



Glenmark

A new way for a new world

REPORT OF THE AUDIT COMMITTEE OF GLENMARK PHARMACEUTICALS LIMITED

REPORT OF THE AUDIT COMMITTEE OF GLENMARK PHARMACEUTICALS LIMITED (THE "COMPANY") RECOMMENDING THE DRAFT SCHEME OF AMALGAMATION OF GLENMARK GENERICS LIMITED ("GGL") AND GLENMARK ACCESS LIMITED ("GAL") WITH THE COMPANY

Members:

- | | | |
|-----------------------|---|----------|
| 1. Mr. N. B. Desai | - | Chairman |
| 2. Mr. J. F. Ribeiro | - | Director |
| 3. Mr. Sridhar Gorthi | - | Director |

In Attendance:

- | | | |
|-------------------------------|---|--|
| 1. Mr. Glenn Saldanha | - | Chairman & Managing Director |
| 2. Mr. Rajesh V Desai | - | Executive Director |
| 3. Mr. Sanjay Kumar Chowdhary | - | Company Secretary & Compliance Officer |

I. Background

A draft Scheme of Amalgamation (the "**Scheme**") of GGL and GAL with the Company was placed before the Audit Committee by the management of the Company for the Audit Committee to consider and recommend the said draft Scheme to the Board taking into account, *inter alia*, the valuation report prepared by SSPA & Co., Chartered Accountants, in terms of SEBI Circular No. CIR/CFD/DIL/2013 dated February 4, 2013 and Circular No. CIR/CFD/DIL/8/2013 dated May 21, 2013 ("**Circular**").

In view of the above, the members of the Audit Committee of the Board of Directors of the Company have discussed and approved the draft Scheme vide a resolution passed at its meeting held on January 31, 2014 and have made this report, after perusing the following necessary documents:

- a. Draft Scheme.
- b. Valuation Report dated January 31, 2014 issued by SSPA & Co., Chartered Accountants.
- c. Fairness Opinion dated January 31, 2014 issued by Fortress Capital Management Services Pvt. Ltd.



Glenmark Pharmaceuticals Ltd.

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- d. Draft certificate of the Statutory Auditors' in relation to the accounting treatment specified in the Scheme.
- e. Draft certificate of the Statutory Auditors of the net worth of the Company pre and post Scheme.

II. Proposed Scheme

The Audit Committee noted the rationale of the proposed Scheme, which is, *inter alia*, as follows:


- (i) Consolidation of operations of the Transferor Companies and the Transferee Company leading to integrated supply chain providing further synergies;
- (ii) Unified branding of "Glenmark" in markets which follow both branded and generics business models thereby leveraging the available infrastructure for strengthening the position in the markets;
- (iii) Providing flexibility in the overall organizational structure thereby enabling to achieve operational and management efficiency;
- (iv) Realignment of the corporate structure of the Glenmark group in line with its business objectives in order to enhance the long term value of the shareholders;
- (v) Harmonization of the product pipeline which would enable transfer of products across markets thereby de-risking business profile of the Company;
- (vi) Retention and attraction of best talent, boosting employee morale and confidence;

The salient features of the draft Scheme are attached as Annexure A to this report.

III. Recommendation of the Audit Committee

The Audit Committee recommends the draft Scheme for favorable consideration by the Board of Directors of the Company, stock exchange(s) and Securities and Exchange Board of India (SEBI), *inter-alia* taking into consideration the valuation report dated January 31, 2014 issued by SSPA & Co., Chartered Accountants and the fairness opinion dated January 31, 2014 issued by Fortress Capital Management Services Pvt. Ltd.

