



DANA INDIA PRIVATE LIMITED

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

BENCH, AT MUMBAI

C.A. (CAA)/ 50 (MB)/ C-III/ 2024

In the matter of the Companies Act, 2013

AND

In the matter of Section 230 to Section 232 of the Companies Act, 2013 and other applicable provisions of the Companies Act, 2013 and Rules framed thereunder.

AND

In the matter of Scheme of Amalgamation by way of Merger by Absorption of Dana India Private Limited with Graziano Trasmissioni India Private Limited and their respective shareholders.

Dana India Private Limited) **...First Applicant Company/**
CIN: U74999PN2000PTC015131) **Transferor Company**
Sr.No.279/1, Rasoni Industrial Park,)
Hinjewadi Ph-II, Vill, Man, Mulshi)
Pune India, 411057, Maharashtra)

PooBhatia



DANA INDIA PRIVATE LIMITED

CORPORATE & REGISTERED OFFICE :

CIN No. – U74999PN2000PTC015131

SR.NO.279/1, RAISONI INDUSTRIAL PARK, HINJEWADI, PH-II, VILL, MAAN, MULSHI PUNE (MH) 411057 INDIA

TEL.: +91(020) +91-20-66902027



DANA INDIA PRIVATE LIMITED

NOTICE TO UNSECURED CREDITORS UNDER SECTION 230 OF THE COMPANIES ACT, 2013

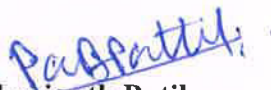
Notice is hereby given in pursuance of sub-section (5) of section 230 of the Companies Act, 2013 and as per Rule 8 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, that the Mumbai Bench of the National Company Law Tribunal ('Hon'ble Tribunal') by an order dated 6 May 2024, has directed Dana India Private Limited (First Applicant Company) to serve notices to the unsecured creditors of the First Applicant Company as on 29 February 2024, with a direction that they may submit their representations, if any, to the Hon'ble Tribunal within 30 days and copy of such representations shall simultaneously be served upon the First Applicant Company.

You are accordingly informed that representations, if any, in connection with the Scheme of Amalgamation by way of Merger by Absorption of Dana India Private Limited with Graziano Trasmissioni India Private Limited and their respective shareholders ('Scheme') may be made to the Hon'ble Tribunal within 30 (thirty) days from the date of receipt of this notice.

Copy of the representation may simultaneously be sent to the First Applicant Company at our office - Sr.No.279/1, Raisonni Industrial Park, Hinjewadi Phase-II, Village, Maan, Mulshi, Pune India, 411057, Maharashtra.

In case no representation is received within the stated period of thirty (30) days, it shall be presumed that you have no representation to make on the Scheme.

For Dana India Private Limited


Pandharinath Patil
Authorized Signatory
Date: 30 May 2024
Place: Pune



Enclosures: (1) Copy of the Scheme
(2) Copy of Order dated 6 May 2024

DANA INDIA PRIVATE LIMITED

CORPORATE & REGISTERED OFFICE :

CIN No. – U74999PN2000PTC015131

**SR.NO.279/1, RAISONNI INDUSTRIAL PARK, HINJEWADI, PH-II, VILL, MAAN, MULSHI PUNE (MH) 411057
INDIA**

TEL.: +91(020) +91-20-66902027

Annexure - G

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SCHEME OF AMALGAMATION
By way of Merger by Absorption

Under Sections 230 to 232 of the Companies Act, 2013 and rules framed thereunder

AMONG

DANA INDIA PRIVATE LIMITED
(CIN: U74999PN2000PTC015131)
("TRANSFEROR COMPANY")

AND

GRAZIANO TRASMISSIONI INDIA PRIVATE LIMITED
(CIN: U34300PN1997PTC202633)
("TRANSFEREE COMPANY")

AND

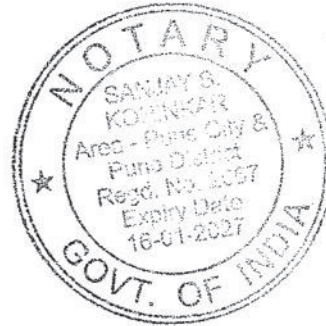
THEIR RESPECTIVE SHAREHOLDERS

DANA INDIA PVT. LTD.


AUTHORISED SIGNATORY

Graziano Trasmissioni India Pvt. Ltd.


Authorized Signatory



Signature valid

AKHILESH KUMAR
KHANDEWAR

22.03.2024 12:56

Signature valid

PANDHARINATH
BHAGWAN PATIL

22.03.2024 13:07

PREAMBLE

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A. Description of the Scheme

This Scheme of Amalgamation (merger by Absorption) ("Scheme") is presented pursuant to the provisions of Sections 230 to 232 read with Rules made thereunder and other relevant provisions of the Companies Act, 2013.

B. Description of Companies

1. Dana India Private Limited is a company incorporated under the Companies Act, 1956 on 06 March 2000 having Corporate Identity Number U74999PN2000PTC015131 and Permanent Account Number AABCD1873A. The registered office is situated at Survey No. 279/1, Raison Industrial Park, Hinjewadi, Ph-II, Vill, Man, Mulshi, Pune, Maharashtra, India, 411057 (Hereinafter referred to as the "Transferor Company"). The main objects of the Transferor Company as set out in its Memorandum of Association is:

1. To design, manufacture, assemble, contract for buy, sell, hire, export, import, distribute and deal in and with whether as principals or agents or other wise of automotive components and in particular all types of Axles, Transfer cases and Components thereof for automotive applications whether in finished or semi- finished forms.

2. Graziano Trasmissioni India Private Limited is a company incorporated under the Companies Act, 1956 on 13 May 1997 having Corporate Identity Number U34300PN1997PTC202633 and Permanent Account Number AAACG4258M. The registered office is situated at Survey No. 279, Raison Industrial Park, Hinjewadi Phase II, Maan, Taluka Mulshi, Pune, Maharashtra – 411057, India (Hereinafter referred to as the "Transferee Company"). The main objects of the Transferee Company as set out in its Memorandum of Association are under –

"1. To manufacture, process, repair, buy and sell, resell, export, re-export, import, re-import and trade in axles, angle drives, differential, gears, gear boxes, transmission gear pumps, shafts, synchronizers, power shaft transmission, and other industrial vehicles, commercial, construction and agricultural vehicles and machines.

2. To manufacture process, assemble, equip, improve, work, develop, repair and to buy, sell, import, export and otherwise deal in automobile gears, industrial, mechanical, electrical and metallurgical gears and all other kinds of gear and gear boxes.

3. To carry on and engaged in the business in India and overseas, of providing diverse services in the areas of engineering and consulting services in designing and development of diverse products, project implementation, procurement, construction management and other related services, conducting feasibility studies, diagnosing operational problems and providing solution, front end engineering design, detailed engineering and procurement services, consulting engineers, and providing technical advisory service and related services.

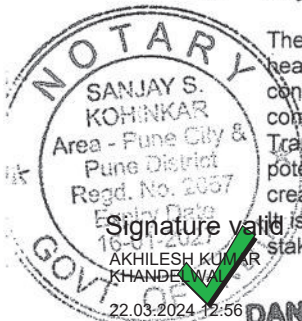
4. To carry on and engaged in the business in India and overseas of providing services and consulting and advisory services in all forms in the field of management, technical, industrial, financial, taxations, commercial, marketing, human resources and other disciplines and providing services in the area of operation research, personnel recruitment training and placements, technical analysis of data, preparation of project reports and their review, critical path analysis, organization and methods studies and other economic mathematical, statistical, scientific and other modern management services, techniques and providing services in the areas of book-keeping, preparation and maintenance of books of account, preparation of account and financial statements and reports, management information systems reporting, and preparation of reports for filing with the government, regulatory and taxation authorities, and providing consulting services and other service professional and technical nature.

5. To carry and engage in India and overseas in the business of designing, developing, customizing, integrating, deployment, managing, maintenance and supporting information technology products, systems and solutions including without limitation systems and applications software and designing and developing such information technology products and systems, systems and application software for customers and others, and establishing, managing and operating electronic data processing centers and carrying on the business of data processing, word processing, software consultancy, system studies, system integration services, techno-economic feasibility studies in all areas.

6. To carry out the business of design, manufacture, assemble, fabricate, buy, sell, (directly or as agents), distribute, deal, install, export, import, repair and maintain Planetary gear boxes and all kind of speed reducers with associated equipment's/ systems, motors or components for Electrical and Hydraulic power transmission."

C. Objects and benefits of the Scheme:

The Transferor Company and Transferee Company are Affiliates of Dana Incorporated, headquartered at Ohio, United States of America. Considering various commercial considerations including the size of operations of Transferor Company are smaller when compared to Transferee Company, it is proposed to merge the Transferor Company with the Transferee Company. This Scheme of amalgamation is expected to enable better realization of potential of the business of the Companies and yield beneficial result and enhanced value creation for the Companies, their respective shareholders, customers, creditors and employees. This Scheme of amalgamation is not prejudicial to the interests of shareholders, customers, creditors and various other stakeholders of the respective companies.



DANA INDIA PVT. LTD.
P. S. Patil
AUTHORISED SIGNATORY

Graziano Trasmissioni India
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Authorised Signatory

The rationale for the proposed Scheme is set out below:

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1. The Amalgamation will enable pooling of resources of the Companies involved in Amalgamation to their common advantages, resulting in more productive utilization of all the resources and achieving economies of scale resulting into cost and operational efficiencies, which would be beneficial for all the stakeholders.
2. The Amalgamation would create a stronger sustainable business by giving opportunity to fully leverage assets, capabilities, experience, expertise and infrastructure of all the Companies resulting into cost savings and higher profitability levels.
3. The Amalgamation would bring greater management focus and would help in achieving uniform corporate policies and faster / effective decision making and its implementation.
4. The Amalgamation would result in reducing number of legal entities and help in avoiding duplication of regulatory and procedural compliances and consequently result into saving of time, efforts, resources and cost involved in such compliances.
5. Post-Amalgamation, the Transferee Company will have better financial and operational prospects. The Amalgamation will result in consolidation of business of the Companies resulting in expansion of business and create greater value to all stakeholders. The Amalgamation shall be beneficial and in the best interests of the shareholders, creditors, employees of the Companies involved, and all concerned.

In view of the above, the Board of Directors of the Transferor Company and Transferee Company have considered and proposed the merger by absorption of the Transferor Company with the Transferee Company in order to benefit the stakeholders of both the Companies. Accordingly, the Board of Directors of the Transferor Company and the Transferee Company have formulated this Scheme of Amalgamation pursuant to the provisions of Sections 230 to 232 or other applicable provisions of the Companies Act, 2013 as may be applicable and rules framed thereunder.

