**Agreement of Amalgamation between Two Companies**

SCHEME OF AMALGAMATION

BETWEEN

XYZ LIMITED AND ITS MEMBERS

AND

A & B LIMITED AND ITS MEMBERS

[For Amalgamation of XYZ Limited with A & B Limited under Section 391 read with Section 394 of the Companies Act, 1956]

1.      Definitions: In this Scheme, unless inconsistent with the subject or context, the following expressions shall have the following meanings:

1.1   "the Act" means the Companies Act, 1956 or any statutory modification or re-enactment thereof for the time being in force.

1.2   "the Appointed Date" means the...... date of.... or such other date as may be fixed or approved by the High Court at.....

1.3   "the Effective Date" means the last of the dates on which the sanctions, approvals or orders specified in Clause 15 of this Scheme ate obtained.

1.4   "the Scheme" means this Scheme of Amalgamation in its present form or with any modification(s) approved or imposed or directed by the High Court at.....

1.5   "the Transferor Company" means XYZ Limited, a Company incorporated under the Companies Act, 1956 and having its Registered Office at

1.6   "the Transferee Company" means A & B Limited, a company incorporated under the Companies Act, VII of 1956 and having its registered Office at

1.7   "Undertaking" means:

a.     All the assets and properties of the Transferor Company as on the Appointed Date (hereinafter referred to as "the said assets");

b.    All the debts, liabilities, duties and obligations of the Transferor Company including contingent liabilities as on the Appointed Date (hereinafter referred to as "the said liabilities");

c.     Without prejudice to the generality of sub-clause (a) above, the Undertaking of the Transferor Company shall include all the Transferor Company's reserves and the authorised share capital, movable and immovable properties including investments, claims, powers, authorities, allotments, approvals, consents, registrations, contracts, engagements, arrangements, rights, credits, titles, interests, benefits, club memberships, advantages, leasehold rights, brands, tenancy rights, other intangibles, industrial and other licences, permits, authorisations, quota rights, trade marks, patents and other industrial and intellectual properties including, know-how, domain names, import quotas, telephones, telex, facsimile and other communication facilities and equipment, rights and benefits of all agreements and all other interests, rights and powers of every kind, nature and description whatsoever, privileges, liberties, easements, advantages, benefits and approvals of whatsoever nature and where soever situate, belonging to or in the ownership, power or possession or control of the Transferor Company as on the Appointed Date and thereafter.

2.      Share Capital:

2.1   The authorised and the issued, subscribed and paid up share capital of the Transferor Company is as follows:

The authorised share capital is Rs........ (Rupees.....) divided into...... equity shares of Rs.... each. The issued, subscribed and paid-up share capital is Rs....... (Rupees.......) divided into........ equity shares of Rs...... each.

The Authorised Share Capital of the Transferee Company is Rs........ (Rupees.................) consisting of......... equity shares of Rs...... each aggregating to Rs...... and........ unclassified shares of Rs.....each aggregating to Rs............... The issued Capital of the Transferor Company is Rs........ and the subscribed and paid up capital is Rs.........

3.      Vesting of Undertaking:

3.1   With effect from the Appointed Date, the Undertaking shall, pursuant to the provisions contained in Section 394 and other applicable provisions of the Act, stand transferred to and vest in or be deemed to be transferred to and vested in the Transferee Company as a going concern without any further act, deed, matter or thing (save as provided in Clause 3.2 below) so as to become on the Appointed Date, the assets (subject to encumbrances and charges, if any, existing thereon) or liabilities of the Transferee Company. Provided always that the Scheme shall not operate to enlarge the scope of security for any loan, deposit or facility availed of by the Transferor Company and the Transferee Company shall not be obliged to create or provide any further or additional security therefor after the Effective Date or otherwise.

3.2   It is expressly provided that in respect of such of the said assets as arc movable in nature, including cash in hand, or otherwise capable of being transferred by manual delivery or by endorsement and delivery, the same shall be so transferred by the Transferor Company. In respect of movable assets, other than those specified in clause 3.1 above, 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 following modus operandi shall be followed:

The Transferor Company shall give notice in such form as they may deem fit and proper to each party, debtor or depositee as the case may be, that pursuant to the Orders of the High Court at..... sanctioning the Scheme, the said debts, loans, advances, etc. be paid or made good or held on account of Transferee Company as the person entitled thereto to the intent and purposes that the right of the Transferor Company to recover or realise the same stands extinguished. The Transferee Company may, if required, give notice in such form as it may deem fit and proper to each person, debtor or depositee that pursuant to the Orders of the High Court.... of sanctioning the Scheme, the said person, debtor or deposited should pay the debt, loan or advance or make good the same or hold the same to its account and that the right of the Transferee Company to recover or realise the same is in substitution of the right of the Transferor Company.