Date: January 31, 2014
Place: Mumbai



Mr. N. B. Desai
Chairman, Audit Committee



SALIENT TERMS OF THE SCHEME OF AMALGAMATION

BETWEEN

GLENMARK GENERICS LIMITED

AND

GLENMARK ACCESS LIMITED

WITH

GLENMARK PHARMACEUTICALS LIMITED

1. DEFINITIONS:

- 1.1. "Act" means the Companies Act, 1956 and/or the Companies Act, 2013 as in force from time to time; it being clarified that as on the date of approval of this Scheme by the Boards of Directors of the Transferor Company and the Transferee Company, Sections 391 and 394 of the Companies Act, 1956 continue to be in force with the corresponding provisions of the Companies Act, 2013 not having been notified. Accordingly, references in this Scheme to particular provisions of the Act are references to particular provisions of the Companies Act, 1956. Upon such provisions standing re-enacted by enforcement of provisions of the Companies Act, 2013, such references shall, unless a different intention appears, be construed as references to the provisions so re-enacted.
- 1.2. "Appointed Date" shall mean April 1, 2014.
- 1.3. "Effective Date" shall mean the last of the dates on which all conditions, matters and filings referred to in Clause 8 hereof have been fulfilled and necessary orders, approvals and consents referred to therein have been obtained. References in the Scheme to the date of "coming into effect of the Scheme" or "effectiveness of the Scheme" or "upon the Scheme becoming effective" shall mean the Effective Date.
- 1.4. "Liabilities" shall mean all debts (secured and unsecured), deposits accepted, time and demand liabilities, rupee and foreign currency borrowings, bills payable, interest accrued and payable, capital reserves and surpluses whether statutory or not and all other liabilities including contingent liabilities, duties and obligations of any Transferor Company, as on or after the Appointed Date whether provided for or not in the books of accounts of such Transferor Company, and all other liabilities which may accrue or arise after the Appointed Date but which relate to the period on or upto the Appointed Date.
- 1.5. "High Court" means the High Court of Judicature at Bombay. It is hereby clarified that in the event that the provisions of the Companies Act, 2013 pertaining to schemes of compromise and arrangements become applicable and effective for the purposes of this Scheme, all reference to the High Court shall be deemed to include references to





the National Company Law Tribunal to be constituted under the Companies Act, 2013.

- 1.6. **"MAT Credit"** shall mean minimum alternate tax credit.
- 1.7. **"Remaining Shareholders"** shall mean the shareholders of the Transferor Company - 1, whose names appear in the register of members of the Transferor Company - 1 and whose names appear as the beneficial owners of the equity shares of the Transferor Company - 1 in the records of the depositories (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 Transferor Company - 1) as on the Record Date.
- 1.8. **"Transferee Company"** shall mean Glenmark Pharmaceuticals Limited.
- 1.9. **"Transferor Company - 1"** shall mean Glenmark Generics Limited.
- 1.10. **"Transferor Company - 2"** shall mean Glenmark Access Limited.
- 1.11. **"Undertakings"** shall mean:
 - a) the entire undertaking, the entire business, all the properties (whether movable or immovable, tangible or intangible), assets, investments of all kinds (including but not limited to shares, scrips, stocks, bonds, debentures, debenture stocks, units or pass through certificates), money at call or short notice, all cash balances with various banks, loans, advances, contingent rights or benefits, deposits (made with any authority or person whatsoever), lease and hire purchase contracts and assets, securitized assets, receivables, customs duty credit, products with maximum price labels, stock in trade, security receipts, benefit of assets or properties or other interest held in trust, benefit of any security arrangements, authorities, allotments, approvals, reversions, buildings and structures, office and residential premises, tenancies, leases, licenses, fixed and other assets, powers, consents, authorities, registrations, exemptions, benefits, waivers, security and other agreements, contracts, powers of attorney, engagements, arrangements of all kinds, rights, titles, interests, benefits (including tax benefits), tax holiday benefit, incentives (including but not limited to tax credits under the indirect taxes (i.e. CENVAT etc.) and foreign trade related incentives), credits including tax credits, MAT Credit entitlement, tax losses, easements, and advantages of whatsoever nature and wheresoever situate belonging to, or in the ownership, power or possession of, or in the control of, or vested in, or granted in favour of, or held for the benefits of, or enjoyed by any Transferor Company, or to which a Transferor Company may be entitled and includes, but without being limited to, trade and service names and marks and other intellectual property rights of any nature whatsoever, permits, approvals, authorizations, rights to use and avail of telephones, telexes, facsimile, email, internet, leased line connections and installations, utilities, electricity and other services, reserves, provisions, funds, benefits of all agreements, all records, files, papers, computer programs, manuals, data, catalogues, sales and advertising materials, lists and other details of present and former customers and suppliers, customers credit





information, customer and supplier pricing information and other records in connection with or relating to a Transferor Company and all other interest of whatsoever nature belonging to or in the ownership, power or possession and in the control of or vested in or granted in favour of or held for the benefit of or enjoyed by a Transferor Company, whether within or outside India, as on the Effective Date;

- b) Amounts claimed by any Transferor Company whether or not so recorded in the books of account of such Transferor Company from any governmental authority, under any law, act or rule in force, as refund of any tax, duty, cess or of any excess payment; and
- c) Right to any claim not preferred or made by any Transferor Company in respect of any refund of tax, duty, cess or other charge, including any erroneous or excess payment thereof made by any Transferor Company and any interest thereon, with regard to any law, act or rule or scheme made by any government authority, and in respect of set-off, carry forward of un-absorbed losses, deferred revenue expenditure, deduction, exemption, rebate, allowance, amortization benefit, etc. under the Income-tax Act, 1961, or taxation laws of other countries, or any other or like benefits under the said acts or under and in accordance with any law or act, whether in India or anywhere outside India.