D. Parts of the Scheme:

This Scheme is divided into the following parts:

- Part I** - Deals with definitions of the terms used in this Scheme of Amalgamation and sets out the share capital of the Transferor Company and the Transferee Company.
- Part II** - Deals with amalgamation of Dana India Private Limited with Graziano Trasmissioni India Private Limited.
- Part III** - Deals with the accounting treatment for the Amalgamation in the books of the Transferee Company.
- Part IV** - Deals with the dissolution of the Transferor Company and the general terms and conditions applicable to this Scheme of Amalgamation and other matters consequential and integrally connected thereto.

DANA INDIA PVT. LTD.

P. P. Patil
AUTHORISED SIGNATORY

Graziano Trasmissioni India Pvt. Ltd.

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Authorised Signatory



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KHANDEWAR

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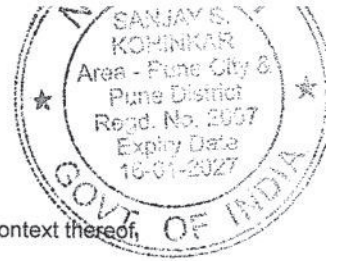
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PART I
DEFINITIONS AND SHARE CAPITAL

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1. Definitions

In this Scheme (as defined hereinunder), unless repugnant to the meaning or context thereof, the following expressions shall have the meaning mentioned herein below:

- 1.1. **"Act" or "Companies Act"** means the Companies Act, 2013 read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 and other applicable rules and regulations, for time being in force, if any or applicable provisions of the erstwhile Companies Act, 1956 (as the case may be) including any statutory modification or re-enactment thereof. References in this Scheme to particular provisions of the Act shall be deemed to mean and include references to particular provisions of the Companies Act, 2013 unless stated otherwise.
- 1.2. **"Amalgamation"** means the Amalgamation of the Transferor Company with the Transferee Company by way of merger by absorption pursuant to Sections 230 to 232 and other relevant provisions of the Companies Act, and applicable provisions of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 and other relevant rules and regulations and Section 2 (1B) and other relevant provisions of the Income-tax Act, 1961.
- 1.3. **"Affiliate"** means any other entity (i) which is directly or indirectly controlling the legal entity; or (ii) which is under the same direct or indirect ownership or control as the legal entity; or (iii) which is directly or indirectly owned or controlled by the legal entity for so long as such ownership or control lasts. Ownership or control shall exist through direct or indirect ownership of more than fifty per cent of the nominal value of the issued equity share capital or of more than fifty per cent of the voting rights entitling the holders to vote for the election of directors or persons performing similar functions or right by any other means to elect or appoint directors or persons who collectively can exercise such control.
- 1.4. **"Applicable Law(s)"** means any statute, law, regulation, ordinance, rule, judgment, order, decree, by-law, approval from the concerned authority, Governmental Authority resolution, order, directive, guideline, policy, requirement, or other governmental restriction or any similar form of decision of or determination by, or any interpretation or adjudication having the force of law of any of the foregoing, by any concerned authority having jurisdiction over the matter in question.
- 1.5. **"Appointed Date"** for the purposes of this Scheme and Income Tax Act 1961 means 1st April 2024 or such other date as may be approved by Tribunal or such other competent authority as may be applicable.
- 1.6. **"Board of Directors" or "Board"** means the board of directors of the Transferor Company or the Transferee Company, as the case may be, and unless repugnant to the subject, context or meaning thereof, shall be deemed to include every committee (including committee of directors) or any person authorised by the board of directors or by any such committee;
- 1.7. **"Companies"** mean collectively, the Transferor Company and the Transferee Company;
- 1.8. **"Effective Date"** means the last of the dates on which certified copy of the order of the Tribunal, as the case may be, under Sections 230 to 232 of the Companies Act sanctioning the Scheme is filed with the jurisdictional Registrar of Companies. Any references in this Scheme to the date of "coming into effect of this Scheme" or "effectiveness of this Scheme" or "Scheme taking effect" shall mean the Effective Date.
- 1.9. **"Governmental Authority"** means: (a) any national, federal, provincial, state, city, municipal, county or local government, governmental authority or political subdivision thereof, (b) any agency or instrumentality of any of the authorities referred to in clause (a), (c) any non-governmental regulatory or administrative authority, body or other organization, to the extent that the rules, regulations, standards, requirements, procedures or orders of such authority, body or other organization have the force of law; or (d) any court or tribunal having jurisdiction and including, without limitation or prejudice to the generality of the foregoing, SEBI, the RBI, the NCLT and any Tax Authority;
- 1.10. **"IT Act"** means the Indian Income-tax Act, 1961 and shall include any statutory modifications, re-enactments amendments thereof for the time being in force;
- 1.11. **"Proceedings"** include any suit, appeal or any legal proceeding of whatsoever nature in any Court of law, or tribunal or any judicial or quasi-judicial body or any assessment proceeding before any authority under any law and also arbitration proceeding;
- 1.12. **"Registrar of Companies" or "ROC"** means the Registrar of Companies, Pune having jurisdiction over Transferor company and Transferee Company;

Signature valid

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Pandharinath Bhagwan Patil
Authorised Signatory

the Transferor Company and the Transferee Company and their respective shareholders as submitted to the Tribunal together with any modification(s) approved or directed by the Tribunal.

- 1.14. "Transferor Company" means 'Dana India Private Limited'. 267
- 1.15. "Transferee Company" means 'Graziano Trasmissioni India Private Limited'.
- 1.16. "Tribunal" or "NCLT" means the jurisdictional bench of the National Company Law Tribunal – Mumbai Bench;
- 1.17. "Undertaking" means the whole of the undertaking and entire business of the Transferor Company as a going concern, including (without limitation):

- a) All the assets and properties (whether movable or immovable, tangible or intangible, real or personal, corporeal or incorporeal, present, future or contingent) of the Transferor Company, including but not limited to, all manufacturing facilities including its assets and equipment, capital assets, all Vehicles, contingent rights and benefits, freehold and leasehold land, plant and machinery (including work in progress), equipment, buildings and structures, offices, residential and other premises, sundry debtors, furniture, fixtures, office equipment, appliances, accessories, depots, deposits, all stocks (including work in progress), investments of all kinds (including but not limited to shares, scrips, stocks, bonds, debenture stocks, units etc.), cash balances, bank balances, deposits, loans, advances, disbursements, contingent rights or benefits, book debts, receivables, actionable claims, insurance claims, all insurance policies, earnest moneys, advances or deposits paid by the Transferor Company, interests, financial assets, leases (including lease rights), hire purchase contracts and assets, lending contracts, rights and benefits under any and all Agreements, benefit of any security arrangements or under any guarantees, reversions, powers, municipal permissions, tenancies in relation to the office and/or residential properties for the employees or other persons, guest houses, godowns, warehouses, licenses, trade and service names and marks, patents, copyrights, know how, goodwill and any and all other intellectual property rights, trade secrets, business information, technical information, logos, title, ownership, inventions, reports, documents, templates, studies, specification, software programs, business methods, tools, dies, jigs, tool property, books and records, methodologies, concept, ideas, manufacturing process, raw data, records, database, designs, and all other confidential information of any nature whatsoever, rights to use and avail of telephones, telexes, facsimile, email, internet, leased line connections and installations, utilities, power lines, gas lines, computer hardware and software's, webspace, communication lines, stationary, electricity and other services, benefits of assets or properties or other interest held in all trusts, including and not limited to existing provident fund, gratuity fund, pension and/or superannuation fund and any other fund maintained for the employee benefits, registrations, contracts, engagements and arrangements of all kind, all other privileges, rights, title, interests and benefits (including tax benefits), refunds, advances, security deposits, reserves, provisions, funds, balance of brought forward losses and unabsorbed depreciation as per books of account and as per Income Tax Act, 1961, Input tax credit balance as per Central/Integrated/Respective State/Union territories Goods and Services Tax Act, 2017, advance income-tax payments, tax deducted at source ('TDS'), Value Added Tax credit as per respective State Sales Tax laws, CENVAT balance under the Central Excise Act, 1944/Finance Act, 1994, whether or not recorded or recognized, all other benefits/incentives/ exemptions/subsidies/credits under Income Tax laws (including right to admissibility of claim under section 43B / 40(a)/ 40(A)(7)/94B of the Income Tax Act, 1961 but not limited to claims under such provisions becoming admissible in the period after the Appointed Date on discharging liabilities pertaining to transferors, in the same manner and to the same extent as the Transferor Company would have been entitled to deduction but for amalgamation), Income Computation and Disclosure Standards (ICDS), Central/Integrated/Respective State/Union territories Goods and Services Tax Act, 2017 Central Excise laws, Service Tax laws, Customs law, Foreign Trade Policy or any other statutes or policy issued or promulgated by the Government of India, any state government or any other government body or authority (including but not limited to area based incentives under the state industrial policy, export incentive (including Remission of Duties and Taxes on Exported Products ('RoDTEP')), customs incentive, grant from package scheme of incentive and production link incentives from state and central government, NOCs, easements, privileges, special status, liberties, mortgages, hypothecations, pledges or other security interests) created in favour of the Transferor Company and advantages of whatsoever nature and wheresoever situated in India or abroad, belonging to or in the ownership, power or possession and in the control of or vested in or granted in favour of or enjoyed by the Transferor Company or in connection with or relating to the Transferor Company and all other interests of whatsoever nature belonging to or in the ownership, power, possession or the control of or vested in or granted in favour of or held for the benefit of or enjoyed by the Transferor Company, whether in India or abroad;

DANA INDIA PVT. LTD.

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AUTHORISED SIGNATORY

Graziano Trasmissioni India Pvt. Ltd.

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- b) All agreements, memorandum of understanding, rights, contracts, entitlements, Term Sheets and other instruments (including all tenancies, lease, and other assurance in favour of the Transferor Company or power or authorities granted by or to it) of whatever nature along with any contractual rights and obligations to which Transferor Company are parties, deeds, licenses, permits, permissions, certificates, clearance, credits, awards, sanctions, No objection certificates, memberships, franchises, undertakings, indemnities, service agreements, power of attorney's, insurance policies, incentives, approvals, registrations, permissions, tax credits, tax deferrals and benefits, subsidies, concessions, grants, rights, claims, leases, tenancy rights, liberties, special status and other benefits or privileges and claims as to any patents, trademarks, designs, quota rights, engagements, arrangements, authorities, allotments, security arrangements (to the extent provided herein), benefits of any guarantees, reversions, powers and all other approvals of every kind, nature and description whatsoever relating to the Transferor Company business activities and operations;
- c) Entitlements, including tenancy rights, held by the Transferor Company or which may accrue or become due to it as on the Appointed Date or may become so due or entitled to thereafter;
- d) All records, files, papers, computer programs, manuals, data, catalogues, sales and marketing material, lists of present and former customers and suppliers, other customer information and all other records and documents relating to the business activities and operations of the Transferor Company whether in physical or electronic form;
- e) Amounts claimed by the Transferor Company whether or not so recorded in the books of account of the Transferor Company from any Governmental Authority, under any law, act or rule in force, as refund of any tax, duty, cess or of any excess payment;
- f) Right to any claim, whether preferred or made by Transferor Company or not, in respect of any refund of tax, duty, cess or other charge, including any erroneous or excess payment thereof made by the Transferor Company and any interest thereon, with regard to any law, act or rule or Scheme made by the Governmental Authority and in respect of set-off, carry forward of unabsorbed depreciation and losses, deferred revenue expenditure, deduction, exemption, rebate, allowance, amortization benefit, etc. under the Income Tax Act, 1961 or taxation laws of other countries or any other or like benefits under the said acts or under and in accordance with any law or act, whether in India or anywhere outside India.
- g) All present, and contingent future liabilities including, without being limited to, secured and unsecured debts (whether in Indian rupees or foreign currency), loans including foreign loans, sundry creditors, liabilities (including contingent liabilities), borrowing, bills payable, bills receivable, postdated cheques or guarantees, letter of credit, letter of comfort, corporate guarantees, duties and obligations of the Transferor Company, of every kind, nature and description whatsoever and howsoever arising, raised or incurred or utilized;
- h) All staff, workmen, employees or other labour including contract basis of the Transferor Company including its benefit funds.

