स्पीड पोस्ट

24/5/2021-सीएल-III
भारत सरकार
कारपोरेट कार्य मंत्रालय

शास्त्री भवन, "ए" विंग, 5वाँ तल,
डा. राजेन्द्र प्रसाद रोड़,
नई दिल्ली-110001
दिनांक : 22.06.2022

To,

1) M/s Bharat Oman Refinery Limited,
   Administrative Building, Refinery Complex,
   Post BORL Residential Complex, Bina,
   Sagar District – 470 124, Madhya Pradesh

2) M/s Bharat Petroleum Corporation Limited
   Bharat Bhawan, Ballard Estate,
   Mumbai 400 001.

Subject: Application under Section 230-232 of the Companies Act, 2013 for the approval of Scheme of Amalgamation between Bharat Oman Refineries Limited (Transferor Company) and Bharat Petroleum Corporation Limited (Transferee Company)

Sir,

I am to forward herewith a certified copy of this Ministry's Order dated 22.06.2022 on the above subject for information and necessary action.

भवदीय,

(संजय वर्मा)
उप निदेशक

सूचना एवं आवश्यक कार्यवाही हेतु प्रतिलिपि :-
Khaitan & Co. LLP, 1105, Ashoka Estate, 24, Barakhamba Road, New Delhi-110001.

Final Order
24/5/2021-CL-III

GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS

In the matter of Sections 230-232 of the Companies Act, 2013

AND

In the matter of Scheme of Amalgamation between

M/s Bharat Oman Refineries Limited (BORL)

And

M/s Bharat Petroleum Corporation Limited (BPCL)

1. M/s. Bharat Oman Refineries Limited having its registered office at Administrative Building, Refinery Complex, Post BORL Residential Complex, Bina, Sagar District – 470 124, Madhya Pradesh.

Applicant/Transferor Company

2. M/s. Bharat Petroleum Corporation Limited having its registered office at Bharat Bhavan, Ballard Estate, Mumbai – 400 001, Maharashtra.

Applicant/Transferee Company

Presence:-

i. Mr. A R S Bhandari - Chief Executive Officer, BORL
ii. Mr. S Radhakrishnan, Chief Financial Officer-BORL
iii. Mr. Shubhendu Tewari, Company Secretary, BORL
iv. Mr. Vishvas Saxena, JSVP(HR), BORL
v. Mr. M.R.Chaturvedi, Consultant, BPCL
vi. Mr. D.Parthasarthy, CGM(HRD), BPCL
vii. Mr. R P Natekar, ED (Planning & Corporate Affairs) - BPCL
viii. Ms. V Kala, Company Secretary – BPCL
ix. Ms. Chanda Negi, DGM (Corporate Affairs) - BPCL
x. Mr. Mukul Agrawal, DGM (Mgmt. Accounts) – BPCL
xi. Mr. Mehul Shah, Partner - Khaitan & Co. (Advocates)
xii. Mr. Rushabh Gala, Senior Associate - Khaitan & Co. (Advocates)
xiii. Ms. Dhruvi Dharia, Khaitan & Co. (Advocates)

..............for Transferor and Transferee Company

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Virtual Presence:-

xiv. Regional Director (WR)

xv. Regional Director (NWR)
xvi. ROC, Mumbai
xvii. ROC, Gwalior
xviii. Official Liquidator, Indore

ORDER
(Hearing held on 27/05/2022)

Joint confirmation petition was filed on 29th April, 2022 by the petitioner companies with respect to proposed Scheme of Amalgamation between M/s Bharat Oman Refineries Limited (BORL) (hereinafter referred to as the BORL/Transferor Company) and M/s Bharat Petroleum Corporation Limited (BPCL) (hereinafter referred to as the BPCL/Transferee Company) u/s 230-232 of the Companies Act, 2013 read with Government of India, Notification NO.GSR.582 (E) dated 13.06.2017.

2. The Transferor Company was incorporated on 25.02.1994 in the State of Madhya Pradesh under the Companies Act, 1956. The shares of the Transferor Company are not listed on any stock exchange. The Commercial Papers of the Transferor Company are listed on BSE and non-convertible unsecured debentures issued by the Transferor Company are listed on BSE and NSE. The warrants and compulsorily convertible debentures issued by the Transferor Company are not listed on any stock exchange and are held by the Transferee Company. The Transferor Company is a wholly owned subsidiary of the Transferee Company. The Petitioner/Transferor Company is primarily engaged in the business of refining crude oil at Bina, district Sagar, Madhya Pradesh.

3. The Transferee Company was incorporated under the Indian Companies Act, 1913, in the State of Maharashtra in the name of Burmah-Shell Refineries Limited on 03.11.1952. It was subsequently renamed to Bharat Petroleum Corporation Limited on 01.08.1977 under the provisions of the Companies Act, 1956. The equity shares, commercial papers and unsecured non-convertible debentures of the Transferee Company are listed on BSE and /or NSE as the case may be. The unsecured foreign currency bonds of the Transferee Company are listed on the

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Singapore Stock Exchange. The Transferee Company is engaged in the business of refining of crude oil and marketing petroleum products.

4. As per Government of India, Notification NO.GSR.582 (E) dated 13.06.2017, the powers under section 230-232 of the Companies Act, 2013 have been conferred upon the Central Government in respect of Government Companies. Accordingly, Ministry of Corporate Affairs has the jurisdiction to hear and decide the present petition.

5. As per the clause 8 of the Scheme of the Amalgamation, the Transferor Company is a wholly owned subsidiary of the Transferee Company and therefore there shall be no issue of shares as consideration for the amalgamation of the Transferor Company with the Transferee Company. Upon the scheme becoming effective, all equity shares of the Transferor Company held by the Transferee Company along with its nominees, shall stand cancelled without any further application, act, or deed. Further, as per Part-III of the scheme, upon the scheme becoming effective, the aggregate authorized share capital of the Transferor Company as on the Effective Date will be suitably reorganized and reclassified and combined with the authorized equity share capital of the Transferee Company and accordingly the authorised equity share capital of the Transferee Company shall stand increased without any further act, instrument or deed on the part of Transferee Company including payment of stamp duty and fees to ROC. Consequentially, clause 5 of the memorandum of association of the Transferee Company shall without any further act, instrument or deed be and stand altered, modified and amended, to reflect the increased combined authorised share capital as per Clause 11.1 of the Scheme, pursuant to Sections 13, 14, 61, 64, and other applicable provisions of the Act.

6. The petitioner companies through their joint confirmation petition prayed before the Ministry of Corporate Affairs to sanction the Scheme of Amalgamation between Bharat Oman Refineries Limited (Transferor Company) and M/s Bharat Petroleum Corporation Limited (BPCL) (Transferee Company) so as to be binding

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with effect from the Appointed Date, on the petitioner companies, its respective shareholders, creditors and all persons concerned under the scheme.

7. The Ministry of Petroleum & Natural Gas being the administrative ministry of the Transferor and Transferee Company vide its letter dated 17.01.2022 and DIPAM (Department of Investment and Public Asset Management) vide its letter dated 06.12.2021 conveyed its approval for the amalgamation of Bharat Oman Refineries Limited (Transferor Company) and M/s Bharat Petroleum Corporation Limited (BPCL) (Transferee Company).

8. The Scheme of Amalgamation has been approved by the Board of Directors of the Transferor Company in its meeting held on 21.10.2021. The confirmation petition of Transferor Company is supported by the affidavit of Shri Shubhendu Tewari, Company Secretary & Authorized Signatory of the company.

9. The Scheme of Amalgamation has been approved by the Board of Directors of the Transferee Company in its meeting held on 21.10.2021. The confirmation petition of Transferee Company is supported by the affidavit of Smt. Kala Vaidyanathan, Company Secretary & Authorized Signatory of the company.