2. TRANSFER AND VESTING:

2.1. Transfer and vesting of Undertakings:

Upon coming into effect of the Scheme and with effect from the Appointed Date and subject to the provisions of the Act and this Scheme:

- (a) The Undertakings of each Transferor Company shall be and stand transferred or deemed to be transferred to and vest in the Transferee Company as a going concern without any further act, instrument, deed or conveyance and become the properties, estates, assets, rights, title, interests and authorities of the Transferee Company and shall remain valid, effective and enforceable on the same terms and conditions to the extent permissible under law.
- (b) Without prejudice to sub-clause 2.1 (a) above, items forming part of the Undertakings, which are movable in nature or are otherwise capable of transfer by manual delivery or by endorsement and / or delivery, may be so transferred by a Transferor Company, and shall, upon such transfer, become the properties, estates, assets, rights, title, interest and authorities of the Transferee Company as a going concern.
- (c) Without prejudice to sub-clause 2.1 (a) above, items forming part of the Undertakings, which are movable in nature, inventory, cash and bank balances, sundry debtors, actionable claims, outstanding loans, advances recoverable in cash or in kind or for value to be received and deposits with government, semi-government, local and other authorities and bodies shall be treated in the following manner:



- (i) The Transferee Company shall give separate notices in such form as it may deem fit and proper to each debtor of each Transferor Company, as the case may be, that pursuant to the order of the High Court sanctioning the Scheme under Sections 391 and 394 of the Act, the said debt, loan, advances, etc., be paid or made good or held on account of the Transferee Company and that the right of the Transferor Companies to recover or realize their respective debt, loan, advances, etc., stands extinguished and that appropriate entry should be passed in their respective books to record the aforesaid change.
- (ii) Each Transferor Company shall, if so required, also give notice in such form as they may deem fit and proper to their respective debtors, that pursuant to the order of the High Court sanctioning the Scheme between the Transferor Companies and the Transferee Company under Sections 391 and 394 of the Act, the said debtors should pay to the Transferee Company the debt, loan or advance or make the same on account of the Transferee Company and that the right of the Transferor Companies to recover or realize their respective debt, loan or advance stands extinguished.
- (d) All post dated cheques and electronic clearing systems instructions issued in favour of any Transferor Company, upon the coming into effect of the Scheme shall be encashed and acted upon by the Transferee Company which shall be entitled to the proceeds thereof, subject to such post dated cheques being endorsed in favour of the Transferee Company.
- (e) The Transferee Company may and in accordance with the provisions hereof, if so required, under any law or otherwise, execute deeds of confirmation or any other writings in favour of any other party to any contract or arrangement to which any Transferor Company is party or is subject to in order to give formal effect to the Scheme. The Transferee Company shall, under the provisions of the Scheme, be deemed to be authorized to execute any such writings on behalf of each Transferor Company and to implement or carry out all such formalities or compliances referred to hereinabove.
- (f) For the avoidance of doubt and without prejudice to the generality of the foregoing, all authorizations and any other licenses, approvals, clearances, permissions, etc. granted to any Transferor Company and forming part of the Undertakings of such Transferor Company shall vest in the Transferee Company and the concerned grantors of such authorizations, licenses, approvals, clearances, permissions, etc. shall endorse, where necessary, and record the Transferee Company on such authorizations, licenses, approvals, clearances, permissions, etc. so as to empower and facilitate the approval and vesting of the authorizations, licenses, approvals of such Transferor Company in the Transferee Company without any hindrance on and from the Effective Date.