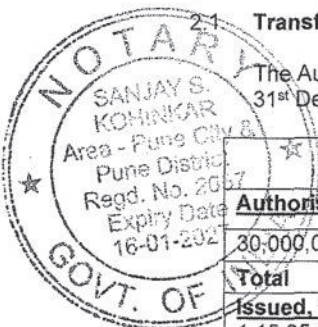
The expressions which are used in this Scheme and not defined in this Scheme shall, unless repugnant or contrary to the context or meaning hereof, have the same meanings ascribed to them under the Act and other applicable laws, rules, regulations, bye-laws, as the case may be, including any statutory modification or re-enactment thereof, from time to time.

2. Share Capital

Transferor Company :

The Authorised, Issued, subscribed and paid-up share capital of the Transferor Company as on 31st December 2023 is as under:

Share Capital	Amount in Rupees
Authorised Share Capital	
30,000,000 Equity shares of Rs.10/- each	30,00,00,000
Total	
Issued, Subscribed and Paid-up Share Capital	
1,15,25,984 Equity shares of Rs.10/- each, fully paid up	11,52,59,840
Total	11,52,59,840



Signature valid
AKHILESH KUMAR
KHANDEWAR
22.03.2024 12:56

ANANA INDIA PVT. LTD.
P. P. Patil
AUTHORISED SIGNATORY

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Graziano Trasmissioni India ANDHARINATH
BHAGWAN PATIL
Graziano
22.03.2024 13:07
Authorised Signatory

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Subsequent to the above date, there has been no change in the Authorised, Issued, Subscribed and Paid-up Share Capital of the Transferor Company up to the date of filing of the Scheme.

As on the date of approval of this Scheme by the Board of Directors, the entire Equity Share Capital of the Transferor Company is held by the Transferee Company along with its nominee. Accordingly, the Transferor Company is a wholly owned subsidiary of the Transferee Company.

There are no existing commitments, obligations or arrangements by the Transferor Company as on the date of approval of this Scheme by the Board of Directors to issue any further shares or convertible securities.

2.2. **Transferee Company:**

The Authorised, Issued, subscribed and paid-up share capital of the Transferee Company as on 31st December 2023 is as under:

Share Capital	Amount in Rupees
Authorised Share Capital	
-9,70,00,000 Equity Shares of Rs. 10/- each.	97,00,00,000
Total	97,00,00,000
Issued, Subscribed and Paid-up Share Capital	
36,11,87,940 Equity Shares of Rs. 10/- each, fully paid up	36,11,87,940
Total	36,11,87,940

Subsequent to the above date, there has been no change in the Authorised, Issued, Subscribed and Paid-up Share Capital of the Transferee Company up to the date of filing of the Scheme.

2.3. The equity shares of Transferor Company and Transferee Company are not listed on any stock exchange in India or abroad.

Further, there are no existing commitments, obligations or arrangements by the Transferor Company as on the date of sanction of this Scheme by the Board of Directors to issue any further shares or convertible securities.

3. **Date of taking effect and Operative Date**

The Scheme set out herein in its present form with or without any modification(s) approved or imposed or directed by the Tribunal or made as per the Scheme, shall be effective from the Appointed Date but shall be operative from Effective Date.

DANA INDIA PVT. LTD.
[Signature]
AUTHORISED SIGNATORY

Graziano Trasmissioni India Pvt. Ltd.
[Signature]
Authorised Signatory



Signature valid
AKHILESH KUMAR
KHANDELWA
22.03.2024 12:56

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BHAGWAN PAUL
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AMALGAMATION OF DANA INDIA PRIVATE LIMITED WITH GRAZIANO TRASMISSIONI INDIA PRIVATE LIMITED

4. Transfer of Undertaking

4.1 Upon the coming into effect of this Scheme and with effect from the Appointed Date, the Undertaking, pursuant to the sanction of this Scheme by the Tribunal under and in accordance with the provisions of Sections 230 to 232 and other applicable provisions, if any, of the Act, shall stand transferred to and be vested in or be deemed to have been transferred to and vested in the Transferee Company, as a going concern without any further act, instrument, deed, matter or thing to be made, done or executed so as to become, as and from the Appointed Date, the Undertaking of the Transferee Company by virtue of and in the manner provided in this Scheme.

5. Transfer of Assets:

5.1. Without prejudice to the generality of above provisions of clause no. 4.1, upon the coming into effect of this Scheme and with effect from the Appointed Date:

5.1.1. All the assets and properties comprised in the Undertaking of whatsoever nature and wheresoever situated, whether or not included in the books of the Transferor Company shall, under the provisions of Sections 230 to 232 and all other applicable provisions, if any, of the Act, without any further act or deed, be and stand transferred to and vested in the Transferee Company or be deemed to be transferred to and vested in the Transferee Company as a going concern so as to become the assets and properties of the Transferee Company.

5.1.2. With respect to such of the assets and properties of the Undertaking as are movable in nature or incorporeal property or are otherwise capable of transfer by manual delivery or by endorsement and/or delivery, the same shall be so transferred by the Transferor Company and shall, upon such transfer, become the assets and properties of the Transferee Company as an integral part of the Undertaking upon such delivery or endorsement, without requiring any separate deed or instrument or conveyance for the same.

5.1.3. In respect of movables other than those dealt with in Clause 5.1.2 above including sundry debts, receivables, bills, credits, loans and advances of the Undertaking, if any, whether recoverable in cash or in kind or for value to be received, bank balances, investments, earnest money and deposits with any Governmental Authority or with any company or other person, the same shall on and from the Appointed Date stand transferred to and vested in the Transferee Company.

5.1.4. All immovable properties (including land together with the buildings and structures standing thereon, leasehold right, licensed property, accretions and appurtenances, development right, TDR and FSI etc.) of the Undertaking, whether freehold or leasehold and all documents of title, rights and easements in relation thereto, will stand transferred to and be vested in Transferee Company, without any further act, instrument or deed and pursuant to the provisions of Sections 232 of the Act. For the purpose of giving effect to the vesting order passed under Section 232 of the Act in respect of the Scheme, the Transferee Company shall be entitled to exercise all the rights and privileges and be liable to pay all taxes and charges and fulfil all its obligations, in relation to or applicable to all such immovable properties, including mutation and/or substitution of the title to, or interest in the immovable properties which shall be made and duly recorded by the appropriate authority(ies) in favour of the Transferee Company pursuant to the sanction of the Scheme by the Tribunal and upon the effectiveness of this Scheme in accordance with the terms hereof without any further act or deed to be done or executed by the Transferor Company and/or the Transferee Company. It is clarified that the Transferee Company shall be entitled to engage in such correspondence and make such representations, as may be necessary for the purposes of the aforesaid mutation and/or substitution. Notwithstanding any provision to the contrary, from the Effective Date and until the owned properties, leasehold properties and related rights thereto, license/right to use the immovable property, tenancy rights, liberties and special status are transferred, vested, recorded, effected and/or perfected, in the record of the appropriate authority, in favour of the Transferee Company, the Transferee Company is deemed to be authorised to carry on the business in the name and style of the Transferor Company under the relevant agreement, deed, lease and/or license, as the case may be, and the Transferee Company shall keep a record and/or account of such transactions.

5.1.5. All patents, copyrights, designs, trademarks, service marks, know-how, technical know-how, trade names, descriptions, trading style, franchise, labels, label designs, colour schemes, utility models, holograms, bar codes, patents, copyrights, and other industrial or intellectual property rights of any nature whatsoever and licenses, privileges in respect thereof, of every kind, nature and description whatsoever of the Transferor Company or

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to which the Transferor Company is entitled or which may accrue to the Transferor Company shall, pursuant to the provisions of Section 230 read with Section 232 and other relevant provisions of the Act, read with the Rules therein and all other applicable provisions, without any further act, instrument or deed, be and stand transferred to and vested in and or be deemed to have been transferred to and vested in and be available to the Transferee Company so as to become as and from the Appointed Date, all the patents, copyrights, designs, trademarks, service marks, know-how, technical know-how, trade names, descriptions, trading style, franchise, labels, label designs, colour schemes, utility models, holograms, bar codes, patents, copyrights, and industrial or intellectual property rights, licenses and privileges of the Transferee Company and shall remain valid, effective and enforceable by the Transferee Company on the same terms and conditions.

5.1.6. All the licenses, permits, quotas, approvals, permissions, consents, registrations, leave and license agreement including security deposit, incentives, tax deferrals, tax credits (including but not limited to MAT credit, taxes withheld/ paid in foreign country, unutilized input tax credit under GST etc.), whether or not, recorded or recognized and benefits (including brought forward losses and unabsorbed depreciation, as per books and as per Income Tax Act, 1961), advance income-tax and TDS credit, subsidies, concessions, grants, rights, claims, leases, tenancy rights, liberties, special status and other benefits or privileges enjoyed or conferred upon or held or availed of by the Transferor Company and all rights and benefits that have accrued or which may accrue to the Transferor Company, whether before or after the Appointed Date, shall, under the provisions of Sections 230 to 232 and all other applicable provisions, if any, of the Act, without any further act, instrument or deed, cost or charge be and stand transferred to and vest in or be deemed to be transferred to and vested in and be available to the Transferee Company so as to become as and from the Appointed Date, licenses, permits, quotas, approvals, permissions, registrations, incentives, tax deferrals and benefits, subsidies, concessions, grants, rights, claims, leases, tenancy rights, liberties, special status and other benefits or privileges of the Transferee Company and shall remain valid, effective and enforceable on the same terms and conditions.