3.3   With effect from the Appointed Date all the debts, liabilities, contingent liabilities duties and obligations of the Transferor Company shall, pursuant to the Orders of the High Court of....... under Section 394 and other applicable provisions of the Act and without any further act or deed, be also transferred or deemed to be transferred to and vest in and be assumed by the Transferee Company, so as to become as from the Appointed Date the debts, liabilities, duties and obligations of the Transferee Company on the same terms and conditions as were applicable to the Transferor Company.

4.      Accounting Treatment:

4.1   On the Scheme becoming effective, the Transferee Company shall account for the merger in its books as specified hereunder:

                       i.        all the assets and liabilities recorded in the books of the Transferor Company shall stand transferred to and vested in the Transferee Company pursuant to the Scheme and shall be recorded by the Transferee Company at their book values as appearing in the books of the Transferor Company;

                      ii.        On and from the Appointed Date and subject to any corrections and adjustments as may, in the opinion of the Board of Directors of the Transferee Company, be required, the reserves and the balance in the Profit and Loss Account of the Transferor Company will be merged with those of the Transferee Company in the same form as they appear in the financial statements of the Transferor Company;

                     iii.        The difference, if any, between the amount recorded as fresh share capital issued by the Transferee Company on amalgamation and the amount of share capital of the Transferor Company shall be reflected as General Reserves.

                     iv.        In case of any difference in accounting policy between the Transferor Company and the Transferee Company, the impact of the same till the amalgamation will be quantified and adjusted in the reserves of the Transferee Company to ensure that the financial statements of the Transferee Company reflect the financial position on the basis of consistent accounting policy.

5.      Contracts, Deeds, Bonds and Other Instruments:

Subject to the other provisions of the Scheme, all contracts, deeds, bonds, agreements including the contracts for tenancies and licence arrangements and other instruments of whatsoever nature to which the Transferor Company is a party subsisting or having effect immediately before or after the Effective Date shall remain in full force and effect against or in favour of the Transferee Company and shall be binding on and be enforceable against the Transferee Company or be enforceable by the transferee Company as fully and effectually as if it had at all material times been a party thereto.

6.      Date When the scheme comes into operation: The Scheme, though operative from the Appointed Date, shall be effective from the Effective Date.

7.      Conduct Of Business By The Transferor Company Until The Effective Date: With effect from the Appointed Date and upto and including the Effective Date, the Transferor Company shall:

                i.        carry on and be deemed to carry on all its business and activities and stand possessed of its properties and assets for and on account of and in trust for the Transferee Company and all the profits accruing to the Transferor Company or losses arising or incurred by them shall for all purposes be treated as the profits or losses of the Transferee Company, as the case may be;

               ii.        carry on its business with reasonable diligence and shall not without the prior written consent of the Transferee Company alienate, charge or otherwise deal with or dispose of the Undertaking or any part thereof except in the ordinary course of its business;

              iii.        not vary the terms and conditions of service of its permanent employees except in the ordinary course of its business;

             iv.        not, without the prior written consent of the Transferee Company, undertake any new business or a substantial expansion of its existing business.

8.      Legal Proceedings: All suits, claims, actions and proceedings, by or against the Transferor Company pending and/ or arising on or before the Effective Date shall be continued and be enforced by or against the Transferee Company, as effectually as if the same had been pending and/ or arising against the Transferee Company.

9.      Issue and Allotment Of Shares By The Transferee Company:

9.1. Upon the Scheme becoming finally effective, in consideration of the transfer and vesting of the Undertaking in the Transferee Company in terms of the Scheme, the Transferee Company shall, without any further application, act or deed, issue and allot a( par....... equity shares of Rs......... each credited as fully Paid up in the capital of the Transferee Company to every equity shareholder of the Transferor Company whose name appears in the Register Members on a date ("Record Date ") to be fixed by the Board of Directors of the Transferee Company for every...... equity shares of Rs.... each held by the said shareholder in the Transferor Company, in the electronic form and by issue of share certificates for those share holders who hold the shares in physical form. The equity shares when issued and allotted by the Transferee Company in terms of the Scheme shall rank for diligence, voting rights and in all other respects pari passu with the existing equity shares of the Transferee Company.