10. Pursuant to the hearing held on 10.02.2022 and order dated 14.02.2022 the requirement of convening the meeting of the equity shareholders of the Transferor Company has been dispensed with as Transferor Company has furnished the consent affidavit(s) from all the equity shareholders.

11. Pursuant to the order dated 14.02.2022, it was directed to convene the meeting of Equity Shareholders of the Transferee Company, all the secured creditors of the Transferor & Transferee Company as on 30.09.2021 and unsecured creditors of the Transferor & Transferee Company whose debt is of value more than Rs.5 Crore as on 30.09.2021. The ministry also appointed Dr. Navneet Mohan Kothari, Joint Secretary (M) in the Ministry of Petroleum and Natural Gas, Government of India as chairperson of equity shareholders and creditor(s) meeting. Further, the

Transferor Company was directed to publish notice of meeting(s) in two prominent newspaper one in English and other in vernacular language of the state in which Transferor and Transferee Company are registered and also to send individual notice to the equity shareholders of the Transferee Company, all the secured creditors of the Transferor & Transferee Company as on 30.09.2021 and unsecured creditors of the Transferor & Transferee Company whose debt value is more than Rs.5 Crore as on 30.09.2021 at least one month before the day appointed for the said meeting by Registered post/Speed Post/e-mail. It is also directed to place the notice and other documents on the website of the Transferor & Transferee Company. Further, petitioner companies were also directed to send notices to concerned Regional Director, Registrar of Companies, Official Liquidator, Income Tax Authorities, SEBI, BSE & NSE (only in case of Transferee Company) and other statutory authorities to send their report as per section 230(5) of the Companies Act, 2013. Further, this ministry allowed the Transferor and Transferee Company to conduct the meeting of equity shareholders, secured and unsecured creditors through Video Conferencing (VC) due to prevailing Pandemic Condition across India and to adopt e-voting system and appoint Scrutinizer for the purpose of conducting poll during the secured & unsecured Creditor's meeting conducted through Video Conferencing (VC).

12. Further, vide order dated 14.02.2022, the Chairperson for the meeting (s) directed to report to the Central Government the result of the said meeting(s) or adjourned meeting, as the case may be, within 7 days after the conclusion of the meeting duly verified by his affidavit.

13. In pursuance of the order dated 14.02.2022, Dr. Navneet Mohan Kothari, Joint Secretary (M) chairperson of the meeting(s), furnished an affidavit of service dated 07.04.2022, as per Rule 12 of the Companies (Compromises, Arrangements and Amalgamation) Rules, 2016 informing that individual notices for convening the meeting of secured creditors & unsecured creditors (whose debt value is more than Rs.5 Crore as on 30.09.2021) of Transferor Company as on the cut off date 30.09.2021 were dispatched by way of email (by using the electronic system facility

of National Securities Depositories Limited (NSDL)) /speed post/registered post. The certificate issued by National Securities Depositories Limited (NSDL) confirming the dispatch of notice through email to the secured and unsecured creditors of the Transferor Company are submitted as a proof to this ministry. Similarly, the notices for convening the meeting of equity shareholders, secured creditors and unsecured creditors (whose debt value is more than Rs.5 Crore as on 30.09.2021) of the Transferee Company were dispatched by way of an email [by using the electronic system facility of National Securities Depositories Limited (NSDL)]/ Registered Post/Speed Post. The certificate issued by National Securities Depositories Limited (NSDL) (service provider for sending the notices of meetings and providing e-voting facility) confirming the dispatch of notice through email to the equity shareholders of the Transferee Company and secured and unsecured creditors of the Transferor & Transferee Company are submitted as a proof to this ministry. The confirmation letter received from Data Software Research Co. Pvt Ltd ("DSRC") for service of dispatching of notices on behalf of the Transferee Company is also submitted to this ministry.

14. Further, Chairperson has stated in his affidavit that notice of the meetings of the Secured Creditors and Unsecured Creditors of the Transferor Company have been published in the "Economic Times" in English language on 18.03.2022, 19.03.2022 & 21.03.2022 in different cities and in "Dainik Bhaskar" in Hindi Language in Madhya Pradesh on 18.03.2022. Similarly, notice of the meetings of secured creditors, unsecured creditors and equity shareholders of the Transferee Company was published in "Economic Times" in English Language on 18.03.2022, 19.03.2022 & 21.03.2022 in different cities. Notice of the meetings of the secured creditors, unsecured creditors and equity shareholders of the Transferee Company was published on 19.03.2022, in "Maharashtra Times", in Marathi Language. Further, the said notices for the aforesaid meetings have been uploaded on the website of Transferor and Transferee Company as well as on the website of the Stock Exchanges i.e. BSE & NSE.

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15. Further, the Chairperson stated in his affidavit that the petitioner companies served the notices to statutory authorities namely (i) Regional Director, Western Region (ii) Regional Director (North-Western Region) (iii) Registrar of Companies, Mumbai (iv) Registrar of Companies, Gwalior (v) Official Liquidator, Indore (vi) concerned Income Tax Department (vii) Ministry of Petroleum and Natural Gas, New Delhi (viii) Bombay Stock Exchange (BSE) and National Stock Exchange (NSE) and (ix) SEBI (Securities and Exchange Board of India).

16. In pursuance of Order dated 14.02.2022, Dr Navneet Mohan Kothari, Chairperson of the meeting sent his report dated 22.04.2022 verified by an affidavit dated 06.05.2022 and report of the Scrutinizer. It is stated in the report that Dr Navneet Mohan Kothari, Joint Secretary, Ministry of Petroleum and Natural gas, Government of India, convened the meeting(s) of the secured and unsecured creditors of Transferor Company through video conferencing on 21.04.2022 at 03:00 PM and 04:00 PM respectively. Chairperson has reported that majority of the secured creditors and unsecured creditors (having debt value more than Rs.5 Crore) of the Transferor Company (who have voted through e-voting system or remote e-voting system) representing more than three-fourth in value have approved the scheme. Further, it is stated in the report that the Chairperson convened the meeting(s) of the equity shareholders, secured and unsecured creditors of Transferee Company through video conferencing on 21.04.2022 at 10:00 AM, 12:00 PM and 01:30 PM respectively. Chairperson has reported that majority of the equity shareholders, secured creditors and unsecured creditors (having debt value more than Rs.5 Crore) of the Transferee Company (who have voted through e-voting system or remote e-voting system) representing more than three-fourth in value have approved the scheme. Thereafter, petitioner companies submitted their joint confirmation petition dated 27.04.2022 and prayed before this ministry to sanction the Scheme of Amalgamation.

17. The Regional Director (North-Western Region) submitted his report vide email dated 23.05.2022 along with the report of the Registrar of Companies, Gwalior and The Regional Director (Western Region) submitted his report vide email dated

24.05.2022 along with the report of the Registrar of Companies, Mumbai. Further, the Official Liquidator, Indore has submitted his report vide email dated 25.05.2022. The Regional Director (NWR & WR) and The Official Liquidator (Indore) have not made any adverse remark on the proposed Scheme of Amalgamation. Although, they have reported certain observations in their report. Accordingly, this ministry vide letter dated 25.05.2022 requested to RD(NWR), RD(WR), ROC(Gwalior), ROC (Mumbai) & OL (Indore) to attend the hearing via video conferencing on 27.05.2022 to present their argument at the time of hearing on the observations reported by RD(WR)/RD(NWR)/OL(Indore). Further, it is also requested to the petitioner companies to file their comments/rejoinder on the observations of the RD(NWR)/RD(WR)/OL(Indore) before the date of hearing, if they wish to file the same.

18. Final Hearing in the matter was fixed on 27.05.2022 and the ministry vide letter dated 13.05.2022 directed the petitioner companies to advertise the notice of the hearing in terms of Rule 16 of the Companies (Compromises, Arrangement and Amalgamation) Rules, 2016.