5.1.7. For avoidance of doubt and without prejudice to the generality of the applicable provisions of the Scheme, it is clarified that with effect from the Effective Date and till such time that the name of the any and all bank accounts of the Transferor Company have been replaced with that of the Transferee Company, the Transferee Company shall be entitled to operate all the bank accounts of the Transferor Company in the name of the Transferor Company in so far as may be necessary. All cheques and other negotiable instruments, payment orders received or presented for encashment which are in the name of the Transferor Company after the Effective Date shall be accepted by all the bankers of the Transferee Company and credited to the account of the Transferee Company, if presented by the Transferee Company. The Transferee Company shall be allowed to maintain bank accounts in the name of the Transferor Company for such time as may be determined to be necessary by the Transferee Company for presentation and deposition of cheques and pay orders that have been issued in the name of the Transferor Company. It is hereby expressly clarified that any legal proceedings by or against the Transferor Company in relation to the cheques and other negotiable instruments, payment orders received or presented for encashment which are in the name of the Transferor Company shall be instituted, or as the case maybe, continued by or against the Transferee Company after the coming into the effect of the scheme.

5.1.8. In so far as various incentives, subsidies, exemptions, Rehabilitation schemes, special status, service tax benefits, income tax holiday/benefit/losses and other benefits or exemptions or privileges enjoyed, granted by any Government body, regulatory authority, local authority or by any other person, or availed of by Transferor Company are concerned, the same shall, without any further act or deed, in so far as they relate to Undertaking, vest with and be available to Transferee Company on the same terms and conditions as if the same had been allotted and/or granted and/or sanctioned and/or allowed to Transferee Company.

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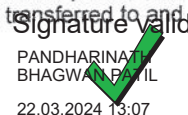
5.1.9. The Transferor Company shall, if so required, also give notice in such form as it may deem fit and proper to the debtors, that pursuant to the sanction of this Scheme by the Tribunal under and in accordance with Sections 230 to 232 and all other applicable provisions, if any, of the Act, the said debtors should pay to the Transferee Company the debt, loan or advance including capital advance on account of the Transferor Company and the right of the Transferor Company to recover or realize the same stands transferred to the Transferee Company.

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5.1.10. All assets and undertaking whether or not included in the books of the Transferor Company, and/ or which are acquired and owned by the Transferor Company on or after the Appointed Date but prior to the Effective Date, shall be deemed to be and shall become the assets and properties of the Transferee Company, and shall under the provisions of Sections 230 to 232 and all other applicable provisions, if any, of the Act, without any further act, instrument or deed or making any disclosure on the product, be and stand transferred to and vested in and be deemed to have been transferred to and



vested in the Transferee Company upon the coming into effect of this Scheme. Provided however that no onerous assets shall have been acquired by the Transferor Company after the Appointed Date without the consent of the Transferee Company as provided for in this Scheme.

5.1.11. Without prejudice to what is stated in Clauses 5.1.1 to 5.1.10 above, Transferor Company and Transferee Company shall execute such documents/instruments or do all such acts and deeds including filing of necessary particulars and/or modification of charge with the concerned ROC to give formal effect to the above Clauses, if required.

5.1.12. On and from the Effective Date, and thereafter, the Transferee Company shall be entitled to operate all bank accounts of the Transferor Company and realize all monies and complete and enforce all pending contracts and transactions and to accept stock returns and issue credit notes in respect of the Transferor Company in the name of the Transferor Company in so far as may be necessary until the transfer of rights and obligations of the Transferor Company to the Transferee Company under this Scheme have been formally given effect to under such contracts and transactions. 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 all the bankers of the Transferee Company and credited to the account of the Transferee Company, if presented by the Transferee Company. The Transferee Company shall be allowed to maintain bank accounts in the name of the Transferor Company for such time as may be determined to be necessary by the Transferee Company for presentation and deposition of cheques and pay orders that have been issued in the name of the Transferor Company. It is hereby expressly clarified that any legal proceedings by or against the Transferor Company in relation to the cheques and other negotiable instruments, payment orders received or presented for encashment which are in the name of Transferor Company shall be instituted, or as the case maybe, continued by or against the Transferee Company after the coming into the effect of the scheme.

6. **Transfer of Liabilities:**

Upon the coming into effect of this Scheme and with effect from the Appointed Date:

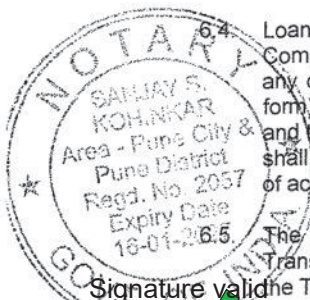
6.1. All liabilities relating to and comprised in the Undertaking including all secured and unsecured debts (whether in Indian rupees or foreign currency), loans raised and used, sundry creditors, liabilities (including contingent liabilities), duties and obligations and undertakings of the Transferor Company of every kind (including all obligations, as may have been undertaken by the Transferor Company, nature and description whatsoever and howsoever arising, raised or incurred or utilized for its business activities and operations (herein referred to as the "Liabilities"), shall, pursuant to the sanction of this Scheme by the Tribunal under and in accordance with the provisions of Sections 230 to 232 and other applicable provisions, if any, of the Act, without any further act, instrument, deed, matter or thing, be transferred to and vested in or be deemed to have been transferred to and vested in the Transferee Company, along with any charge, encumbrance, lien or security thereon, and the same shall be assumed by the Transferee Company to the extent they are outstanding as on the Effective Date so as to become as and from the Appointed Date the liabilities of the Transferee Company on the same terms and conditions as were applicable to the Transferor Company, and the Transferee Company shall meet, discharge and satisfy the same and further it shall not be necessary to obtain the consent of any third party or other person who is a party to any contract or arrangement by virtue of which such Liabilities have arisen in order to give effect to the provisions of this Clause.

6.2. All debts, liabilities, duties and obligations of the Undertaking as on the Appointed Date, whether or not provided in the books of the Transferor Company, and all debts and loans raised, and duties, liabilities and obligations incurred or which arise or accrue to the Undertaking on or after the Appointed Date till the Effective Date, shall be deemed to be and shall become the debts, loans raised, duties, liabilities and obligations incurred by the Transferee Company by virtue of this Scheme.

6.3. Where any such debts, loans raised, liabilities, duties and obligations of the Undertaking as on the Appointed Date have been discharged or satisfied by the Transferor Company after the Appointed Date and prior to the Effective Date, such discharge or satisfaction shall be deemed to be for and on account of the Transferee Company.

6.4. Loans, advances, Bank sanctioned credit limits approved and available to the Transferor Company and other obligations (including any guarantees, letters of credit, letters of comfort or any other instrument or arrangement which may give rise to a contingent liability in whatever form), if any, due or which may at any time in the future become due between the Undertaking and the Transferee Company shall, ipso facto, stand discharged and come to an end and there shall be no liability in that behalf on any party and appropriate effect shall be given in the books of accounts and records of the Transferee Company.

The Scheme does not affect the rights of the Creditors of the Transferor Company and the Transferee Company. The Creditors of the Transferor Company shall become the Creditors of the Transferee Company. There will not be reduction in amounts payable to the Creditors of the



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Transferor Company and the Transferee Company post sanctioning of the scheme.

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7. **Transfer of Profits/Losses to Reserves**

With effect from the Appointed Date, all profits (including losses), reserves, income accruing to or losses and expenditure, if any (including payment of penalty, damages or costs of litigation) arising to or incurred by the Undertaking of the Transferor Company shall for all purposes, be treated as the profits or reserves or income or losses or expenditure, as the case may be of the Transferee Company.

8. **Encumbrances**

8.1. The transfer and vesting of the assets comprised in the Undertaking to and in the Transferee Company under Clause 5.1 of this Scheme shall be subject to the mortgages and charges, if any, affecting the same, as and to the extent hereinafter provided.

8.2. All the existing securities, mortgages, charges, encumbrances or liens (the "Encumbrances"), if any, as on the Appointed Date and created by the Transferor Company after the Appointed Date, over the assets or properties comprised in the Undertaking or any part thereof transferred to the Transferee Company by virtue of this Scheme and in so far as such Encumbrances secure or relate to liabilities of the Transferor Company, the same shall, after the Effective Date, continue to relate and attach to such assets or any part thereof to which they are related or attached prior to the Effective Date and as are transferred to the Transferee Company, and such Encumbrances shall not relate or attach to any of the other assets of the Transferee Company, provided however that no Encumbrances shall have been created by the Transferor Company over its assets after the Appointed Date without the consent of the Transferee Company as provided for in this Scheme.

8.3. The existing Encumbrances over the assets and properties of the Transferee Company or any part thereof which relate to the liabilities and obligations of the Transferee Company prior to the Effective Date shall continue to relate only to such assets and properties and shall not extend or attach to any of the assets and properties of the Undertaking transferred to and vested in the Transferee Company by virtue of this Scheme.

8.4. Any reference in any security documents or arrangements (to which the Transferor Company is a party) to the Transferor Company and its assets and properties, shall be construed as a reference to the Transferee Company and the assets and properties of the Transferor Company transferred to the Transferee Company by virtue of this Scheme. Without prejudice to the foregoing provisions, the Transferor Company and the Transferee Company may execute any instruments or documents or do all the acts and deeds as may be considered appropriate, including the filing of necessary particulars and/or modification(s) of charge(s), with the Registrar of Companies to give formal effect to the above provisions, if required.

8.5. Upon the coming into effect of this Scheme, the Transferee Company alone shall be liable to perform all obligations in respect of the Liabilities, which have been transferred to it in terms of the Scheme.

8.6. It is expressly provided that, no other term or condition of the Liabilities transferred to the Transferee Company is modified by virtue of this Scheme except to the extent that such amendment is required statutorily or by necessary implication.

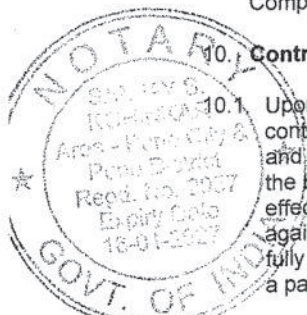
8.7. The provisions of this Clause 8 shall operate in accordance with the terms of the Scheme, notwithstanding anything to the contrary contained in any instrument, deed or writing or the terms of sanction or issue or any security document; all of which instruments, deeds or writings shall be deemed to stand modified and/or superseded by the foregoing provisions.

9. **Inter - se Transactions**

Without prejudice to the provisions of clause 4 to 8 of this Scheme, with effect from the Appointed Date, all inter-party transactions subsisting as on the Effective date or undertaken between Appointed Date and Effective date, between the Transferor Company and the Transferee Company shall be considered as intra-party transactions for all purposes.

10. **Contracts, Deeds etc.**

10.1. Upon the coming into effect of this Scheme and subject to the provisions of this Scheme, all contracts, deeds, bonds, agreements, schemes, arrangements, memorandum of understanding, and other instruments of whatsoever nature to which the Transferor Company is a party or to the benefit of which the Transferor Company may be eligible, and which are subsisting or have effect immediately before the Effective Date, shall continue in full force and effect by, for or against or in favour of, as the case may be, the Transferee Company and may be enforced as fully and effectually as if, instead of the Transferor Company, the Transferee Company had been a party or beneficiary or obligee or obligor thereto or thereunder.