- (g) All taxes (including but not limited to income tax, sales tax, excise duty, service tax, VAT, etc.) paid or payable by any Transferor Company in respect of the operations and/or the profits of the business before the Appointed Date, on account of any Transferor Company, and in so far as it relates to tax payment whether by way of deduction at source, advance tax or otherwise howsoever, by any Transferor Company in respect of the operations and/or the profits of the business after the Appointed Date shall be deemed to be the corresponding item paid by the Transferee Company, and shall, in all proceedings, be dealt with accordingly.
- (h) All the profits or income, taxes (including advance tax, tax deducted at source and MAT Credit) or any costs, charges, expenditure accruing or arising to any Transferor Company or expenditure or losses arising or incurred or suffered by the Transferor Company shall for all purposes be treated and deemed to be and accrue from the Appointed Date as the profits or income, taxes (including tax losses, MAT Credit), costs, charges, expenditure or losses of the Transferee Company, as the case may be.
- (i) For avoidance of doubt and without prejudice to the generality of the foregoing, it is clarified that upon coming into effect of this Scheme and with effect from the Appointed Date, in accordance with the provisions of relevant laws, consents, permissions, licenses, registrations, certificates, authorities (including for the operation of bank accounts), powers of attorneys given by, issued to or executed in favour of any Transferor Company, and the rights and benefits under the same shall, in so far as they relate to any Transferor Company and all quality certifications and approvals, patents and domain names, copyrights, brands, trade secrets, product registrations and other intellectual property and all other interests relating to the goods or services being dealt with by any Transferor Company, shall without any further act or deed be transferred to and vested in the Transferee Company under the same terms and conditions as were applicable to the respective Transferor Company immediately prior to the coming into effect of this Scheme. In so far as the various incentives, sales tax, deferral benefits, subsidies (including applications for subsidies), available tax credits (including MAT Credit, if any), rehabilitation schemes, grants, special status and other benefits or privileges enjoyed, granted by any government body, local authority or by any other person, or availed of or to be availed of by any Transferor Company are concerned, the same shall, without any further act or deed, in so far as they relate to the Transferor Company, vest with and be available to the Transferee Company on the same terms and conditions as were applicable immediately prior to the coming into effect of this Scheme.
- (j) On and from the Effective Date, and thereafter, the Transferee Company shall be entitled to operate all bank accounts of the Transferor Companies and realise all monies and complete and enforce all pending contracts and transactions and to accept stock returns and issue credit notes in respect of the Transferor Companies in the name of the Transferee Company in so far as may be necessary until the transfer of rights and obligations of the respective Transferor Companies to the Transferee Company under this Scheme have been formally given effect to under such contracts and transactions.



- (k) For avoidance of doubt and without prejudice to the generality of any applicable provisions of this Scheme, it is clarified that with effect from the Effective Date until such times the name of the bank accounts of the Transferor Companies would be replaced with that of the Transferee Company, the Transferee Companies shall be entitled to operate the bank accounts of the Transferor Companies in the name of the Transferor Companies in so far as may be necessary. All cheques and other negotiable instruments, payment orders received or presented for encashment which are in the name of the Transferor Companies after the Effective Date shall be accepted by the bankers of the Transferee Company and credited to the account of the Transferee Company, if presented by the Transferee Company. The Transferee Company shall be allowed to maintain banks accounts in the name of Transferor Companies by the Transferee Company for such time as may be determined to be necessary by the Transferee Company for presentation and deposition of cheques and pay orders that have been issued in the name of the Transferor Companies. It is hereby expressly clarified that any legal proceedings by or against any Transferor Company in relation to cheques and other negotiable instruments, payment orders received or presented for encashment which are in the name of such Transferor Company shall be instituted, or as the case may be, continued by or against the Transferee Company after the coming into effect of the Scheme.
- (l) For avoidance of doubt and without prejudice to the generality of any applicable provisions of this Scheme, it is clarified that in order to ensure the smooth transition and sales of products and inventory of any Transferor Company manufactured and or branded and or labelled and or packed in the name of any Transferor Company prior to the Effective Date, the Transferee Company shall have the right to own, use, market, sell, exhaust or to in any manner deal with any such products and inventory (including packing material) pertaining to such Transferor Company at manufacturing locations or warehouses or retail stores or elsewhere, without making any modifications whatsoever to such products and or their branding, packing or labelling. All invoices payment related documents pertaining to such products and inventory (including packing material) may be raised in the name of the Transferee Company after the Effective Date.

2.2. Transfer and Vesting of Liabilities:

Upon the coming into effect of the Scheme and with effect from the Appointed Date and subject to the provisions of the Act and this Scheme:

- (a) All Liabilities of each Transferor Company shall be and stand transferred or deemed to be transferred to the Transferee Company without any further act, instrument or deed and become the debts, liabilities, duties, undertakings and obligations of the Transferee Company.
- (b) Loans or other obligations (including but not limited to any guarantees, letters of credit, letters of comfort or any other instrument or arrangement which may give rise to a contingent liability in whatever form) that are due and existing



between or amongst any Transferor Company and the Transferee Company, if any, shall be and stand discharged and there shall be no liability in that behalf due from any Transferor Company to the Transferee Company or vice versa.

2.3. Effect on Pending Contracts:

- (a) All contracts, deeds, tenancies, leases, licenses permits or other assurances, agreements, arrangements and other instruments of whatsoever nature (including any document by virtue of which security is created in favour of any Transferor Company) to which any Transferor Company is a party or the benefits of which any Transferor Company may be eligible for and which are subsisting or having effect immediately before the Effective Date, shall, upon the Scheme becoming effective, be in full force and effect against or in favour of the Transferee Company, as the case may be, and all or any of the respective rights, privileges, obligations and liabilities of such Transferor Company shall be transferred to and vest in the Transferee Company and may be enforced as fully and effectually as if, instead of such Transferor Company, the Transferee Company had been a party, beneficiary or obligor thereto.
- (b) Notwithstanding the fact that vesting of the Undertakings occur by virtue of the Scheme itself, the Transferee Company may, at any time after the Effective Date, if so required, under any law or otherwise, take such actions and execute such deeds, confirmations or other writings or arrangements with any party to any contract or arrangement to which any Transferor Company is a party or any writings as may be necessary in order to give formal effect to the provisions of the Scheme. The Transferee Company shall, under the provisions of this Scheme, be deemed to be authorized to execute any such writings on behalf of such Transferor Company and to carry out or perform all such formalities or compliances referred to above on the part of such Transferor Company.