19. With respect to the compliance of the Rule 16 Companies (Compromises, Arrangement and Amalgamation) Rule, 2016, the petitioner companies furnished an affidavit of service dated 18.05.2022 informing to this ministry that they have published notices of hearing in the two newspaper i.e. "Economic Times" in English language, and translation thereof in "Dainik Bhaskar" in Hindi language, in case of Transferor Company and in "Economic Times" in English language and translation thereof in "Maharashtra Times" in Marathi language, as per Rule 16(1) of the Companies (Compromises, Arrangement and Amalgamation) Rules, 2016 on 14.05.2022. Copies of the said newspaper publications are also submitted to this ministry.

20. This Ministry also received two representations, one is forwarded by Regional Director (North-Western Region) vide email dated 26.05.2022 to this ministry, a complaint made by Shri Ram Yadav on behalf of BORL employees alleging that

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BORL employees are not treated at equal level with BPCL level. Further alleging that in the merger document, it is mentioned that BORL employees will be protected however, this is not properly written. Further, second representation is directly received in this ministry on 26.05.2022 on behalf of the BORL Employees without any specific name of complainant. It is alleged in the complaint that differential treatment has been given to the employees of the Transferor Company. In view of the said complaints, this ministry forwarded the copy of both the complaints to the petitioner companies vide email dated 27.05.2022 to submit their argument on the said complaints. Further, it is also directed to the petitioner companies by said email that if they wish to file their comment or rejoinder on the said complaints, then they may file the same.

21. Further, the authorized signatory of the petitioner companies furnished an affidavit on 27.05.2022 to this ministry, wherein they have submitted that in response to the newspaper advertisements published on 14.05.2022, the Advocates for the petitioner companies have received an email dated 17.05.2022 from one Advocate Ramesh Mishra purportedly on behalf of "Employees" of Bharat Oman Refineries Limited, i.e. (BORL). However, Mr. Mishra has failed to identify or provide any documents to show which employees of Bharat Oman Refineries Limited he purportedly represents. Mr. Mishra has inter alia stated that his clients are eligible for the benefits of PSUs from 1st July 2021 and Bharat Petroleum Corporation Limited and its officials should disclose the terms & conditions related to absorption or transfer of employment to his clients "Employees of Bharat Oman Refineries Limited. Further, it is stated by the complainant that his clients concurrence in writing, in acceptance of Terms & Conditions shall be obtained by BPCL before proceeding to merger and after receiving the said terms & conditions, policy, his clients "Employees of Bharat Oman Refineries Limited have the right to raise the objection in case of any of the terms & conditions not accepted to them and opportunity of representation is to be provided to them.

22. In the said affidavit, the authorized signatory of the petitioner companies replied in response to the aforesaid complaints of Mr.Ramesh Mishra on behalf of

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Employees of BORL that the petitioner companies deny all that is stated in the said email. It is further submitted that in any event the Scheme does not in any manner prejudicially affect the rights/employment of any employees of the Transferor company. In terms of clause 5 of the scheme, upon the scheme becoming effective, any employee who is in employment of the Transferor Company as on effective date, shall become employee of the Transferee Company on terms and conditions not less favourable than those on which they are engaged by the Transferor Company and without any interruption in service and the service of the all such employees prior to the transfer shall be taken into account for the purposes of all existing benefits to which the said employees are eligible, including retrenchment compensation, provident fund, etc. entitled to as employees of the Transferor Company. Further, it is submitted by the Transferor Company with regard to the complaint that allegations/grievances/concerns raised by Mr Mishra lack clarity and basis and are speculative and misplaced. Further, the petitioner companies referred the two judgements, one of the Hon'ble Supreme Court in Hindustan Lever Employees' Union vs Hindustan Lever Limited and Ors. [AIR 1995 SC 470], and stated that it is trite law that courts shall not interfere in a scheme, especially when the employees will continue to enjoy their old service conditions (at minimum) under the new management and secondly, referred the judgement in the case of IPCL Employees Association and Ors. Vs Indian Petrochemical Corporation Limited [(2011) 161 CompCas 627 (Guj)], and stated that no employee of the Transferor Company has any locus to object to the Scheme being carried out between the Petitioner Companies since they are neither shareholders nor creditors of the Transferor Company and there is no provision of law that requires the Petitioner Companies to seek the consent of employees before seeking sanction to any scheme of amalgamation or scheme of demerger. The petitioner companies further submitted that the ministry is not the appropriate forum for the employees of the petitioner companies to raise any grievances pertaining to terms of their employment, and those proceedings will be disposed of in accordance with law by appropriate authorities under the relevant statutes.

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23. That, a final hearing in the matter was held on 27.05.2022 and the issues raised in the two complaints as mentioned under para 20 of this order were discussed at the time of hearing. The authorized representative of the petitioner companies again gave the reference of their scheme wherein it is stated under clause 5 of the scheme, upon the scheme becoming effective, any employee who is in employment of the Transferor Company as on effective date, shall become employee of the Transferee Company on terms and conditions not less favourable than those on which they are engaged by the Transferor Company and also gave reference of the two judgements i.e. (i) Hon'ble Supreme Court in Hindustan Lever Employees' Union vs Hindustan Lever Limited and Ors. [AIR 1995 SC 470], (ii) in the case of IPCL Employees Association and Ors. Vs Indian Petrochemical Corporation Limited [(2011) 161 CompCas 627 (Guj)]. The observations of RD(NWR) along with observations of ROC(Gwalior), observations of RD(WR) along with observations of RoC(Mumbai) and the observations of OL(Indore) were also discussed during the course of hearing which were replied by the representative of the petitioner companies to the satisfaction of RD(NWR), ROC(Gwalior), RD(WR), ROC(Mumbai) & OL (Indore) in their virtual presence.

24. With reference to Clause 11.3 (Part-III) of the Scheme, wherein the Transferee Company intends to alter the Memorandum of Association (MoA) and Articles of Association (AoA) and also intends to increase their authorized share capital, it is directed that Transferee Company shall follow the provisions of the Companies Act, 2013.

25. For considering the proposal of amalgamation, the procedure as required under the provisions of the Companies Act, 2013 read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 was followed and transparency was maintained during the proceedings. Sufficient opportunity was provided to all concerned by way of giving direction to the Applicant Companies for publishing the notice of Scheme or supplying copies of the Scheme to anyone who required so with a view to eliciting views of all concerned to the proposed Scheme.

26. The said Scheme does not violate any statutory provisions. It is fair, just, sound and is not against any public interest. The validity of all the actions, proceedings and obligations of the Transferor and Transferee Companies continues even after the implementation of the Scheme. Therefore, no person holding any claim or right against the Transferor or Transferee Company prior to the Scheme coming into effect would be prejudicially affected even after the implementation of the Scheme.

27. In the aforesaid facts and circumstances and having regard to the averments made in the petitions and during the course of the hearing, submission made by the Applicant Companies and further considering the reports of the concerned Regional Director, Registrar of Companies and Official Liquidator, the Scheme of Amalgamation of the Transferor Company with the Transferee Company is found to be in order and hence the prayer for sanction of the Scheme of Amalgamation deserves to be allowed with effect from 01.10.2021, being the appointed date for coming into force of the said Scheme.

28. Now, therefore, the sanction of the Central Government is hereby accorded to the Scheme of Amalgamation between M/s Bharat Oman Refineries Limited (BORL/Transferor Company) and M/s Bharat Petroleum Corporation Limited (BPCL/Transferee Company) under section 230-232 of the Companies Act, 2013. The Scheme shall be binding on the shareholders and creditors of the Transferor Company and Transferee Company and all concerned with effect from 01.10.2021, being the appointed date for coming into force of the said Scheme.