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of the Undertaking occurs by virtue of this Scheme itself, the Transferee Company may, at any time after the coming into effect of this Scheme and in accordance with the provisions hereof, if so required under any law or otherwise, take such actions and execute such deeds (including deeds of adherence), confirmations or other writings or arrangements with any party to any contract or arrangement to which the Transferor Company is a party or any writings as may be necessary in order to give formal effect to the provisions of this Scheme. The Transferee Company shall, under the provisions of this Scheme, be deemed to be authorised to execute any such writings on behalf of the Transferor Company and to carry out or perform all such formalities or compliances referred to above on the part of the Transferor Company.

10.3. For avoidance of doubt and without prejudice to the generality of the foregoing, it is clarified that upon the coming into effect of this Scheme, all consents, permissions, licenses, certificates, clearances, authorities, powers of attorney, letter of authority given by, issued to or executed in favour of the Transferor Company shall without any further act or deed, stand transferred to 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 thereof, the obligations and duties thereunder, and the rights and benefits under the same shall be available to the Transferee Company. The Transferee Company shall receive relevant approvals from the concerned Governmental Authorities as may be necessary in this behalf.

11. Legal, Taxation and Other Proceedings

On and from the Appointed Date, all suits, actions, claims, legal, taxation and other proceedings by or against the Transferor Company pending and/or arising on or before the Effective Date shall be continued and / or enforced by or against the Transferee Company as effectually and in the same manner and to the same extent as if the same had been originally instituted and/or pending and/or arising by or against the Transferee Company. On and from the Effective Date, the Transferee Company shall have the right to initiate, defend, compromise or otherwise deal with any legal, taxation and other proceedings relating to the Undertaking, in the same manner and to the same extent as would or might have been initiated by the Transferor Company as the case may be, had the Scheme not been made. If any suit, appeal or other proceedings relating to the Undertaking, of whatever nature by or against the Transferor Company be pending, the same shall not abate or be discontinued or in any way be prejudicially affected by reason of the amalgamation of the Undertaking or by anything contained in this Scheme but the proceedings 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.

The Transferee company shall have all legal, taxation or other proceedings initiated by or against the Transferor Company refer above transferred to its name as soon as reasonably possible after the Effective Date and to have the same continue, prosecuted and enforced by or against the Transferee Company, as successor of the Transferor Company.

12. Conduct of Business

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

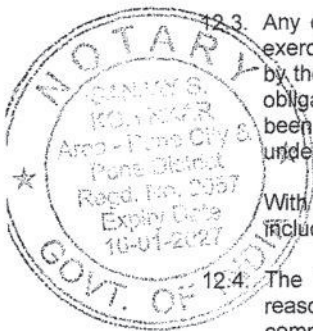
12.1. The Transferor Company shall carry on and shall be deemed to have carried on all its business and activities as hitherto and shall hold and stand possessed of and shall be deemed to have held and stood possessed of, the Undertaking on account of, and for the benefit of and in trust for, the Transferee Company.

12.2. All the profits or income accruing or arising to the Transferor Company, and all expenditure or losses arising or incurred (including all taxes, if any, paid or accruing in respect of any profits and income) by the Transferor Company shall, for all purposes, be treated and be deemed to be and accrue as the profits or income or as the case may be, expenditure or losses (including taxes) of the Transferee Company.

12.3. Any of the rights, powers, authorities and privileges attached or related or pertaining to and exercised by or available to the Transferor Company shall be deemed to have been exercised by the Transferor Company for and on behalf of the Transferee Company. Similarly, any of the obligations, duties and commitments attached, related or pertaining to the Undertaking that have been undertaken or discharged by the Transferor Company shall be deemed to have been undertaken or discharged for and on behalf of the Transferee Company.

With effect from the first of the date of filing of this Scheme with the Tribunal and up to and including the Effective Date:

12.4. The Transferor Company shall preserve and carry on their business and activities with reasonable diligence and business prudence and shall not undertake any additional financial commitments of any nature whatsoever, borrow any amounts nor incur any other liabilities or expenditure, issue any additional guarantees, indemnities, letters of comfort or commitments either for itself or on behalf of its group companies or any third party or sell, transfer, alienate, charge, mortgage or encumber or deal with the Undertaking or any part thereof save and except



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in each case in the following circumstances:

- a) if the same is in its ordinary course of business as carried on by it as on the date of filing this Scheme with the Tribunal; or
 - b) if the same is permitted by this Scheme; or
 - c) if consent of the Board of Directors of the Transferee Company has been obtained.
- 12.5. The Transferor Company shall not take, enter into, perform or undertake, as applicable (i) any material decision in relation to its business and operations or dispose off any of the business undertaking or any part thereof (ii) any agreement or transaction; and (iii) such other matters as the Transferee Company may notify from time to time save and except in each case in the following circumstances:
- a) if the same is in its ordinary course of business as carried on by it as on the date of filing this Scheme with the Tribunal; or
 - b) if the same is permitted by this Scheme; or
 - c) if consent of the Board of Directors of the Transferee Company has been obtained.
- 12.6. Without prejudice to the generality of Clause 12.5 above, the Transferor Company shall not make any change in its capital structure, whether by way of increase (by issue of equity shares on a rights basis, bonus shares) decrease, reduction, reclassification, sub-division or consolidation, re-organization, or in any other manner which may, in any way, affect the operation of the Scheme except under any of the following circumstances:
- a) by mutual consent of the Board of Directors of the Transferor Company and of the Transferee Company; or
 - b) as may be permitted under this Scheme.
- 12.7. The transferor company shall not, without the prior written consent of the transferee company, undertake any business.
- 12.8. The transferor company shall not be entitled, pending the sanctions of the scheme, to apply to the government authority, as are necessary for such consent, approvals and sanctions which the transferee company may require.

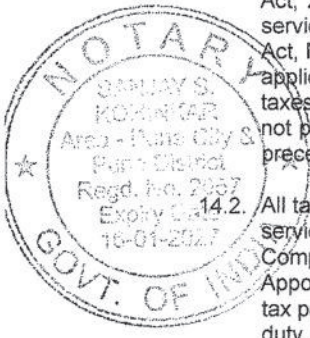
13. Applicability of provisions Income Tax Act, 1961

The provisions of this Scheme as they relate to the Amalgamation of Transferor Company with Transferee Company has been drawn up to comply with the conditions relating to 'Amalgamation' as defined under Section 2(1B) of the Income-tax Act, 1961. If any terms or provisions of the Scheme are found or interpreted to be inconsistent with the provisions of the said Section of the Income-tax Act, 1961, at a later date including resulting from an amendment of law or for any other reason whatsoever, the provisions of the said Section of the Income-tax Act, 1961, shall prevail and the Scheme shall stand modified to the extent determined necessary to comply with Section 2(1B) of the Income-tax Act, 1961. Such modification will, however, not affect the other parts of the Scheme.

14. Treatment of Taxes

14.1. Any tax liabilities, interest, late fees, cess, etc. including but not limited to, under the Income Tax Act, 1961, , Central Goods and Services Tax (GST) Act, 2017 / Integrated GST Act, 2017 / Respective State GST Act, 2017 / Union territories GST Act, 2017 / GST (Compensation to States) Act, 2017, Customs Act, 1962, Central Excise Act, 1944, Maharashtra Value Added Tax Act, 2002, Central Sales Tax Act, 1956, any other state Sales Tax / Value Added Tax laws, service tax, stamp laws, Maharashtra Municipal Property Tax Act, Bombay Motor Vehicle Tax Act, Maharashtra State tax on Professions, trades, callings and Employment Act, 1975 or other applicable laws/ regulations (hereinafter in this Clause referred to as "Tax Laws") dealing with taxes/ duties/ levies allocable or related to the business of the Transferor Company to the extent not provided for or covered by tax provision in the accounts made as on the date immediately preceding the Appointed Date shall be transferred to Transferee Company.

14.2. All taxes (including income tax, Goods and Services Tax, sales tax, excise duty, customs duty, service tax, VAT, etc.) cess, interest, penalty, fees etc paid or payable by the Transferor Company in respect of the operations and/or the profits of the business on and from the Appointed Date, shall be on account of the Transferee Company and, insofar as it relates to the tax payment (including without limitation income tax, Goods and Services Tax, sales tax, excise duty, customs duty, service tax, VAT, etc.), whether by way of deduction at source, advance tax or otherwise howsoever, by the Transferor Company in respect of the profits or activities or operation of the business on and from the Appointed Date, the same shall be deemed to be the corresponding item paid by the Transferee Company, and shall, in all proceedings, be dealt with