2.4. Effect on Pending Litigation:

- (a) Upon the effectiveness of the Scheme, all suits, actions and proceedings of whatsoever nature by or against any Transferor Company pending and / or arising on or before the Appointed Date shall not abate, be discontinued or be in any way prejudicially affected by reason of the amalgamation of such Transferor Company or of anything contained in the Scheme, but shall be transferred in the name of the Transferee Company and shall be continued, prosecuted and enforced by or against the Transferee Company, in the same manner and to the same extent as it would be or might have been continued, prosecuted or enforced by or against as if the same had been filed by, pending and / or arising against the Transferee Company.
- (b) Where a contravention of any of the provisions of any statute or of any rule, regulation, direction or order made thereunder has been committed by, or any proceeding for a criminal offence has been instituted against a director or secretary, manager, officer or other employee of any Transferor Company before the Appointed Date, such director, secretary, manager, officer or other employee shall be liable to be proceeded against under such law and punished



accordingly as if the Transferor Company of which such person is a director or secretary, manager, officer or other employee had not been dissolved.

2.5. Drawing up and finalization of Consolidated Balance Sheet:

The Transferee Company shall draw up and finalize a consolidated balance sheet post the Scheme coming into effect and as on the Appointed Date (hereinafter the "**Consolidated Balance Sheet**") which shall be the opening balance sheet of the Transferee Company as on the Appointed Date. The accounts of the Transferee Company as on the Appointed Date as amalgamated in accordance with the terms of the Scheme shall be finalized on the basis of the Consolidated Balance Sheet as on the Appointed Date.

2.6. Treatment of Taxes:

- (a) This Scheme has been drawn up to comply with the conditions relating to "Amalgamation" as specified in Section 2(1B) and other relevant provisions of the Income Tax Act, 1961. If any terms or provisions of the Scheme are found or interpreted to be inconsistent with the provisions of the said section and other related provisions at a later date including that resulting from a retrospective amendment of law or for any other reason whatsoever till the time the Scheme becomes effective, the provisions of the said section and other related provisions of the Income Tax Act, 1961 shall prevail and the Scheme shall stand modified to the extent required to comply with Section 2(1B) and other relevant provisions of the Income Tax Act, 1961.
- (b) Upon the Scheme becoming effective, the Transferor Companies and the Transferee Company shall have the right to revise their respective financial statements and returns along with prescribed forms, filings and annexures under the Income Tax Act, 1961, central sales tax, applicable state value added tax, service tax laws, excise duty laws and other tax laws, and to claim refunds and or credit for taxes paid (including minimum alternate tax, tax deducted at source, wealth tax, etc.) and for matters incidental thereto, if required to give effect to the provisions of the Scheme.
- (c) All tax assessment proceedings appeals of whatsoever nature by or against any Transferor Company pending and or arising at the Appointed Date and relating to such Transferor Company shall be continued and or enforced until the Effective Date by such Transferor Company. As and from the Effective Date, the tax proceedings shall be continued and enforced by or against the Transferee Company in the same manner and to the same extent as would or might have been continued and enforced by or against any Transferor Company. Further, the aforementioned proceedings shall not abate or be discontinued nor be in any way prejudicially affected by reason of the amalgamation of a Transferor Company with the Transferee Company or anything contained in the Scheme.
- (d) Any tax liabilities under the Income Tax Act, 1961, service tax laws, excise duty laws, central sales tax, applicable state value added tax laws or other applicable laws regulations dealing with taxes duties levies of any Transferor



Company to the extent not provided for or covered by tax provision in the accounts made as on the date immediately preceding the Appointed Date shall be transferred to the Transferee Company.

- (e) Any refund, under the Income Tax Act, 1961, service tax laws, excise duty laws, central sales tax, applicable state value added tax laws or other applicable laws, regulations dealing with taxes duties levies due to any Transferor Company consequent to the assessment made on such Transferor Company (including any refund for which no credit is taken in the accounts of any Transferor Company) as on the date immediately preceding the Appointed Date shall also belong to and be received by the Transferee Company upon this Scheme becoming effective.
- (f) The tax payments (including, without limitation income tax, service tax, excise duty, central sales tax, applicable state value added tax, etc.) whether by way of tax deducted at source, advance tax or otherwise howsoever, by any Transferor Company after the Appointed Date, shall be deemed to be paid by the Transferee Company and shall, in all proceedings, be dealt with accordingly.