29. Consequent to the amalgamation of the companies, and the Scheme becoming effect:-

i. All the property, rights and powers of Transferor Company shall be transferred without further act or deed to the Transferee Company in accordance with the Scheme, and accordingly the same shall, pursuant to section 232(3) of the Companies Act, 2013 be transferred to and vested in the

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Transferee Company for all the estate and interest of Transferor Company therein;

ii. All the liabilities and duties of Transferor Company shall be transferred without further act or deed to Transferee Company in accordance with the Scheme and accordingly the same shall, pursuant to section 232(3) of the Companies Act, 2013 be, transferred to and become the liabilities and duties of Transferee Company;

iii. All Court cases/proceedings, now pending by or against the Transferor Company shall be continued by or against Transferee Company; and,

iv. The Applicant Companies shall apply the Accounting Standards as laid down under Section 133 of the Companies Act, 2013.

v. The Transferor Company shall stand dissolved without the process of winding up;

30. It is further ordered that the parties to the Scheme or other persons interested in the Scheme shall be at liberty to apply to the Ministry of Corporate Affairs, Government of India, for any direction that may be necessary in regard to working of the said Scheme.

31. It is further ordered that Transferor and Transferee Company shall file with the concerned Registrar of Companies, a certified copy of this order within 30 days of the receipt of the same, in Form No.INC 28. A copy of the order be made available to the parties concerned.

SCHEDULE:-
Copy of the Scheme of Amalgamation is annexed.

(Inder Deep Singh Dhariwal)
Joint Secretary to the Government of India

Ministry of Corporate Affairs
Govt. of India, N. Delhi

Dated: 22nd June 2022
Place : New Delhi

Exhibit A-1 18

SCHEME OF AMALGAMATION

OF

BHARAT OMAN REFINERIES LIMITED

WITH

BHARAT PETROLEUM CORPORATION LIMITED

AND

AND THEIR RESPECTIVE SHAREHOLDERS

UNDER SECTIONS 230 TO 232 AND OTHER APPLICABLE PROVISIONS OF THE COMPANIES ACT, 2013

NOTARY
NAME: R. B. KEWAT
AREA - MUMBAI
MAHARASHTRA
Regd. No. 7100
EXPIRY DATE
5-11-2023
GOVT. OF INDIA

BHARAT PETROLEUM CORPORATION LTD. MUMBAI

BHARAT OMAN REFINERIES LTD.

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(A) PREAMBLE

This scheme of amalgamation provides for the amalgamation of Bharat Oman Refineries Limited (hereinafter referred to as "**Transferor Company**") with Bharat Petroleum Corporation Limited (hereinafter referred to as "**Transferee Company**") and their respective shareholders ("**Scheme**") and is presented under Sections 230 to 232 and other applicable provisions of the Act (*as defined hereinafter*) read with Sections 2(1B) of the Income Tax Act (*as defined hereinafter*). This Scheme also provides for various other matters consequential thereto or otherwise integrally connected therewith.

(B) DESCRIPTION OF COMPANIES

1. The Transferee Company is a public company incorporated under the provisions of the Indian Companies Act, 1913 and is a 'government company' in terms of Section 2(45) of the Act. The Transferee Company is *inter alia* primarily engaged in the business of refining of crude oil and marketing of petroleum products. The equity shares of the Transferee Company are listed on the Stock Exchanges (*as defined hereinafter*).

2. The Transferor Company is a public company incorporated under the provisions of the Companies Act, 1956 and is a 'government company' in terms of Section 2(45) of the Act. The Transferor Company is primarily engaged in the business of refining crude oil at Bina, district Sagar, Madhya Pradesh. The Transferor Company is a wholly owned subsidiary of the Transferee Company. The commercial papers and non-convertible unsecured debentures issued by the Transferor Company are listed on the Stock Exchanges. The warrants and compulsorily convertible debentures issued by the Transferor Company are not listed on Stock Exchanges.

(C) RATIONALE OF THE SCHEME

The Transferor Company is a wholly owned subsidiary of the Transferee Company. The Transferor Company has a refinery of 7.8 MMTPA capacity at Bina, Madhya Pradesh and is primarily engaged in the business of refining of crude oil.

The Transferee Company is also *inter alia* primarily engaged in the business of refining of crude oil and marketing of petroleum products. The Transferee company has a 12 MMTPA capacity refinery at Mumbai, Maharashtra and 15.5 MMTPA capacity refinery at Kochi, Kerala. Upon the amalgamation of the Transferor Company with the Transferee Company the following benefits will be accrued:

(i) Cost optimisation in purchase of crude oil for the refineries;
(ii) Flexibility in crude/ intermediate feedstock selection;
(iii) Optimisation in production planning/ product mix for the refineries;
(iv) Refinery projects are highly capital cost intensive. The amalgamation will result in conceptualisation and implementation of projects considering overall requirement resulting in more efficient utilization of capital;
(v) More efficient space management, integrated asset management and de-duplication of processes wherever possible, across refineries;
(vi) Combined inventory management for non-hydrocarbon inventory of spares and equipments;
(vii) Optimum utilisation of talent pool, exchange of ideas across refineries and allied infrastructure like pipelines;

NOTARY NAME: R. B. KEWAT AREA: MUMBAI MAHARASHTRA Regd. No. 7169 EXPIRY DATE 5-11-2023 GOVT. OF INDIA

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(viii) Availing easier financial support for the business of the Transferor Company; and

(ix) Cost savings through legal entity rationalisation and consolidation of support functions, business processes, elimination of duplicate expenses, etc.

Thus, the amalgamation is in the interest of the shareholders, creditors and all other stakeholders of the companies and is not prejudicial to the interests of the concerned shareholders, creditors or the public at large.

(D) PARTS OF THE SCHEME

The Scheme is divided into the following parts:

1. **PART I** deals with the definitions, interpretations and share capital of the Parties (*as defined hereinafter*);

2. **Part II** deals with amalgamation of the Transferor Company with the Transferee Company; and

3. **PART III** deals with the general terms and conditions applicable to this Scheme.

PART I

DEFINITIONS, SHARE CAPITAL AND DATE OF TAKING EFFECT AND IMPLEMENTATION OF THIS SCHEME

1. DEFINITIONS

1.1 In this Scheme, (i) capitalised terms defined by inclusion in quotations and/or parenthesis shall have the meanings so ascribed; and (ii) the following expressions shall have the meanings ascribed hereunder:

"**Act**" means the Companies Act, 2013, the rules and regulations made thereunder and shall include any statutory modifications, re-enactment or amendments thereof for the time being in force;

"**Applicable Law**" or "**Law**" means any applicable national, foreign, provincial, local or other law including applicable provisions of all (a) constitutions, decrees, treaties, statutes, laws (including the common law), codes, notifications, rules, regulations, policies, guidelines, circulars, directions, directives, ordinances or orders of any Appropriate Authority, statutory authority, court, tribunal; (b) Permits; and (c) orders, decisions, injunctions, judgments, awards and decrees of or agreements with any Appropriate Authority having jurisdiction over the Parties as may be in force from time to time;

"**Appointed Date**" means opening business hours of 1 October 2021 or such other date as may be approved by the Board of the Parties;

"**Authority**" means the Ministry of Corporate Affairs, Government of India having jurisdiction over the Parties or such authority that may have jurisdiction over the Scheme in accordance with the applicable provisions of the Act;

"**Appropriate Authority**" means:

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(a) the government of any jurisdiction (including any national, state, municipal or local government or any political or administrative subdivision thereof) and any department, ministry, agency, instrumentality, court, tribunal, central bank, commission or other authority thereof;

(b) any governmental, quasi-governmental or private body or agency lawfully exercising, or entitled to exercise, any administrative, executive, judicial, legislative, regulatory, licensing, competition, Tax, importing, exporting or other governmental or quasi-governmental authority including without limitation; and

(c) any Stock Exchange.