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- 14.3. Any refund, set-off, credits, benefits under the Tax Laws due to Transferor Company consequent to the assessments made on Transferor Company and for which no credit, set-off, benefit has been taken in the accounts as on the date immediately preceding the Appointed Date shall also belong to and be received by the Transferee Company.
- 14.4. Notwithstanding anything to the contrary contained in the provisions of this Scheme, subject to provisions of the Income Tax Act, 1961, the Transferee Company shall be entitled to carry forward, avail of, claim or set-off any unabsorbed tax losses, tax depreciation, credits (including but not limited to MAT credit, taxes deducted/ paid in foreign country etc), any balance in the taxation/duties/levies account including advance income tax and Tax Deducted at Source ("TDS") of the Transferor Company, whether or not recorded or recognized, that remain unutilized as on the Appointed Date and Input Tax Credits of the Transferor Company that remain unutilized as on Effective Date. Further, the brought forward losses and unabsorbed depreciation as per books of accounts / records of Transferor Company as on Appointed Date would be deemed to be brought forward losses and unabsorbed depreciation as per books of accounts of the Transferee Company.
- 14.5. Without prejudice to the generality of the above, all exemptions, deductions, benefits, refunds, entitlements, incentives, duty credit scrips, fulfilled and any pending obligations under Foreign Trade Policy and credits under the income tax, goods and services tax (including unutilized input tax credit under GST etc.), sales tax, excise duty, customs duty, service tax, luxury tax, VAT, etc., to which the Transferor Company are/ would be entitled to in terms of the applicable Tax Laws of the Union and State Governments, shall be available to and vest in the Transferee Company.
- 14.6. Since each of the permissions, approvals, consents, sanctions, remissions, special reservations, service-tax exemptions, export promotion of capital goods license, duty credit scrips and other licenses obtained under Foreign Trade Policy, incentives, concessions and other authorizations of the Transferor Company shall stand transferred by the order of the Tribunal to the Transferee Company, the Transferee Company shall file the relevant intimations, for the record of the statutory authorities who shall take them on file, pursuant to the vesting orders of the sanctioning Tribunal.
- 14.7. Upon the Scheme becoming effective, subject to applicable laws, the Transferee Company is expressly permitted to revise or amend the returns along with prescribed forms, filings and annexures of the Transferor Company under the Income Tax Act, 1961 (including for minimum alternate tax purposes and tax benefits), Central/ respective State/ Union Territory/ Compensation Cess Goods and Services Tax Act, 2017, service tax law and other tax laws, and to claim refunds and/or credits for taxes paid (including minimum alternate tax, Goods and Service Tax, etc), and to claim tax benefits of the Income Tax Act, 1961 etc. and for matters incidental thereto, if required, to give effect to the provisions of the Scheme and in accordance with the relevant provisions.
- 14.8. In accordance with the Central/Integrated/Respective State/Union territories/ Compensation Cess Goods and Services Tax Act, 2017 provisions, as are prevalent on the Effective Date, the unutilized input tax credits lying in the accounts of the Undertaking of the Transferor Company shall be permitted to be transferred to the credit of the Transferee Company, as if all such unutilized credits were lying to the account of the Transferee Company. The Transferee Company shall accordingly be entitled to set off all such unutilized credits against the GST payable by it. Where the unutilized input GST credits cannot be transferred on account of the specific provisions of the Central/Integrated/Respective State/Union territories Goods and Services Tax Act, 2017, the Transferee Company shall be entitled to claim the same as refund from the State/Central Government.
- 14.9. Bank guarantees if any provided by Transferor Company to the Income-tax Authorities or any other government authorities shall be transferred to and vest in the Transferee Company.
- 14.10. All tax assessment proceedings/ appeals of whatsoever nature by or against the Transferor Company pending and/or arising at the Appointed Date and relating to the Transferor Company (including any other company merged into Transferor in the past) shall be continued and/or enforced until the Effective Date by or against the Transferor Company. As and from the Effective Date, the tax proceedings shall be continued and enforced by or against the Transferee Company in the same manner and to the same extent as would or might have been continued and enforced by or against the Transferor Company. Further, the aforementioned proceedings shall not abate or be discontinued nor be in any way prejudicially affected by reason of the amalgamation of the Transferor Company with the Transferee Company or anything contained in the Scheme. The sanction of the Scheme by the Hon'ble National Company Law Tribunal shall not be taken to adversely affect the rights or interests of the Income Tax Department.



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15. Employees

Upon the coming into effect of this Scheme:

- 15.1. All employees who are in the employment of the Transferor Company as on the Effective Date shall become employees of the Transferee Company without any break or interruption in service and on terms and conditions as to employment and remuneration not less favorable than those on which they are engaged or employed by the Transferor Company. The Transferee Company undertakes to continue to abide by any agreement/ settlement, if any, validly entered into by the Transferor Company with any union/employee of the Transferor Company (as may be recognized by the Transferor Company). After the Effective Date, the Transferee Company shall be entitled to vary the terms and conditions as to employment and remuneration of the employees of the Transferor Company on the same basis as it may do for the employees of the Transferee Company.
- 15.2. The existing provident fund, gratuity fund (accumulated from the date of employment maintained by the Transferor Company) and pension and/or superannuation fund or trusts or retirement funds or benefits created by the Transferor Company or any other special funds created or existing for the benefit of the concerned permanent employees of the Transferor Company (collectively referred to as the "Funds") and the investments made out of such Funds shall, at an appropriate stage, be transferred to the Transferee Company to be held for the benefit of the concerned employees. The Funds shall, subject to the necessary approvals and permission and at the discretion of the Transferee Company, either be continued as separate funds of the Transferee Company for the benefit of the employees of the Transferor Company or be transferred to and merged with other similar funds of the Transferee Company. In the event that the Transferee Company does not have its own fund with respect to any such Funds, the Transferee Company may, subject to necessary approvals and permissions, continue to maintain the existing Funds separately and contribute thereto in respect of covered employees of the Transferor Company and in case the Transferee Company creates its own funds, then the Funds and the investments and contributions pertaining to the employees of the Transferor Company shall be transferred to such funds of the Transferee Company. Pending the transfer of the Funds to Transferee Company, Transferor Company employee benefit Fund would continue to be deposited in the existing employee benefit Fund of the Transferor Company. It is clarified that upon such transfer of the Funds to the respective Funds of Transferee Company, the existing Trust created for the Funds by Transferor Company shall stand dissolved.
- 15.3. It is clarified that with regard to such employees of the Transferor Company who have ceased to be the employees of the Transferor Company, if any, on account of reasons other than any disciplinary action that may have been taken against such employees by the Transferor Company, from the Appointed Date, the Transferee Company shall assume all the responsibilities and obligations of the Transferor Company towards such employees until the said responsibilities and obligations stand duly discharged in law.

16. Saving of concluded transactions

Subject to the terms of this Scheme, the transfer and vesting of the Undertaking of the Transferor Company under Clause 4 of this Scheme shall not affect any transactions or proceedings already concluded by the Transferor Company on or before the Appointed Date or concluded after the Appointed Date till the Effective Date, to the end and intent that the Transferee Company accepts and adopts all acts, deeds and things made, done and executed by the Transferor Company as acts, deeds and things made, done and executed by or on behalf of the Transferee Company.

17. Cancellation of share capital of transferor company

The Transferor Company is a wholly owned subsidiary of the Transferee Company. Accordingly, upon the Scheme becoming effective, no shares of the Transferee Company shall be allotted in lieu or exchange of the holding of the Transferee Company in the Transferor Company and the issued and paid-up capital of the Transferor Company shall stand cancelled on the Effective Date without any further act, instrument or deed.

Graziano Trasmissioni India Pvt. Ltd.

DANA INDIA PVT. LTD.

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Arun Kumar
Authorised Signatory

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PART III

ACCOUNTING TREATMENT FOR THE AMALGAMATION IN THE BOOKS OF TRANSFEREE COMPANY

- 18. Notwithstanding anything to the contrary contained herein, the Transferee Company shall give effect to the amalgamation of the Transferor Company in its books of account as per "Pooling of Interest Method" in accordance with Appendix C (Business combinations of entities under common control) of Ind AS 103- Business Combinations as notified under section 133 of Companies Act, 2013 read with the relevant rules issued thereunder and other generally accepted accounting principles in India.
- 18.1 Investment, in the equity share capital of the Transferor Company, as appearing in the books of account of the Transferee Company, shall stand cancelled and there shall be no further obligation / outstanding in that behalf.
- 18.2 The difference, if any, between the amount of the investments in the equity share capital of the Transferor Company cancelled as mentioned in clause 18.1 above and the amount of share capital of the Transferor Company, shall be adjusted against capital reserve of the Transferee Company.
- 18.3 All the assets and liabilities of the Transferor Company shall be transferred and vested in the books of the Transferee Company pursuant to this Scheme and shall be recorded by the Transferee Company at their respective book values appearing in the books of the Transferor Company.
- 18.4 The inter-company receivables, payables, investments, deposits, loans, advances, balances, guarantee or any other balances outstanding in the books of account, between the Transferee Company and the Transferor Company will stand cancelled and there shall be no further rights or obligation in that behalf
- 18.5 The identity of the reserves of the Transferor Company shall be preserved and they shall appear in the financial statements of the Transferee Company in the same form and manner, in which they appeared in the financial statements of the Transferor Company, prior to this Scheme becoming effective.
- 18.6 In case of any differences in accounting policies between Transferor Company and Transferee Company, the accounting policies followed by the Transferee Company shall prevail to ensure that the financial statements of the Transferee Company shall reflect the financial position based on consistent accounting policies.

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PART IV
DISSOLUTION OF THE TRANSFEROR COMPANY AND GENERAL TERMS AND CONDITIONS
APPLICABLE TO THIS SCHEME OF AMALGAMATION AND OTHER MATTERS
CONSEQUENTIAL AND INTEGRALLY CONNECTED THERETO

19. Dissolution of Transferor Company

On the coming into effect of this Scheme, the Transferor Company shall stand dissolved without being wound up. On and with effect from the Effective Date, the name of the Transferor Company shall be struck off from the records of the Registrar of Companies.

20. Declaration of dividend

During the period between the Appointed Date and up to and including the Effective Date, the Transferor Company shall not utilize the profits, if any, for declaring any dividend without the prior written consent of the Board of Directors of the Transferee Company. For the avoidance of doubt, it is hereby declared that nothing in the Scheme shall prevent the Transferee Company from declaring and paying dividends, whether interim or final, to its equity shareholders during the period between the Appointed Date and up to and including the Effective Date. Further, the shareholders of the Transferor Company shall not be entitled to dividend, if any, declared by the Transferee Company prior to the Effective Date.

21. Validity of existing resolutions, etc.

Upon the coming into effect of this Scheme, the resolutions, power of attorney, letter of authority, if any, of the Transferor Company, which are valid and subsisting on the Effective Date, shall continue to be valid and subsisting and be considered as resolutions, power of attorney, letter of authority of the Transferee Company and if any such resolutions, power of attorney, letter of authority have any monetary limits approved under the provisions of the Act, or any other applicable statutory provisions, then the said limits shall be added to the limits, if any, under like resolutions, power of attorney, letter of authority passed/issued by the Transferee Company and shall constitute the aggregate of the said limits in the Transferee Company.

22. Modification of Scheme

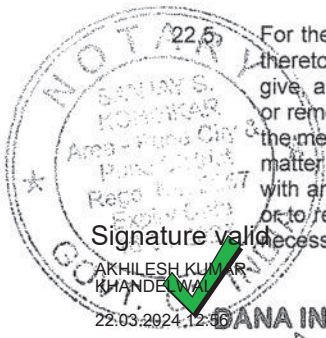
22.1. Subject to the approval of the Tribunal, The Transferor Company and the Transferee Company (acting through their respective Boards of Directors) may assent to, or make, from time to time, any modification(s) or addition(s) to this Scheme (including withdrawal of Scheme), which the NCLT and/or any other authorities may deem fit to direct or impose or which may otherwise be considered necessary or desirable for settling any question or doubt or difficulty that may arise for implementing and/or carrying out this Scheme. The Transferor Company and the Transferee Company (acting through its respective Boards of Directors) be and is hereby authorized to take such steps and do all acts, deeds and things as may be necessary, desirable or proper to give effect to this Scheme and to resolve any doubts, difficulties or questions, any typographical error whether by reason of any order of the NCLT or of any directive or order of any other authorities or otherwise howsoever arising out of, under or by virtue of this Scheme and/or any matters concerning or connected therewith.

22.2. The Board of Directors of the Transferor Company and the Transferee Company shall be entitled, in a mutually agreeable manner, to revoke, cancel and declare the Scheme of no effect if they are of view that the coming into effect of the Scheme could have adverse implications on Transferor Company and/or Transferee Company.

22.3. In the event of any of the conditions that may be imposed by the NCLT or other authorities which the Transferor Company and the Transferee Company may find unacceptable for any reason, then the Transferor Company and/or Transferee Company are at liberty to withdraw the Scheme in accordance with the procedures prescribed to do so.