Further, any tax deducted at source by Transferor Company / Transferee Company on transactions with the Transferee Company / Transferor Company, if any (from Appointed Date to Effective Date) shall be deemed to be advance tax paid by the Transferee Company and shall, in all proceedings, be dealt with accordingly.

- (g) Upon the Scheme coming into effect, any obligation for deduction of tax at source on any payment made by or to be made by any Transferor Company shall be made or deemed to have been made and duly complied with by the Transferee Company.
- (h) All intangible assets (including but not limited to goodwill) belonging to but not recorded in the books of account of any Transferor Company and all intangible assets (including but not limited to goodwill) arising or recorded in the process of the amalgamation, if any, in books of account of Transferee Company shall, for all purposes, be regarded as an intangible asset in terms of Explanation 3(b) to Section 32(1) of the Income Tax Act, 1961 and Transferee Company shall be eligible for depreciation thereunder at the prescribed rates.
- (i) Without prejudice to the generality of the above, all benefits, incentives, losses (including but not limited to book losses, tax losses), book unabsorbed depreciation, tax unabsorbed depreciation, credits (including, without limitation income tax, minimum alternate tax, tax deducted at source, wealth tax, service tax, excise duty, central sales tax, applicable state value added tax, customs duty drawback, etc.) to which any Transferor Company is entitled to in terms of applicable laws, shall be available to and vest in the Transferee Company, upon this Scheme coming into effect.

- (j) Upon coming into effect of this Scheme, all tax compliances under any tax laws by any Transferor Company on or after Appointed Date shall be deemed to be made by the Transferee Company.

3. TREATMENT OF SHARE CAPITAL:

Upon the Scheme becoming effective:

- 3.1. No share of the Transferee Company shall be issued and allotted by the Transferee Company in lieu or exchange of the shares held by the Transferor Company - 2. Since Transferor Company - 2 is also merging with the Transferee Company, no shares of the Transferee Company would be issued in lieu of the shares held by the Transferor Company - 2 in the Transferor Company - 1.
- 3.2. The Transferee Company shall, without any further application, act, instrument or deed, issue and allot to, the Remaining Shareholders on a date to be fixed by the Board of Directors of the Transferee Company or a committee of such Board of Directors (hereinafter referred to as the "**Record Date**"), equity shares of Re. 1 each credited as fully paid-up, in the ratio of Four (4) equity shares of the face value of Re. 1/- each in the Transferee Company for every Five (5) equity shares of the face value of Rs. 10 each held in Transferor Company - 1 ("**Share Exchange Ratio**"). The equity shares to be issued by the Transferee Company to the Remaining Shareholders of Transferor Company - 1 in accordance with this clause shall be hereinafter referred to as "**New Equity Shares**". Fractional entitlements, if any, to the shares will be rounded off to the nearest whole number.
- 3.3. Upon the New Equity Shares being issued and allotted, to the Remaining Shareholders of the Transferor Company - 1 according to the Share Exchange Ratio, the equity shares of the Transferor Company - 1, both in electronic form and in the physical form in relation to the shares held by the Remaining Shareholders shall, without any further application, act, instrument or deed, be deemed to have been automatically cancelled and be of no effect on and from the Record Date.
- 3.4. The New Equity shares issued and allotted by the Transferee Company to the Remaining Shareholders in terms of this Scheme shall be subject to the provisions of the Memorandum and Articles of Association of the Transferee Company and shall rank *pari passu* in all respects with the then existing equity shares of the Transferee Company, including in respect of dividends, if any, that may be declared by the Transferee Company, on or after the Effective Date.
- 3.5. The New Equity Shares allotted and issued in terms of Clause 3.2 above, shall be listed and/or admitted to trading on the relevant stock exchanges, where the equity shares of the Transferee Company are listed and/or admitted to trading as on the Effective Date; subject to the Transferee Company obtaining the requisite approvals from all the relevant regulatory authorities pertaining to their listing.
- 3.6. The issue and allotment of New Equity Shares to the shareholders of the Transferor Company - 1 as provided in this Scheme, is an integral part thereof and shall be deemed to have been carried out without requiring any further act on the part of the Transferee Company or its shareholders and as if the procedure laid down under





Section 81(1A) of the Act and any other applicable provisions of the Act, and such other statutes and regulations as may be applicable were duly complied with.