"**Board**" in relation to the Party, means the board of directors of such Party, and shall include a committee of directors duly constituted and authorized for the matters pertaining to this Scheme or any other matter relating hereto;

"**Effective Date**" means the date on which the certified copies of the order of the Authority approving the Scheme are filed with the RoC by the Parties;

Reference in this Scheme to the date of "**coming into effect of this Scheme**" or "**effectiveness of this Scheme**" or "**effect of this Scheme**" or "**upon the Scheme becoming effective**" shall mean the Effective Date;

"**Encumbrance**" means (a) any charge, lien (statutory or other), or mortgage, pledge, any easement, encroachment, limitation, attachment, right of way, right of first refusal or other encumbrance or security interest securing any obligation of any Person; (b) pre-emption right, option, right to acquire, right to set off or other third party right or claim of any kind, including any restriction on use, voting, transfer, receipt of income or exercise; or (c) any hypothecation, title retention, restriction, power of sale or other preferential arrangement; or (d) any agreement to create any of the above; and the term "**Encumber**" shall be construed accordingly;

"**Income Tax Act**" means the Income-tax Act, 1961 or any modifications or re-enactments or amendments thereof from time to time, with all applicable by-laws, rules, regulations, orders, ordinances, directions, including circulars and notifications and similar legal enactments for the time being in force;

"**INR**" means Indian Rupee, the lawful currency of the Republic of India;

"**Parties**" means collectively the Transferor Company and the Transferee Company and "**Party**" shall mean each of them, individually;

"**Permits**" means all consents, licences, permits, certificates, permissions, authorisations, clarifications, concessions, entitlements, awards, letter of intent, allotments, quotas, approvals, clearances, confirmations, declarations, waivers, exemptions, registrations, factory license, ISO certificates, import/ export licenses, filings, no objections, whether governmental, statutory, regulatory or otherwise as required under Applicable Law and includes authorizations, approvals, certificates and permissions from Petroleum and Natural Gas Regulatory Board;

"**Person**" means an individual, a firm, a partnership, a corporation, a limited liability partnership, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization or an Appropriate Authority;

"**RoC**" means the relevant jurisdictional Registrar of Companies having jurisdiction over Parties;

"**Scheme**" or "**this Scheme**" means this scheme of amalgamation as modified from time to time;

"**Stock Exchanges**" means BSE Limited and the National Stock Exchange of India Limited, collectively;

"**Tax Laws**" means all Applicable Laws dealing with Taxes including but not limited to income-tax, wealth tax, sales tax/ value added tax, service tax, goods and service tax, excise duty, customs duty or any other levy of similar nature;

"**Taxation**" or "**Tax**" or "**Taxes**" means any and all forms of taxes (direct and indirect), surcharges, fees, tariffs and statutory, governmental, state, provincial, local governmental or municipal impositions, duties, charges, cess, contributions and levies, whether levied by reference to income, profits, book profits, gains, net wealth, asset values, turnover, added value, goods and services or otherwise and shall further include payments in respect of or on account of Tax, whether by way of deduction at source, collection at source, dividend distribution tax, advance tax, self- assessment tax, minimum alternate tax, service tax, custom duties, CENVAT, excise, VAT, CST, octroi, goods and services tax or otherwise or attributable directly or primarily to any of the Parties or any other Person and all penalties, fines, charges, costs and interest relating thereto;

"**Transferee Company**" means Bharat Petroleum Corporation Limited, a company incorporated under the provisions of the Indian Companies Act, 1913, having corporate identification number L23220MH1952GOI008931 and its registered office at Bharat Bhawan, Ballard Estate, Mumbai – 400 001, Maharashtra, India; and

"**Transferor Company**" means Bharat Oman Refineries Limited, a company incorporated under the provisions of the Companies Act, 1956, having corporate identification number U11101MP1994PLC008162 and its registered office at Administrative Building, Refinery Complex, Post BORL Residential Complex, Bina, Sagar District – 470 124, Madhya Pradesh

1.2 In this Scheme, unless the context otherwise requires:

1.2.1 words denoting the singular shall include the plural and *vice versa;*

1.2.2 any Person includes that Person's legal heirs, administrators, executors, liquidators, successors, successors-in-interest and permitted assigns, as the case may be;

1.2.3 headings, sub-headings, titles, sub-titles to clauses, sub-clauses and paragraphs are for information and convenience only and shall be ignored in construing the same;

1.2.4 the words "include" and "including" are to be construed without limitation;

1.2.5 references to clauses, unless otherwise provided, are to clauses of this Scheme; and

1.2.6 all terms and words used but not defined in this Scheme shall, unless repugnant or contrary to the context or meaning, have the same meaning ascribed to them under the Act, and other applicable law, rules, regulations, bye-laws, as the case may be, and any statutory modification or re-enactment thereof for the time being in force

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2. SHARE CAPITAL

2.1 The share capital structure of the Transferor Company as on 30 June 2021 is as follows:

Particulars	Amount in INR
Authorised share capital	
450,00,00,000 equity shares of INR 10 each	4500,00,00,000
250,00,00,000 Preference shares of INR 10 each	2500,00,00,000
Total	**7000,00,00,000**
Issued, subscribed and paid up share capital	
242,68,29,450 equity shares of INR 10 each	2426,82,94,500
Total	**2426,82,94,500**

The Transferor Company has outstanding warrants and compulsorily convertible debentures, held by the Transferee Company, exercise of which may also result in an increase in the issued, subscribed and paid-up share capital of the Transferor Company.

2.2 The share capital structure of the Transferee Company as on 30 June 2021 is as follows:

Particulars	Amount in INR
Authorised share capital	
263,50,00,000 equity shares of INR 10 each	2635,00,00,000
Total	**2635,00,00,000**
Issued, subscribed and paid up share capital	
216,92,52,744 equity shares of INR 10 each	2169,25,27,440
Total	**2169,25,27,440**

Subsequent to the aforesaid date, there has been no change in the authorised, issued, subscribed and paid-up share capital of the Transferee Company until the date of approval of the Scheme by the Board of the Transferee Company.

3. DATE OF TAKING EFFECT AND IMPLEMENTATION OF THIS SCHEME

This Scheme in its present form or with any modification(s), as may be approved or imposed or directed by the Authority or made as per Clause 15 of this Scheme, shall become effective from the Appointed Date but shall be operative from the Effective Date.

PART II

AMALGAMATION OF THE TRANSFEROR COMPANY WITH THE TRANSFEREE COMPANY

4. AMALGAMATION AND VESTING OF ASSETS AND LIABILITIES AND ENTIRE BUSINESS OF THE TRANSFEROR COMPANY

4.1 Upon effectiveness of this Scheme and with effect from the Appointed Date and in accordance with the provisions of this Scheme and pursuant to Sections 230 to 232 and other applicable provisions of the Act and Section 2(1B) of the Income Tax Act, the Transferor Company shall be amalgamated into the Transferee Company and the entire business, undertaking, properties, Permits, contracts, loans, debentures, duties, obligations, assets and liabilities of the Transferor Company shall, without any further act, instrument or deed, stand transferred to and vested in or be deemed to have been transferred to and vested in the Transferee Company, so as to become as and from the Appointed Date, the entire business, undertaking, properties, Permits, contracts, loans, debentures, duties, obligations, assets and liabilities of the Transferee Company by virtue of operation of law, and in the manner provided in this Scheme.