22.4. If any issue arises as whether any asset, liability pertains to the Transferor Company and/or the Transferee Company, or not under this Scheme, the same shall be decided by the Board of Directors of the Transferor Company and/or Transferee Company, as relevant, on the basis of relevant books of account and other evidence that they may deem relevant for said purposes.

For the purpose of giving effect to this Scheme or to any modification(s) thereof or addition(s) thereto, the Delegates (acting jointly) of the Transferor Company and Transferee Company may give, and are authorised to determine and give, all such directions as are necessary for settling or removing any question of doubt or difficulty that may arise under this Scheme or in regard to the meaning or interpretation of any provision of this Scheme or implementation thereof or in any matter whatsoever connected therewith (including any question or difficulty arising in connection with any deceased or insolvent shareholders or depositors, if any, of the Transferor Company) or to review the position relating to the satisfaction of various conditions of this Scheme and if necessary, to waive any such conditions (to the extent permissible in



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determination or directions or waiver, as the case may be, shall be binding on all parties, in the same manner as if the same were specifically incorporated in this Scheme. For the avoidance of doubt, it is clarified that where this Scheme requires the approval of the Board of Directors of the Transferor Company or the Transferee Company to be obtained for any matter, the same may be given through their Delegates.

23. Filing of applications

The Transferor Company and the Transferee Company shall use their best efforts to make and file joint applications and petitions under Sections 230 to 232 and other applicable provisions of the Act, before the Tribunal having jurisdiction for sanction of this Scheme under the provisions of law and shall apply for such approvals as may be required under law.

24. Approvals

The Transferee Company shall be entitled, pending the sanction of the Scheme, to apply to any Governmental Authority, if required, under any law for such consents and approvals which the Transferee Company may require to own the Undertaking and to carry on the business of the Transferor Company.

25. Scheme conditional on approval/sanctions

25.1. This Scheme is conditional upon and subject to:

- a) The sanction of the Hon'ble Tribunal under Sections 230 to 232 of the Companies Act, in favour of the Transferor Company and the Transferee Company and to the necessary Order or Orders under the Companies Act, being obtained;
- b) The certified copies of the orders of the Tribunal sanctioning this Scheme being filed with the Registrar of Companies;

25.2. The provisions contained in this Scheme are inextricably inter-linked with the other provisions and the Scheme constitutes an integral whole. The Scheme would be given effect in the same order as mentioned in this Scheme. Further, the Scheme would be given effect to only if is approved in its entirety unless specifically agreed otherwise by the Board of the Parties.

26. Effect of non-receipt of approvals/sanctions

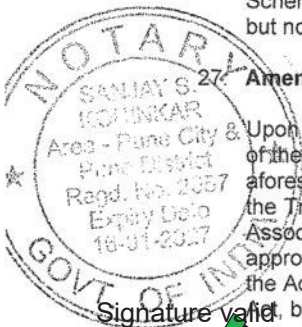
In the event that the Scheme is not sanctioned by the NCLT or in the event any of consents, approvals, permissions, resolutions, agreements, sanctions or conditions enumerated in the Scheme are not obtained or complied with or for any other reason, the Scheme cannot be implemented, the Scheme shall become null and void, stand revoked, cancelled and be of no effect.

The Board of Directors of the Transferor Company and the Transferee Company shall be entitled to revoke, cancel and declare the Scheme of no effect if the Board of Directors are of the view that the coming into effect of the Scheme could have adverse implications on the Transferor Company and/ or the Transferee Company.

In the event of revocation under the clauses above, no rights and liabilities whatsoever shall accrue to or be incurred inter se to the Transferor Company and the Transferee Company or their respective shareholders or creditors or employees or any other person save and except in respect of any act or deed done prior thereto as is contemplated hereunder or as to any right, liability or obligation which has arisen or accrued pursuant thereto and which shall be governed and be preserved or worked out as is specifically provided in the Scheme or in accordance with the applicable law and in such case, each company shall bear its own costs unless otherwise mutually agreed. If any part of this Scheme hereof is invalid, ruled illegal by any Court of competent jurisdiction, or unenforceable under present or future laws, then it is the intention of the parties that such part shall be severable from the remainder of the Scheme, and the Scheme shall not be affected thereby, unless the deletion of such part shall cause this Scheme to become materially adverse to any party, in which case the parties shall attempt to bring about a modification in the Scheme, as will best preserve for the parties the benefits and obligations of the Scheme, including but not limited to such part.

Amendment to object clause of Memorandum of Association of Transferee Company

Upon the scheme becoming effective, the Transferee Company will continue to run the business of the Transferor Company on the same lines as carried on by the Transferor Company. For the aforesaid purpose and as integral part of scheme, upon the scheme becoming effective, to enable the Transferee Company to carry on the business of Transferor Company, the Memorandum of Association of the Transferee Company shall stand altered and amended without any separate approval from the shareholders of the Transferee Company pursuant the applicable provisions of the Act or without any further act or deed, or without following the procedure laid down under the Act, by way of insertion of the following clause after main object clause 6 in the existing



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7. To design, manufacture, assemble, contract for buy, sell, hire, export, import, distribute and deal in and with whether as principals or agents or other wise of automotive components and in particular all types of Axles, Transfer cases and Components thereof for automotive applications whether in finished or semi- finished forms.

28. Costs, charges, expenses and stamp duty

The Transferee Company agree that it shall bear by itself all own costs, charges, levies and expenses in relation to or in connection with or incidental to this Scheme until the date of sanction of this Scheme by the NCLT, including without limitation costs and expenses associated with retention of financial, legal, tax and other professional advisers, and in connection with the valuation report.

Save as otherwise agreed, all stamp, transfer, registration, and other similar taxes, duties, charges and tees (including in relation to the registration and the stamping of the sanction orders) payable or assessed in connection with this Scheme, the transfers contemplated by the Scheme shall be borne by Transferee Company.

29. No cause of Action

No third party claiming to have acted or changed his position in anticipation of this Scheme taking effect, shall get any cause of action against the Transferor Company or the Transferee Company or their directors or officers, if the Scheme does not take effect or is withdrawn, amended or modified for any reason whatsoever.

30. Miscellaneous

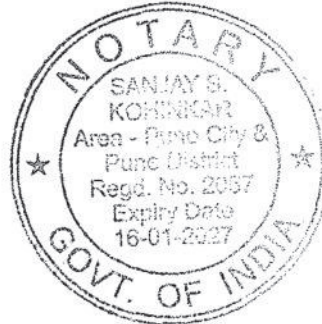
If any part of this Scheme is found to be unworkable for any reason whatsoever, in the sole discretion of the Transferor Company and the Transferee Company either by their respective Boards of Directors or through Committees appointed by them in this behalf, the same shall not, subject to the decision of the Transferor Company and the Transferee Company, affect the validity or implementation of the other parts and/or provisions of this Scheme.

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**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH – III**

C.A. (CAA)/ 50 (MB)/ C-III/ 2024

In the matter of the Companies Act,
2013

And

In the matter of Sections 230 to 232
and other applicable provisions of the
Companies Act, 2013

And

In the matter of the **Scheme of Amalgamation** by way of Merger by Absorption of DANA INDIA PRIVATE LIMITED (First Application Company or 'Transferor Company') with GRAZIANO TRASMISSIONI INDIA PRIVATE LIMITED ('Second Applicant Company' or 'Transferee Company') and their respective shareholders (**'Scheme'**)

DANA INDIA PRIVATE LIMITED, a company incorporated under the Companies Act, 1956, having its registered office at Sr. No. 279/1, Rasoni Industrial Park, Hinjewadi Ph-II, Vill, Man, Mulshi Pune, Maharashtra India, 411057

[CIN: U74999PN2000PTC015131]

... First Applicant Company /
Transferor Company

GRAZIANO TRASMISSIONI INDIA PRIVATE LIMITED, a company incorporated under the Companies Act, 1956, having its registered office at Survey No. 279, Rasoni Industrial Park, Hinjewadi Phrase 2 Maan, Taluka Mulshi Pune, Maharashtra, India, 411057

[CIN: U34300PN1997PTC202633]

...Second Applicant Company /
'Transferee Company'

(Hereinafter collectively referred to as 'Applicant Companies')

Order pronounced on 06.05.2024

Coram:

Ms. Lakshmi Gurung : Member (Judicial)
Sh. Charanjeet Singh Gulati : Member (Technical)



Appearances:

For Applicant Companies : Adv. Hemant Sethi, i/b Hemant
(through physical hearing) Sethi & Co., Advocates

Per: Sh. Charanjeet Singh Gulati, Member (Technical)

ORDER

1. The Professional for the Applicant Companies submits that the present Scheme of Amalgamation by way of Merger by Absorption of DANA INDIA PRIVATE LIMITED ('First Application Company' or 'Transferor Company') with GRAZIANO TRASMISSIONI INDIA PRIVATE LIMITED ('Second Applicant Company' or 'Transferee Company') and their respective shareholders ('Scheme') under Sections 230 to 232 and other applicable provisions of the Companies Act, 2013 and rules & regulations framed thereunder.
2. **Nature of Business:**
 - 2.1. The **First Applicant Company** is primarily engaged in the business of designing and assembling of automobile axles, transfer cases and components for Off-highway and commercial vehicles.
 - 2.2. The **Second Applicant Company** is primarily engaged in the business of manufacturing of gears, synchronizers and transaxles for automobile industry.
3. The Board of Directors of the First Applicant Company and Second Applicant Company have approved the Scheme vide Board resolutions dated **04.03.2024** and **01.03.2024** respectively. The Appointed Date for the Amalgamation is **1st April 2024**.
4. As on the date of approval of the Scheme by the Board of Directors, the entire Equity Share Capital of the Transferor Company is held by the



Transferee Company along with its nominee. Accordingly, the Transferor Company is a Wholly Owned Subsidiary of the Transferee Company.