- 3.7. The New Equity Shares shall be issued in dematerialized form to those Remaining Shareholders who hold shares in dematerialized form, provided all details relating to accounts with the depository participant(s) are available with the Transferee Company. All those Remaining Shareholders who hold equity shares of the Transferor Company - 1 in physical form, shall be issued New Equity Shares in physical or electronic form, at the option of such shareholders to be exercised by them on or before the Record Date, by giving a notice in writing to the Transferee Company; and if such option is not exercised by such shareholders, the New Equity Shares shall be issued to them in physical form.

4. **TREATMENT OF EMPLOYEES:**

Upon the Scheme becoming effective:

- a) All employees who are in service of the Transferor Companies on the Effective Date, shall become the employees of the Transferee Company on such date without any break or interruption in service and on terms and conditions of service (including as to remuneration) not less favourable than those subsisting with reference to the Transferor Companies as on the Effective Date.
- b) The existing provident fund, gratuity fund and pension and other benefits provided by the respective Transferor Companies to their employees or any other special funds created or existing for the benefit of the employees of the Transferor Companies shall at an appropriate stage be transferred to the relevant funds of the Transferee Company and until such time shall be maintained separately. In the event that the Transferee Company does not have its own funds with respect to any such matters, the Transferee Company shall create its own fund(s) to which the contributions pertaining to the employees of Transferor Companies shall be transferred.
- c) The Transferee Company agrees that for the purpose of payment of any gratuity or other terminal benefits, the past services of such permanent and confirmed employees, if any, with the Transferor Company, as the case may be, shall also be taken into account.
- d) The liabilities of the employees / officers towards their respective Transferor Company shall stand transferred to the Transferee Company. Further, any prosecution or disciplinary action, initiated, pending or contemplated against any employee or officer by a Transferor Company as on the Effective Date shall be continued under the extant provisions of such Transferor Company and any penalty / penalties imposed in this regard on any officer or employee would continue to operate against the concerned employee or officer and shall be enforced fully and effectually by the Transferee Company.
- e) Without prejudice to the generality of the aforesaid, the Transferee Company shall have the right to transfer the employees of a Transferor Company to any



branch, office, region, establishment, division, profit / cost center or department of the Transferee Company or its subsidiaries or affiliate / associate companies, situated anywhere in India or overseas, if warranted and as may be deemed necessary from time to time.

- f) Except with the prior approval of the Transferee Company, the Transferor Companies shall not, between Appointed Date and Effective Date, vary the terms and conditions of the employment of their respective employees unless such variance in the terms and conditions of employment of such employees is in the ordinary course of business.
- g) The Transferee Company shall be liable to pay and shall pay to each of the officers and employees such compensation in the event of the retrenchment of any of them as they may be entitled to receive according to any agreement between them and the Transferor Companies or between them and the Transferee Company, as the case may be, or as may be required by any law for the time being in force, such compensation to be paid to each of them on the basis that their service has been continuous and has not been interrupted by virtue of the Undertakings and Liabilities having been taken over by the Transferee Company under this Scheme.

5. ACCOUNTING TREATMENT:

- 5.1. The Accounting treatment will be in terms of the "Pooling of Interest Method" prescribed under Accounting Standard 14 - Accounting for Amalgamations.
- 5.2. The balance in the reserves as appearing in the books of the Transferor Companies as on the Appointed Date shall be transferred to the corresponding Reserves in the books of the Transferee Company.
- 5.3. The shares, if any, held by the Transferee Company / Transferor Companies in any of the Transferor Companies and vice versa shall stand cancelled and there shall be no further obligation / outstanding in that behalf.
- 5.4. In case of any difference in the accounting policy between the Transferor Companies and the Transferee Company, the impact of the same till the Appointed Date will be quantified and adjusted in the Reserves to ensure that the financial statements of the Transferee Company reflect the financial position on the basis of consistent accounting policy.

6. CONSOLIDATION OF AUTHORISED SHARE CAPITAL:

- 6.1. Upon this Scheme becoming effective, the authorised share capital of the Transferee Company shall automatically stand increased without any further act, instrument or deed on the part of the Transferee Company including payment of stamp duty and fees payable to Registrar of Companies, Maharashtra, Mumbai by the authorised share capital of Transferor Company - 1 amounting to Rs. 2,000,000,000/- comprising of 200,000,000 equity shares of Rs. 10/- each and of Transferor Company - 2 amounting to Rs. 20,000,000/- comprising of 2,000,000 equity shares of Rs. 10/- each the Memorandum of Association and Articles of Association of the Transferee



Company (relating to the authorised share capital) shall, without any further act, instrument or deed, be and stand altered, modified and amended, and the consent of the shareholders to the Scheme shall be deemed to be sufficient for the purposes of effecting this amendment, and no further resolution(s) under Sections 16, 31, 94 and 394 and applicable provisions of the Act would be required to be separately passed, as the case may be and for this purpose, the stamp duties and fees paid on the authorised capital of the Transferor Companies shall be utilized and applied to the increased authorised share capital of the Transferee Company and there would be no requirement for any further payment of stamp duty and/or fee by the Transferee Company for increase in the authorised share capital to that extent.

