect of any act or deed done prior thereto as is contemplated hereunder or as to any right, liability or obligation which has arisen or accrued pursuant thereto and which shall be governed and be preserved or worked out in accordance with the applicable law and in such case, each party shall bear its own costs, unless otherwise mutually agreed.

6.7. **Severability**

If any part of this Scheme is held invalid, ruled illegal by any court of competent jurisdiction, or becomes unenforceable for any reason, whether under present or future laws, then it is the intention of both the Transferor Companies and the Transferee Company that such part of the Scheme shall be severable from the remainder of this Scheme and this Scheme shall not be affected thereby, unless the deletion of such part of the Scheme shall causes this Scheme to become materially adverse to either the Transferee Company or the Transferor Companies, in which case the respective Transferor Companies and the Transferee Company shall attempt to bring about a modification in this Scheme, as will best preserve for the parties the benefits and obligations of this Scheme, including but not limited to such part of the Scheme.

6.8. **Stamp Duty**

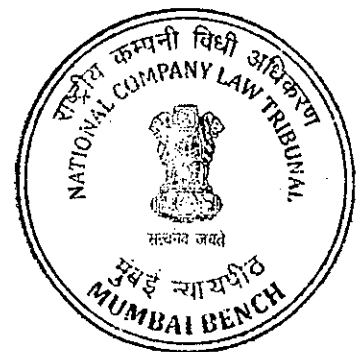
The registered office of each of the Transferor Companies and the Transferee Company is located in Goa, where The Indian Stamp (Goa, Daman and Diu Amendment) Act, 1968, as amended, ("**Stamp Act**") would be applicable. The Stamp Act had been amended in 2013 to include the order made by the High Court under section 394 of the Companies Act in respect of amalgamation or reconstruction of companies by which property, whether, movable or immovable, or any estate or interest in any property is transferred to, or vested in, any other person within the ambit of conveyance clause.

The corresponding clause of conveyance in the Stamp Act levies stamp duty based on the amount or value of the consideration for such conveyance as set forth therein.

Since the underlying Scheme involves amalgamation of wholly owned subsidiaries (Transferor Companies) with its parent (Transferee Company) no consideration is issued/ paid. Hence, no stamp duty is payable in respect of transfer of properties as a part of this Scheme.

6.9. **Mutation of property**

Upon the Scheme coming into effect and with effect from the Appointed Date, the title to the immovable properties of the Transferred Undertakings shall be deemed to have been mutated and recognised as that of the Transferee Company and the mere filing of the certified true copy of the vesting order of the Court sanctioning the Scheme with the appropriate Registrar or Sub-registrar of Assurances or with the relevant Government agencies shall suffice as record of continuing title of the immovable properties of the Transferred Undertakings with the Transferee Company pursuant to the Scheme becoming effective and shall constitute a deemed mutation and substitution thereof.



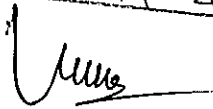
6.10. **Dividend**

6.10.1. The respective Transferor Companies and the Transferee Company shall be entitled to declare and pay dividends, whether interim or final, to their respective shareholders, as may be decided by their respective Board of Directors, in respect of the accounting period prior to the Effective Date.

6.10.2. It is clarified that the aforesaid provisions in respect of declaration of dividends is an enabling provision only and shall not be deemed to confer any right on any shareholder of either of the Transferor Companies or the Transferee Company to demand or claim any dividends, which subject to the provisions of the Companies Act (or Companies Act, 2013, as applicable), shall be entirely at the discretion of the Board of Directors of the respective Transferor Companies and the Transferee Company, as the case may be, subject to such approval of the respective shareholders, as may be required.

6.11. **Costs and expenses**

All costs, expenses, charges, taxes, fees and all other expenses, if any, including stamp duty and registration charges, if any, arising out of or incurred in carrying out and implementing the terms of this Scheme and the incidentals thereto shall be borne and paid by the Transferee Company.

Certified True Copy
Date of Application 3.10.2012
Number of Pages: 26
Fee Paid Rs. 130
Applicant called for collection copy on 7.11.2012
Copy prepared on 7.11.2012
Copy issued on 7.11.2012

Deputy Director
National Company Law Tribunal, Mumbai Bench



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

**COMPANY SCHEME PETITION NO.296 OF 2017
(Goa High Court Company Petition No.23 of 2016)
CONNECTED WITH
GOA HIGH COURT COMPANY APPLICATION (MAIN) NO.64
OF 2017**

In the matter of the Companies Act, 1956,

And

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

And

In the matter of the Scheme of
Amalgamation, under Sections 391 to 394
of the Companies Act, 1956 of Zuari
Fertilisers and Chemicals Limited
(Transferor Company No.1), Zuari Speciality
Fertilisers Limited (Transferor Company
No.2) and Zuari Agri Sciences Limited
(Transferor Company No.3) with Zuari Agro
Chemicals Limited (Transferee Company)

Zuari Speciality Fertilisers LimitedPetitioner Company

Certified copy of the Order dtd.14th September, 2017
alongwith amended Scheme of Amalgamation

Dated this day of September, 2017



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