5. The **Rationale of the Scheme:**

- a *The Amalgamation will enable pooling of resources of the Companies involved in Amalgamation to their common advantages, resulting in more productive utilization of all the resources and achieving economies of scale resulting into cost and operational efficiencies, which would be beneficial for all the stakeholders.*
- b *The Amalgamation would create a stronger sustainable business by giving opportunity to fully leverage assets, capabilities, experience, expertise and infrastructure of all the Companies resulting into cost savings and higher profitability levels.*
- c *The Amalgamation would bring greater management focus and would help in achieving uniform corporate policies and faster I effective decision making and its implementation.*
- d *The Amalgamation would, result in reducing number of legal entities and help in avoiding duplication of regulatory and procedural compliances and consequently result into saving of time, efforts, resources and cost involved in such compliances.*
- e *Post-Amalgamation, the Transferee Company will have better financial and operational prospects. The Amalgamation will result in consolidation of business of the Companies resulting in expansion of business and create greater value to all stakeholders. The Amalgamation shall be beneficial and in the best interests of the shareholders, creditors, employees of the Companies involved, and all concerned.*

6. The Authorised, Issued, Subscribed and Paid-up Share capital of Applicant Companies as per Audited Financial Statement as on 31.01.2024 are as follows:



6.1. **Paid-up Share capital of First Applicant Company/ First Transferor Company:**

Particulars	Amount in (Rs.)
Authorised Share Capital	
3,00,00,000 (Three Crore) Equity Shares of Rs. 10 each	30,00,00,000
Total	30,00,00,000
Issued, Subscribed and Paid-up Share Capital	
11525984 (One Crore Fifteen Lakh Twenty- Five Thousand Nine Hundred and Eight Four) Equity Shares of Rs. 10/- each	11,52,59,840
Total	11,52,59,840

6.2. **Paid-up Share capital of Second Applicant Company/ Transferee Company:**

Particulars	Amount in (Rs.)
Authorised Share Capital	
9,70,00,000 (Nine Crore Seventy Lakh) Equity Shares of Rs. 10/- each	97,00,00,000
Total	97,00,00,000
Issued, Subscribed and Paid-up Share Capital	
3,61,18,794 Equity Shares of Rs. 10/- each	36,11,87,940
Total	36,11,87,940

Subsequent to the date of approval of the scheme by the Board of Directors, there has been no change in the authorised, issued, subscribed and paid-up share capital of the Applicant companies.


7. **MEETINGS OF FIRST APPLICANT COMPANY:**

7.1. There are 2 (Two) Equity Shareholders in the First Applicant Company and the copy of the certificate from the Independent Chartered



Accountant certifying the list of Equity Shareholders obtained by the First Applicant Company is annexed as Annexure 'K' (Page No. 299). The **First Applicant Company** has procured the consent affidavits from all the Equity Shareholders which are annexed as Annexure 'L' (Colly.) (Page Nos. 300-310) to the Company Scheme Application.

- 7.2. In view of the fact that all the Equity Shareholders of the respective First Applicant Company have given their consent affidavits to the Scheme, the meeting of the Equity Shareholders of the First Applicant Company is hereby **dispensed with**.
- 7.3. There are no Secured Creditors in the First Applicant Company. Therefore, the question of holding the meeting of Secured Creditors of the First Applicant Company does not arise. The copy of certificate of the Chartered Accountant certifying **No Secured Creditors** of the First Applicant Company as on 29.02.2024 is annexed as Annexure 'M' (Page No. 311) to the Company Scheme Application.
- 7.4. There are 513 (Five Hundred Thirteen) Unsecured Creditors in the First Applicant Company amounting to Rs. 3,61,46,13,886/- (Rupees Three Hundred Sixty-One Crores Forty-Six Lakhs Thirteen Thousand Eight Hundred Eighty-Six only). The copy of the certificate from the Independent Chartered Accountant certifying a list of Unsecured Creditors in the First Applicant Company is annexed as Annexure 'N' (page no. 312 -326) to the Joint Company Scheme Application. The Counsel for the Applicant Companies submitted that the Scheme is for arrangement between the Applicant Companies and shareholders of the Applicant Companies as contemplated under Section 230(1)(b) and not in accordance with the provisions of Section 230(1)(a) of the Act as there is no compromise and/or arrangement with unsecured creditor, and that the unsecured creditor of the First Applicant Company would be paid in the normal course of business and as per



the agreed terms and are not called upon to make any sacrifices, hence their interests are not getting affected in any way. The present Scheme is in no manner prejudicial to the interests of the unsecured creditor of First Applicant Company. The Net Worth of the Transferor Company as on 31.01.2024 is Rs 3,02,94,62,000/-. Copy of the Net Worth certificate is annexed as Annexure 'R1' (page no.348-350) of the Company Scheme Application. Further the Counsel for the Applicants relies upon decision of this Bench passed in **CA(CAA)/205/MB-III/2023 in TVS Industrial & Logistics Parks Private Limited**; In view of the fact that there is no arrangement with the unsecured creditors, the meeting of the unsecured creditors of First Applicant Company to seek their approval to the Scheme is dispensed with.

7.5. The First Applicant Company is hereby directed to issue individual notices to its unsecured creditors by courier or registered post or speed post or hand delivery or through email, at their last known address or email address as per the records available with the First Applicant Company with a direction that they may submit their representations, if any, within a period of thirty days from the date of receipt of such intimation to the Tribunal with copy of such representations shall simultaneously be served upon the First Applicant Company.

8. MEETINGS OF SECOND APPLICANT COMPANY:

8.1. There are 4 (Four) Equity Shareholders in Second Applicant Company, a list of which is annexed as Annexure 'O' (page no. 327) to the Joint Company Scheme Application. After the Scheme being sanctioned, no new shares would be issued or allotted as consideration pursuant to merger to the members of the First Applicant Company by the Second Applicant Company. Further, the Scheme does not affect the rights and interests of the members of the Second Applicant Company and does not involve any re-organization of the share capital of Second



Applicant Company. Also, the Scheme will not result in dilution of share-holding of the Second Applicant Company. Accordingly, the scheme does not affect the rights and interests of the members of the Second Applicant Company.

8.2. Therefore, the Meeting of the Equity Shareholders of the Second Applicant Company is hereby **dispensed with**.

8.3. There are no Secured Creditors in the Second Applicant Company. Therefore, the question of holding the meeting or sending notices to the Secured Creditors of the Second Applicant Company does not arise. The copy of certificate of the Chartered Accountant certifying **No Secured Creditors** of the Second Applicant Company as on 29.02.2024 is annexed as Annexure 'P' (Page No. 328) to the Company Scheme Application.

8.4. There are 591 (Five Hundred Ninety-One) Unsecured Creditors in the Second Applicant Company amounting to Rs. 3,50,50,53,694/- (Rupees Three Hundred Fifty Crores Fifty Lakhs Fifty-Three Thousand Six Hundred Ninety-Four only). The copy of the certificate from the Independent Chartered Accountant certifying a list of Unsecured Creditors in the Second Applicant Company is annexed as Annexure 'Q' (page no. 329 -347) to the Joint Company Scheme Application. The Counsel for the Applicant Companies further submitted that the rights of the unsecured creditor of the Second Applicant Company/ Transferee Company are not affected since there will be no reduction in their claims and the assets of the Second Applicant Company/ Transferee Company, post-amalgamation, will be more than sufficient to discharge their claims. The Net Worth of the Transferee Company is and will continue to remain highly positive, a copy of the Net Worth certificate is annexed as Annexure 'R1' and Annexure 'R2' (page no.348-353) of the Company Scheme Application. No undertaking of



the Second Applicant Company/ Transferee Company is being parted away or being disposed-off and hence provisions of Section 180 of the Companies Act, 2013 are not applicable. Further, under the Scheme there is no compromise or arrangement with the shareholders or the creditors of the Second Applicant Company/ Transferee Company. Therefore, the proposed Scheme is not prejudicial to the interest of the creditors of the Second Applicant Company/ Transferee Company. In view of the above, no reconstruction or arrangement is proposed by the Second Applicant Company/ Transferee Company either with its shareholders or with its creditors.

- 8.5. The Second Applicant Company is hereby directed to issue individual notices to its unsecured creditors by courier or registered post or speed post or hand delivery or through email, at their last known address or email address as per the records available with the Second Applicant Company with a direction that they may submit their representations, if any, within a period of thirty days from the date of receipt of such intimation to the Tribunal with copy of such representations shall simultaneously be served upon the Second Applicant Company.
9. The meeting of the Equity shareholders and Creditors of the Second Applicant Company are hereby dispensed with in view of the fact that the Transferor Company is a wholly owned subsidiary of the Transferee Company. Reference was made to judgment of Hon'ble High Court of Judicature at Bombay in the case of **Mahaamba Investments Limited V/s. IDI Limited (2001) 105 Company Cases** page 16 to 18 inter alia observed and held that if the Scheme of Amalgamation provides for no issue of equity shares to the members of the transferor company, being a wholly owned subsidiary of the transferee company and the creditors of the transferee company, are not likely to be affected by the scheme, a separate Petition by the transferee company was not necessary. The



Hon'ble National Company Law Appellate Tribunal in the case of **DLF Phase-IV Commercial Developers Limited & Ors**, In Company Appeal (AT) No. 180 of 2019, **Ambuja Cements Limited**, In Company Appeal (AT) No. 19 of 2021, and **Patel Engineering Limited**, In Company Appeal (AT) No. 137 of 2021, Company Scheme Application No. 911 of 2014 in case of a **Eurokids India Private Limited** passed by SJ Kathawalla, (J) of Bombay High Court and in Company Appeal (AT) No 109 of 2023 in case of **Reliance Industries Limited** in the similar facts have taken similar view.

10. In the view of the above facts submitted by the Professional for the Applicant Companies, the meeting of the Equity Shareholders, Secured Creditors and Unsecured Creditors of the Applicant Companies are hereby **dispensed with.**
11. There are no proceeding pending against the Applicant Companies under Sections 210 - 217, 219, 220, 223, 224, 225 of the Companies Act, 2013 and Sections 250, 250A and 251 of the Companies Act, 1956. No winding up petition is pending against the Applicant Companies either under Companies Act, 1956 /Companies Act, 2013 and no insolvency proceedings are pending against the Applicant Companies.
12. As on 31.01.2024, there are Pending Litigations, Corporate guarantees, bank guarantees and other contingent Liabilities, in the First Applicant Company and the Second Applicant Company as per Annexure 'J1' and 'J2' of the Joint Company Scheme Application.
13. The Applicant Companies are directed to serve notices by RPAD/ Speed Post/ Hand Delivery and email, of present Application along with its enclosures upon: -



- (i) The Central Government through the office of **Regional Director**, Western Region, Ministry of Corporate Affairs, Mumbai;
 - (ii) Jurisdictional **Registrar of Companies**;
 - (iii) The concerned **Income Tax Authority** within whose jurisdiction the Applicant Companies are assessed to tax;
 - (iv) The **Nodal Officer** of Income Tax Department at Pr. Chief Commissioner of Income Tax (CCIT), Aaykar Bhavan, Sadhu Vaswani Square, Pune-411001;
 - (v) The concerned **GST Authorities**; within whose jurisdiction the Applicant Companies are assessed to tax u/GST Law;
 - (vi) The **Official Liquidator**, Bombay High Court (for Transferor Companies).
14. The Applicant Companies shall host the notices along with a copy of the Scheme on their respective website, if any.
15. That the Applicant Companies to file an Affidavit of Service of the directions given by the Tribunal in the Registry for service of notice to the regulatory authorities as stated above and do report to this Tribunal that the directions regarding the issue of notices have been duly complied with.
16. Ordered accordingly.

Sd/-

CHARANJEET SINGH GULATI
MEMBER (TECHNICAL)
(Saayli, LRA)

Sd/-

LAKSHMI GURUNG
MEMBER (JUDICIAL)