- 6.2. Pursuant to the Scheme becoming effective and consequent upon the amalgamation of the Transferor Companies into the Transferee Company, the authorised share capital of the Transferee Company will be as under:

Authorised Share Capital	(Rs.)
237,00,00,000 Equity Shares of Re. 1/- each	237,00,00,000
40,00,00,000 Preference Shares of Rs. 100/- each	40,00,00,000
Total	277,00,00,000

- 6.3. It is clarified that the approval of the members of the Transferee Company to the Scheme shall be deemed to be their consent / approval also to the alteration of the Memorandum and Articles of Association of the Transferee Company as may be required under the Act, and Clause V of the Memorandum of Association and Article 4 of the Articles of Association of the Transferee Company shall respectively stand substituted by virtue of the Scheme to read as follows:

Clause V of the Memorandum of Association:

'The Authorised Share Capital of the Company is Rs. 277,00,00,000/- (Rupees Two Hundred and Seventy Seven Crores) divided into 237,00,00,000 (Two hundred thirty seven crores) equity shares of Re. 1/- (Rupee One) each and 40,00,000 (Forty Lacs) Redeemable Cumulative Non-Convertible Preference Shares of Rs. 100/- each (Rupees One Hundred) with such rights, privileges and conditions attaching thereto as are or may be hereinafter determined by the Company in general meeting or are provided for in the Articles of Association of the Company in accordance with the Company's regulations and the legislative provisions for the time being in force in that behalf.'

Article 4 of the Articles of Association of the Transferee Company shall stand substituted by virtue of the Scheme to be read as follows:

'The Authorised Share Capital of the Company is Rs. 277,00,00,000/- (Rupees Two Hundred and Seventy Seven Crores) divided into 237,00,00,000 (Two hundred thirty seven crores) equity shares of Re. 1/- (Rupee One) each and 40,00,000 (Forty Lacs) Redeemable Cumulative Non-Convertible Preference Shares of Rs. 100/- each (Rupees One Hundred) with such rights, privileges and conditions attaching thereto as are provided by the Articles of Association of the Company for the time being 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 to attach thereto respectively



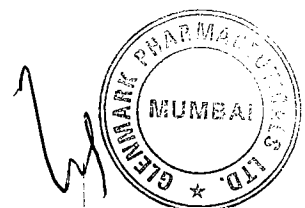
such preferential, deferred, qualified or special rights, privileges or conditions as may be determined by or in accordance with the Articles of Association of the Company and to vary, modify or abrogate any such rights, privileges or condition in such manner as provided in the Articles of Association of the Company for the time being.'

7. WINDING UP OF THE TRANSFEROR COMPANIES WITHOUT DISSOLUTION:

On the Scheme becoming effective, the Transferor Companies shall stand dissolved without being wound up.

8. CONDITIONS OF THE SCHEME:

- (a) The Scheme is specifically conditional upon and subject to:
- (i) consent of a majority in number representing three fourths in value of the shareholders and creditors of each of the Transferor Companies at their respective meetings, present either in person or by proxy at a meeting called for that purpose unless the holding of such meetings is either exempted or dispensed with by High Court;
 - (ii) (1) consent of a majority in number representing three fourths in value of the shareholders present in person or by proxy, either at a shareholders' meeting, or through voting by way of postal ballot or e-voting unless the holding of such meetings is either exempted or dispensed with by High Court; and (2) votes cast by public shareholders of the Transferee Company in favour of the Scheme are more than the number of votes cast by public shareholders against the Scheme;
 - (iii) consent of a majority in number representing three fourths in value of the creditors of the Transferee Company at a meeting, present either in person or by proxy at a meeting called for that purpose unless the holding of such meetings is either exempted or dispensed with by High Court;
 - (iv) sanction of the scheme by the High Court by an order in writing passed in this behalf;
 - (v) sanction or approval, if any required, under any law, of the Government of India or any other authority, agency, department or person concerned (including the Securities and Exchange Board of India and the Competition Commission of India); and
 - (vi) certified copies of the order of the High Court in respect of the Scheme being filed with the RoC.
- (b) Upon satisfaction of the said conditions and on obtaining the said sanctions and approvals referred to hereinabove, the Transferor Companies or the Transferee Company, as the case may be, shall, for all purposes, including for



giving effect to the Scheme, under all laws for the time being in force, be deemed to be in compliance thereof.

- 8.1. There will be no change in the name of Transferee Company by reason of this Scheme coming into effect.