9.2. No fractional Certificates/Coupons shall be issued by the Transferee Company in respect of the fractional entitlements, if any, to which the shareholders of the Transferor Company may be entitled on issue and allotment of the equity shares of the Transferee Company as aforesaid. The Board of Directors of the Transferee Company shall instead consolidate all such fractional entitlements to which the shareholders of the Transferor Company may be entitled on issue and allotment of the equity shares of the Transferee Company as aforesaid and thereupon issue and allot equity shares in lieu thereof to a Director or any Officer respectively of the Transferee Company with the express understanding that such Director or Officer to whom such equity shares are issued and allotted shall hold the same in trust for those entitled to the fractions and sell the same in the market at the best available price and pay to the Transferee Company, the net sale proceeds thereof whereupon the Transferee Company shall, subject to the approval of the Reserve Bank of India, wherever required, and subject to withholding tax, if any, distribute such net sale proceeds to the shareholders of the Transferor Company in proportion to their fractional entitlements. Holders of less than ... equity shares in the Transferor Company shall be entitled to receive proportionate number of shares in the Transferee Company, and for the remaining fractional entitlements, if any, they shall receive sale proceeds as mentioned above.

9.5. Upon this Scheme becoming finally effective and upon the new shares in the Transferee Company being issued and allotted by it to the shareholders of the Transferor Company whose names appear on the Register of Members of the Transferor Company on the Record Date fixed as aforesaid, the shares in the Transferor Company, both in electronic form and in the physical form, shall be deemed to have been automatically cancelled and be of no effect on and from the Record Date. Wherever applicable, the Transferee Company shall instead of requiring the surrender of the share certificates of the Transferor Company, directly issue and dispatch the new share certificates of the Transferee Company in lieu thereof.

9.6. For the purpose aforesaid, the Transferee Company shall, if and to the extent required, apply for and obtain the consent of the Reserve Bank of India and other concerned authorities, to the issue and allotment of equity shares to the non-resident shareholders of the Transferor Company in the aforesaid manner.

9.7. The issue and allotment of equity shares in the Transferee Company by the Transferee Company to the shareholders of the Transferor Company as provided in this Scheme as an integral part thereof, shall be deemed to have been carried out as if the procedure laid down under Section 81(1A) and any other applicable provisions of the Act were duly complied with.

9.8. Upon issue and allotment of Equity Shares in the Transferee Company to the members of the Transferor Company as provided in the Scheme, the existing Equity Shares held by members of the Transferor Company shall stand automatically cancelled/extinguished.

10.    Dividends, Profits, Bonus/Rights Shares:

10.1 Dividends (interim or final) in respect of the period commencing from the Appointed Date may be declared or paid by the Transferor Company or Transferee Company after mutual consultation with each other.

10.2 Except as envisaged under this Scheme, the Transferor Company and the Transferee Company shall not issue or allot after the Appointed Date any rights shares, bonus shares or other shares out of their respective authorised or unissued share capital for the time being, without the consent of the other.

11.    Employees of The Transferor Company:

11.1 All employees of the Transferor Company, who are in service on the date immediately preceding the Effective Date shall become the employees of the Transferee Company on the Effective Date.

11.2 On the Scheme finally taking effect as hereinafter provided:

a.     The employees of the Transferor Company shall become the employees of the Transferee Company, without any break or interruption in service and on terms and conditions not less favourable than those on which they are engaged by the Transferor Company as on the Effective Date. Services of all employees with the Transferor Company upto the Effective Date shall be taken into account for purposes of all retirement benefits for which they may be eligible. The Transferee Company further agrees that for the purpose of payment of any retrenchment compensation, such past services with the Transferor Company shall also be taken into account;

b.    The services of such employees shall not be treated as having been broken or interrupted for the purpose of Provident Fund or Gratuity or Superannuation or other statutory purposes and for all purposes will be reckoned from the date of their respective appointments with the Transferor Company;

c.     It is provided that as far as the Provident Fund, Gratuity Fund and Pension and/ or Superannuation Fund or any other special fund created or existing for the benefit of the staff, workmen and other employees of the Transferor Company are concerned, upon the Scheme becoming finally effective, the Transferee Company shall stand substituted for the Transferor Company in respect of the employees transferred with the Undertaking for all purposes whatsoever relating to the administration or operation of such Funds or Trusts or in relation to the obligation to make contribution to the said Pounds or Trusts in accordance with the provisions of such Funds or Trusts as provided in the respective Trust Deeds or other documents. The above shall include any trust created from the above mentioned funds for the staff and officers of the Transferor Company which shall be merged with such or similar funds of the Transferee Company. It is the aim and the intent of the Scheme that all the rights, duties, powers and obligations of the Transferor Company in relation to such Funds or Trusts shall become those of the Transferee Company.