4.2 Upon effectiveness of this Scheme and with effect from the Appointed Date, without prejudice to the generality of the provisions of Clause 4.1 above, the manner of transfer and vesting of assets and liabilities of the Transferor Company under this Scheme, is as follows:

4.2.1 In respect of such of the assets and properties of the Transferor Company which are movable in nature (including but not limited to all intangible assets, brands, trademarks of the Transferor Company, whether registered or unregistered trademarks along with all rights of commercial nature including goodwill, title, interest, labels and brand registrations, copyrights, trademarks, patents and all such other industrial and intellectual property rights of whatsoever nature) or are otherwise capable of transfer by delivery or possession or by endorsement, shall stand transferred upon the Scheme coming into effect and shall, *ipso facto* and without any other order to this effect, become the assets and properties of the Transferee Company without requiring any deed or instrument of conveyance for transfer of the same. The vesting pursuant to this sub-clause shall be deemed to have occurred by physical or constructive delivery or by endorsement and delivery or by vesting and recordal, pursuant to this Scheme, as appropriate to the property being vested, and title to the property shall be deemed to have been transferred accordingly;

4.2.2 Subject to Clause 4.2.3 below, with respect to the assets of the Transferor Company, other than those referred to in Clause 4.2.1 above, including all rights, title and interests in the agreements (including agreements for lease or license of the properties), investments in shares, mutual funds, bonds and any other securities, bank balances, sundry debtors, other receivables including claims, inventory, outstanding loans and advances, if any, recoverable in cash or in kind or for value to be received, deposits if any, with Government, semi-Government, local and other authorities and bodies, customers and other persons, whether or not the same is held in the name of the Transferor Company shall, without any further act, instrument or deed, be transferred to and vested in and/or be deemed to be transferred to and vested in the Transferee Company, with effect from the Appointed Date, by operation of law as transmission or as the case may be in favour of Transferee Company;

4.2.3 In respect of such of the assets and properties of the Transferor Company which are immovable in nature, including, but not limited to, rights of use, rights of way, titles, interest and easements in relation thereto, whether or not recorded in the books of account of the Transferor Company, shall stand transferred and vested in the Transferee Company with effect from the Appointed Date, without any act or deed or conveyance being required to be done or executed by the Transferor Company and/ or the Transferee Company;

4.2.4 For the avoidance of doubt and without prejudice to the generality of Clause 4.2.3 above and Clause 4.2.5 below, it is clarified that, with respect to the immovable properties of the Transferor Company in the nature of land and buildings, the Parties shall register the true copy of the orders of the Authority approving the Scheme with the offices of the relevant sub-registrar of Assurances or similar registering authority

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4.2.5 Notwithstanding anything contained in this Scheme, with respect to the immovable properties of the Transferor Company in the nature of land and buildings situated in states other than the state of Maharashtra and Madhya Pradesh, whether owned or leased, shall stand transferred to and be vested in the Transferee Company with effect from the Appointed Date, without any act or deed or conveyance being required to be done or executed by the Transferor Company and/or the Transferee Company. However, if so required under Applicable Law, for the purpose of payment of stamp duty, if the Transferee Company so decides, the Parties, whether before or after the Effective Date, may execute and register or cause to be executed and registered, separate deeds in favour of the Transferee Company in respect of such immovable properties. Each of the immovable properties, only for the purposes of the payment of stamp duty (if required under Applicable Law), shall be deemed to be conveyed at a value determined by the relevant authorities in accordance with the applicable circle rates. The transfer of such immovable properties shall form an integral part of this Scheme;

4.2.6 All debts, liabilities, guarantees, bank guarantees (including performance bank guarantees given), duties and obligations (including loans, debentures, commercial papers, bonds, notes or other securities), whether or not recorded in the books of accounts of the Transferor Company to the extent outstanding shall, without any further act, instrument or deed be transferred to, and vested in, and/or deemed to have been transferred to, and vested in, the Transferee Company, so as to become on and 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, and it shall not be necessary to obtain the consent of any third party or Person who is a party to contract or arrangement by virtue of which such liabilities have arisen in order to give effect to the provisions of this Clause 4;

4.2.7 On and from the Effective Date and till such time that the name of the bank accounts of the Transferor Company has been replaced with that of the Transferee Company, the Transferee Company shall be entitled to maintain and operate the bank accounts of the Transferor Company in the name of the Transferor Company and for such time as may be determined to be necessary by the Transferee Company. All cheques and other negotiable instruments, payment orders received or presented for encashment which are in the name of the Transferor Company 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;

4.2.8 Unless otherwise agreed between the Parties, the vesting of all the assets of the Transferor Company, as aforesaid, shall be along with the Encumbrances, if any, over or in respect of any of the assets or any part thereof, provided however that such Encumbrances shall be confined only to the relevant assets of the Transferor

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Company or part thereof on or over which they are subsisting prior to the amalgamation of the Transferor Company with the Transferee Company, and no such Encumbrances shall extend over or apply to any other asset(s) of the Transferee Company;

4.2.9 Unless otherwise stated in this Scheme, all Permits and process licenses, including the benefits attached thereto of the Transferor Company shall be transferred to the Transferee Company from the Appointed Date, without any further act, instrument or deed and shall be appropriately mutated or endorsed by the Appropriate Authorities concerned therewith in favour of the Transferee Company as if the same were originally given by, issued to or executed in favour of the Transferee Company and the Transferee Company shall be bound by the terms, obligations and duties thereunder, and the rights and benefits under the same shall be available to the Transferee Company to carry on the operations of the Transferor Company without any hindrance, whatsoever;

4.2.10 Without prejudice to the provisions as stated above, all trade and service names and marks, patents, copyrights, designs, goodwill which includes the positive reputation that the Transferor Company were enjoying to retain its clients, statutory licenses, infrastructural advantages, overall increase in market share, customer base, skilled employees, business claims, business information, business contracts, trade style and name, marketing and distribution channels, marketing or other commercial rights, customer relationship, trade secrets, information on consumption pattern or habits of the consumers in the territory, technical know-how and other intellectual property rights of any nature whatsoever, books, records, files, papers, engineering and process information, software licenses (whether proprietary or otherwise), drawings, computer programs, manuals, data, catalogues, quotations, sales and advertising material, lists of present and former customers and suppliers, other customer information, customer credit information, customer pricing information and all other records and documents, whether in physical or electronic form relating to business activities and operations of the Transferor Company shall be transferred to the Transferee Company from the Appointed Date, without any further act, instrument or deed; and

4.2.11 All contracts, bids, agreements, heads of agreements guarantees (including bank guarantees performance bank guarantees obtained), term sheets, memorandum of understanding, grants of legal representations, bonds, deeds and other instruments of whatsoever nature subsisting or having effect before the effectiveness of this Scheme, where the Transferor Company is a party or to the benefit of which the Transferor Company may be eligible, shall stand transferred to and vested in the Transferee Company pursuant to this Scheme becoming effective. The absence of any formal amendment which may be required by a third party to formalise such transfer and vesting shall not affect the operation of the foregoing sentence. Without prejudice to the other provisions of this Scheme, the Transferee Company may, at any time after the coming into effect of this Scheme in accordance with the provisions hereof, if so required under any Applicable Law or otherwise, execute deeds (including deeds of adherence), confirmations or other writings or tripartite arrangements with any party to any contract or arrangement to which the Transferor Company is a party or any writings as may be necessary to be executed in order to formalise the above provisions.

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Provided that, upon this Scheme coming into effect, all inter-company investments and transactions including loans, bids, contracts executed or entered into by or *inter se* between the Parties, if any, shall stand cancelled with effect from the Effective Date and neither the Transferor Company and/or Transferee Company shall have any obligation or liability against the other party in relation thereto.

4.3 Without prejudice to the provisions of the foregoing sub-clauses of Clause 4.2, the Parties may execute any and all instruments or documents as may be required under any Applicable Law and do all acts, deeds and things as may be required, including filing of necessary particulars and/or modification(s) of charge, necessary applications, notices, intimations or letters with any Appropriate Authority or Person to give effect to this Scheme.

4.4 Any procedural requirements required to be fulfilled solely by the Transferor Company, shall be fulfilled by the Transferee Company as if it were the duly constituted attorney of the Transferor Company. The Transferee Company shall take such actions as may be necessary and permissible to get the assets, Permits and contracts of the Transferor Company transferred and/or registered in its name.