12.    Applications to The High Court At......:

12.1 The Transferor Company shall make applications / petitions under Sections 391 and 394 and other applicable provisions of the said Act to the High Court of...... for sanction of this Scheme and for dissolution of the Transferor Company without winding-up under the provisions of law.

12.2 The Transferee Company shall make applications/ petitions under Sections 391 and 394 and other applicable provisions of the said Act to the High Court........ for sanction of this Scheme under the provisions of law.

13.    Modifications / Amendments To The Scheme:

13.1 The Transferor Company and the Transferee Company through their respective Boards of Directors in their full and absolute discretion, may assent to any modification or amendment to the Scheme which the High Court... the shareholders of the Transferor Company and/or Transferee Company and/or any other competent authority may deem fit to approve /impose and effect any other modification or amendment which the Boards in the best interests of the Transferor Company or Transferee Company may consider necessary or desirable and give such directions as they may consider necessary or desirable for settling any question, doubt or difficulty arising under the Scheme or in regard to its implementation or in any matter connected therewith (including any question, doubt or difficulty arising in connection with any deceased or insolvent shareholder of the Transferor Company or the Transferee Company) and to do all acts, deeds and things as may be necessary, desirable or expedient for carrying the Scheme into effect. In the event that any modification or amendment to the Scheme is unacceptable to the Transferor Company and/ or the Transferee Company for any reason whatsoever, the Transferor Company and/or Transferee Company shall be at liberty to withdraw from the Scheme at any time.

13.2 For the purpose of giving effect to the Scheme or to carry out any modification or amendment thereto, the Boards of Directors of the Transferor Company and the Transferee Company or any Committee thereof is authorised to give such directions and/ or to take such steps as may be necessary or desirable including any directions for settling any question, doubt or difficulty whatsoever that may arise.

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

15.    Scheme Conditional On Approvals/ Sanctions: The Scheme is conditional on and subject to:

a.     the approval of and agreement to the Scheme by the requisite majorities in number and value of such classes of persons of the Transferee Company as may be directed by the High Court of....... and of the Transferor Company as may be directed by the High Court of....... on the applications made for directions under Section 391 of the Act for calling' meetings and necessary resolutions being passed under the Act for the purpose;

b.    the sanction of the High Court of........ under Sections 391 and 394 of the said Act in favour of the Transferee Company and the sanction of the High Court of.........under the said provisions in favour of the Transferor Company and to the necessary Order or Orders under Section 394 of the said Act being obtained;

c.     certified copies of the Orders of the High Court of...... sanctioning the Scheme being filed with the Registrar of Companies, at........ by the Transferee Company and the Transferor Company respectively.

16.    Effect Of Non Receipt Of Approvals/ Sanctions: In (he event of any of the said suctions and approvals referred to in the preceding Clause not being obtained and/ or the Scheme not being sanctioned by the High Court of...... and/ or the Order or Orders not being passed as aforesaid before the... day of..... or within such further period or periods as may be agreed upon between the Transferor Company and the Transferee Company by its Boards of Directors (and which the Boards of Directors of the Companies are hereby empowered and authorised to agree to and extend the Scheme from time to lime without any limitation), this Scheme shall stand revoked, cancelled and be of no effect, save and except in respect of any act or deed done prior thereto as is contemplated hereunder or as to any rights and/ or liabilities which might have arisen or accrued pursuant thereto and which shall be governed and be preserved or worked out as is specifically provided in the Scheme or as may otherwise arise in law. Each party shall bear and pay its respective costs, charges and expenses for and or in connection with the Scheme.

17.    Costs and Expenses: All costs, charges and expenses of the Transferor Company and of the Transferee Company in relation connection with the Scheme shall be respectively borne by the Transferor Company and the Transferee Company.