5. **EMPLOYEES**

5.1 Upon the effectiveness of this Scheme, all the employees of the Transferor Company as on the Effective Date shall become employees of the Transferee Company, on terms and conditions not less favourable than those on which they are engaged by the Transferor Company and without any interruption in service. The Transferee Company agrees that the services of all such employees with the Transferor Company prior to the transfer shall be taken into account for the purposes of all existing benefits to which the said employees are eligible, including retrenchment compensation, provident fund, gratuity and other retirement/ terminal benefits they were entitled to as employees of the Transferor Company.

5.2 The accumulated balances, if any, standing to the credit of the aforesaid employees in the existing provident fund and gratuity fund of which they are members, will be transferred respectively to such provident fund and gratuity fund nominated by the Transferee Company and/or such new provident fund and gratuity fund to be established in accordance with Applicable Law and caused to be recognized by the Appropriate Authorities. The Transferee Company confirms that the services of the employees of Transferor Company will be treated as having been continuous for the purpose of the said fund or funds.

6. **LEGAL PROCEEDINGS**

Upon the coming into effect of this Scheme, if any suit, cause of action, decrees, demands, recovery certificates, appeal or other legal, quasi-judicial, arbitral or other administrative proceedings of whatsoever nature by or against the Transferor Company pending on the Effective Date, the same shall not abate, be discontinued or be in any way prejudicially affected by anything contained in this Scheme, but such proceedings of the Transferor Company may be continued, prosecuted and 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 and enforced by or against the Transferor Company as if this Scheme had not been made. On and from the Effective Date, the Transferee Company may initiate any legal proceeding for and on behalf of the Transferor Company.

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7. TAXES/ DUTIES/ CESS

Upon the effectiveness of the Scheme and with effect from Appointed Date, by operation of law pursuant to the order of the Authority:

7.1 All the profits or income taxes (including advance tax, self-assessment tax, tax deducted at source, tax collected at source, foreign tax credits, dividend distribution tax, minimum alternate tax credit, tax losses, unabsorbed depreciation) all input credit balances (including but not limited to CENVAT/ MODVAT, sales tax, wealth tax, fringe benefit tax, VAT, CST, applicable excise and customs duties, SGST, IGST and CGST credits under the goods and service tax laws) or any costs, charges, expenditure accruing to the Transferor Company in India and abroad or expenditure or losses arising or incurred or suffered by the Transferor Company shall for all purpose be treated and be deemed to be and accrue as the profits or income, Taxes (namely advance tax, tax deducted at source, tax collected at source, dividend distribution tax & foreign tax credits), tax losses, minimum alternate tax credit, unabsorbed depreciation, dividend distribution tax credit, income costs, charges, expenditure or losses of the Transferee Company, as the case may be;

7.2 Upon the Scheme becoming effective, all Taxes, cess, duties and liabilities (direct and indirect), payable by or on behalf of the Transferor Company, shall, for all purposes be treated as Taxes, cess, duties and liabilities as the case may be, payable by the Transferee Company;

7.3 If the Transferor Company is entitled to any benefits under incentive schemes and policies under Tax Laws, all such benefits under all such incentive schemes and policies shall be available and stand vested in the Transferee Company; and

7.4 Upon the Scheme becoming effective, the Transferee Company shall have the right to revise its financial statements and returns along with prescribed forms, filings and annexures under the Tax Laws and to claim refunds and/or credit for Taxes paid and for matters incidental thereto, if required, to give effect to the provisions of the Scheme. The Transferee Company is expressly permitted to revise and file its income tax returns and other statutory returns, even beyond the due date, if required, including tax deducted/ collected at source returns, service tax returns, excise tax returns, sales tax/ value added tax/ goods and service tax returns, as may be applicable and has expressly reserved the right to make such provision in its returns and to claim refunds, MAT credit, unabsorbed depreciation, unabsorbed losses, advance tax credits, credit of tax deducted at source, credit of foreign Taxes paid/ withheld, etc. if any, as may be required for the purposes of implementation of the Scheme.

7.5 It is hereby clarified that in case of any refunds, interest on refund, claims, exemptions, credits, benefits, incentives, grants, subsidies, etc., the Transferor Company, shall, if so required by the Transferee Company, issue notices in such form as the Transferee Company may deem fit and proper stating that pursuant to the Authority having sanctioned this Scheme under Sections 230 to 232 of the Act, the relevant refund, claims, exemptions, credits, benefit, incentive, grant, subsidies, be paid or made good or held on account of the Transferee Company, as the Person entitled thereto, to the end and intent that the right of the Transferor Company, to recover or realise the same, stands transferred to the Transferee Company.

8. CONSIDERATION

8.1 The Transferor Company is a wholly owned subsidiary of the Transferee Company and therefore there shall be no issue of shares as consideration for the amalgamation of the Transferor Company with the Transferee Company.

8.2 Upon the Scheme becoming effective, all equity shares of the Transferor Company held by the Transferee Company along with its nominees, shall stand cancelled without any further application, act or deed.

9. ACCOUNTING TREATMENT

9.1 Upon the Scheme coming into effect and with effect from the Appointed Date, the Transferee Company shall account for the amalgamation of the Transferor Company in the books of accounts in accordance with "Pooling of Interest Method" of accounting as laid down in Appendix C of Ind AS-103 (Business Combinations of entities under common control) notified under Section 133 of the Act under the Companies (Indian Accounting Standard) Rules, 2015, as may be amended from time to time, in its books of accounts such that:

9.1.1 The Transferee Company shall record the assets and liabilities, if any, of the Transferor Company vested in it pursuant to this Scheme, at the carrying values as appearing in the consolidated books of accounts of the Transferee Company;

9.1.2 The identity of the reserves shall be preserved and the Transferee Company shall record the reserves of the Transferor Company, at the carrying amount as appearing in the consolidated books of accounts of the Transferee Company;

9.1.3 Pursuant to the amalgamation of the Transferor Company with the Transferee Company, inter-company investments, loans and balances between the Transferee Company and the Transferor Company, if any, appearing in the books of the Transferee Company shall stand cancelled;

9.1.4 The surplus/ deficit, if any arising after taking the effect of Clause 9.1.1, 9.1.2 and 9.1.3, shall be adjusted in 'Capital Reserve' in the financial statements of the Transferee Company;

9.1.5 In case of any differences in accounting policies between the Transferor Company and the Transferee Company, the accounting policies followed by the Transferee Company shall prevail to ensure that the financial statements reflect the financial position based on consistent accounting policies;

9.1.6 Comparative financial information in the financial statements of the Transferee Company shall be restated for the accounting impact of the amalgamation, as stated above, as if the amalgamation had occurred from the beginning of the comparative period. However, if business combination had occurred after the beginning of the comparative period, the prior period information shall be restated only after that date; and

9.1.7 All transactions during the period between the Appointed Date and Effective Date relating to the Transferor Company would be duly reflected in the financial statements of Transferee Company, upon the coming into effect of this Scheme.

10. DISSOLUTION OF THE TRANSFEROR COMPANY

10.1 On the Scheme becoming effective, the Transferor Company shall stand dissolved without winding up and the Board and any committees thereof of the Transferor Company shall without any further act, instrument or deed be and stand discharged. On and from the

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Effective Date, the name of the Transferor Company shall be struck off from the records of the concerned RoC.

PART III

GENERAL TERMS & CONDITIONS

11. COMBINATION OF AUTHORISED SHARE CAPITAL

11.1 Upon the Scheme becoming effective, the aggregate authorised share capital of the Transferor Company as on the Effective Date will be suitably reorganised and reclassified and combined with the authorised equity share capital of the Transferee Company and accordingly the authorised equity share capital of the Transferee Company shall stand increased without any further act, instrument or deed on the part of Transferee Company including payment of stamp duty and fees to RoC.

11.2 The memorandum of association and articles of association of the Transferee Company shall, without any further act, instrument or deed, be and stand altered, modified and amended, and the consent of the shareholders of the Transferee Company to the Scheme shall be deemed to be sufficient for the purposes of effecting this amendment, and no further resolution(s) under the applicable provisions of the Act would be required to be separately passed, as the case may be, and for this purpose the stamp duty and fees paid on the authorized capital of the Transferor Company shall be utilized and applied to the increased authorized share capital of the Transferee Company.

11.3 Consequentially, Clause 5 of the memorandum of association of the Transferee Company shall without any further act, instrument or deed be and stand altered, modified and amended, to reflect the increased combined authorised share capital as per Clause 11.1 above, pursuant to Sections 13, 14, 61, 64, and other applicable provisions of the Act.

11.4 It is clarified that the approval of the Authority to the Scheme shall be deemed to be consent/ approval of the shareholders of the Transferee Company also to the alteration of the memorandum and articles of association of the Transferee Company as may be required under the Act.

12. VALIDITY OF EXISTING RESOLUTIONS, POWER OF ATTORNEYS, ETC.

12.1 Upon this Scheme coming into effect, the resolutions/ power of attorneys executed by the Transferor Company, as are considered necessary by the Board of the Transferee Company, and that are valid and subsisting on the Effective Date, shall continue to be valid and subsisting and be considered as resolutions and power of attorney passed/ executed by the Transferee Company. Further, if any such resolutions have any monetary limits approved under the provisions of the Act, or any other applicable statutory provisions, then such limits shall be automatically added to the limits, if any, under like resolutions passed by the Transferee Company and shall constitute the new aggregate limits for each of the subject matters covered under such resolutions/ power of attorneys for the purpose of the Transferee Company without any further act or deed.

12.2 For the avoidance of doubt and without prejudice to the generality of Clause 12.1 above, it is clarified that, upon this Scheme coming into effect, the limits of creation of charge and borrowing of the Transferor Company as may be approved by its shareholders under Sections 180(1)(a) and 180(1)(c) of the Act, as on the date of Scheme coming into effect, shall be added

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to the limits of creation of charge and borrowing of the Transferee Company and no further consent/ approval from the shareholders of the Transferee Company or any other authority shall be required. Similarly, upon this Scheme coming into effect, the approval of the Board of the Transferor Company relating to borrowing of monies, investment of funds and granting loans or give guarantee or provide security in respect of loans, under Sections 179(3)(d), 179(3)(e) and 179(3)(f) respectively, shall be added to the respective limits approved by the Board of the Transferee Company and no further consent/ approval from the Board of the Transferee Company shall be required.

13. BUSINESS UNTIL EFFECTIVE DATE

13.1 With effect from the date of approval of the Scheme by the respective Boards of the Parties and up to and including the Appointed Date, the Transferor Company shall carry on its business with reasonable diligence and business prudence and in the same manner as the Transferor Company had been doing hitherto.

13.2 With effect from the Appointed Date and until the Effective Date:

13.2.1 The Transferor Company shall carry on and be deemed to have carried on its businesses and activities and shall hold and stand possessed of and be deemed to have held and stood possessed of all its assets for and on account of and in trust for the Transferee Company;

13.2.2 The Transferor Company shall carry on its business and activities with due diligence and business prudence and shall not, without the prior written consent of the Transferee Company, charge, mortgage, Encumber or otherwise deal with or alienate its assets or any part thereof, nor incur, accept or acknowledge any debt, obligation or any liability or incur any major expenditure, except as is necessary in the ordinary course of its business; and

13.2.3 All profits or income accruing or arising to the Transferor Company or expenditure or losses arising or incurred by the Transferor Company shall, for all purposes, be deemed to have accrued as the profits or income or expenditure or losses, as the case may be, of the Transferee Company.

13.3 The Parties shall be entitled, pending the sanction of the Scheme, to apply to the Appropriate Authority and all other agencies, departments and authorities concerned as are necessary under any law for such consents, approvals and sanctions which the Transferee Company may require to carry on the business of the Transferor Companies and to give effect to the Scheme.

13.4 For the purpose of giving effect to the amalgamation order passed under Sections 230 to 232 and other applicable provisions of the Act in respect of this Scheme by the Authority, the Transferee Company shall, at any time pursuant to the orders approving this Scheme, be entitled to get the recordal of the change in the legal right(s) upon the amalgamation of the Transferor Company, in accordance with the provisions of Sections 230 to 232 of the Act. The Transferee Company is and shall always be deemed to have been authorized to execute any pleadings, applications, forms, etc, as may be required to remove any difficulties and facilitate and carry out any formalities or compliances as are necessary for the implementation of this Scheme.

NOTARY
NAME: R. B. NEWAT
AREA - MUMBAI
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Regd. No. 7109
EXPIRY DATE:
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14. APPLICATIONS/ PETITIONS TO THE AUTHORITY

The Parties shall make joint applications and petitions under Sections 230 to 232 and other applicable provisions of the Act before the Authority, for sanction of this Scheme under the provisions of the Act.

15. MODIFICATION OR AMENDMENTS TO THIS SCHEME

15.1 The Board of the Parties may make any modifications or amendments to this Scheme at any time and for any reason whatsoever, or which may otherwise be considered necessary, desirable or appropriate. The Board of the Parties may consent to any conditions or limitations that the Authority or any other Appropriate Authority may impose.

15.2 For the purposes of giving effect to this Scheme, the Board may give such directions including directions for settling any question or difficulty that may arise and such directions shall be binding as if the same were specifically incorporated in this Scheme.

16. WITHDRAWAL OF THIS SCHEME AND NON-RECEIPT OF APPROVALS

16.1 Parties, acting jointly, shall be at liberty to withdraw the Scheme, any time before the Scheme is effective.

16.2 In the event of withdrawal of the Scheme under Clause 16.1 above, no rights and liabilities whatsoever shall accrue to or be incurred *inter se* the Parties or their respective shareholders or creditors or employees or any other Person.

16.3 In the event of any of the requisite sanctions and approvals not being obtained on or before such date as may be agreed amongst the Parties, this Scheme shall become null and void and in that event no rights and liabilities whatsoever shall accrue to or be incurred *inter se* the Parties or their shareholders or creditors or employees or any other Person in terms of this Scheme. In such an event, each Party shall bear and pay its respective costs, charges and expenses for and/or in connection with this Scheme.

17. COSTS AND EXPENSES

The Transferee Company shall bear the costs, charges, levies, fees, duties and expenses (including stamp duty, if any), in connection with this Scheme, arising out of or incurred in carrying out and implementing this Scheme and matters incidental thereto.

18. MISCELLANEOUS

18.1 On the approval of the Scheme by the shareholders of the Transferor Company and the shareholders of the Transferee Company pursuant to Section 230 of the Act, it shall be deemed that the said shareholders have also accorded all relevant consents under any other provisions of the Act, including Sections 13, 14, 61, 62(1)(c) and 64 of the Act, to the extent the same may be considered applicable.

18.2 The consent/ approval given by the shareholders and/or the creditors of the Parties to this Scheme pursuant to Section 230 to 232 of the Act and any other applicable provisions of the Act shall be deemed to be their approval for their respective obligations under this Scheme.

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19. SAVING OF CERTAIN RIGHTS

It Is hereby clarified that submission of the Scheme to the Ministry of Corporate Affairs, Government of India and to any authorities for their respective approvals is without prejudice to all rights, interests, titles or defences that the Transferee Company or Transferor Company may has or may have under or pursuant to all appropriate and applicable laws and regulations.

BHARAT PETROLEUM CORPORATION LTD. MUMBAI

BHARAT OMAN REFINERIES LTD.

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