

**IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD  
ORIGINAL JURISDICTION  
COMPANY APPLICATION NO. 14 OF 2006**

**IN THE MATTER OF THE COMPANIES ACT, 1956**

AND

**IN THE MATTER OF SECTION 391(1) AND 394 OF THE COMPANIES ACT, 1956**

AND

**IN THE MATTER OF SCHEME OF AMALGAMATION**

Of

**DND FLYWAY LIMITED**

With

**NOIDA TOLL BRIDGE COMPANY LIMITED**

AND

**IN THE MATTER OF**

M/s Noida Toll Bridge Company Limited

a company incorporated under the Companies

Act, 1956 having its registered office at:

Toll Plaza, DND Flyway,

Opposite Sector 15A,

Noida 201 301, Uttar Pradesh

..... Applicant Company/Transferee Company

**NOTICE CONVENING THE MEETING OF EQUITY SHAREHOLDERS**

To,

The Equity Shareholders of Noida Toll Bridge Company Limited (the Applicant Company)

**TAKE NOTICE** that by an order dated 14th November, 2006 passed by the Hon'ble High Court of Judicature at Allahabad in the above Company Petition, the Court has directed that a meeting of Equity Shareholders of the Applicant Company be held at Power Management Institute (NTPCL) Adjacent to Apeejay School, Plot No 5-14, Sector 16 A, Noida -201301 on 05th day of January, 2007 at 11 o'clock in the forenoon for the purpose of considering, and if thought fit, approving, with or without modification, the proposed Scheme of Amalgamation between Noida Toll Bridge Company Limited and its 100% subsidiary DND Flyway Limited.

**TAKE FURTHER NOTICE** that in pursuance of the said order, a meeting of Equity Shareholders of the Applicant Company will be held at Power Management Institute (NTPCL), Adjacent to Apeejay School, Plot No 5-14, Sector 16 A, Noida -201301 on 05th day of January, 2007 at 11 o'clock in the forenoon when you are requested to attend.

**TAKE FURTHER NOTICE** that you may attend and vote at the said meeting in person or by proxy, provided that a proxy in the prescribed form, duly signed by you, is deposited at the registered office of the Company at Toll Plaza, DND Flyway Limited, Opposite Sector 15A, Noida 201 301, Uttar Pradesh not later than 48 hours before the meeting.

This Court has appointed Shri Ashok Mehta, Advocate, as the Chairman and failing him, Shri Rishi Chadda, Advocate, to be the alternate Chairman of the said meeting.

A copy each of the said Scheme of Amalgamation between Noida Toll Bridge Company Limited and its 100% subsidiary, DND Flyway Limited, the Explanatory Statement under Sec.393 of the Companies Act, 1956 and a form of proxy is enclosed.

Dated this 20 th day of November, 2006.

Sd/-  
Ashok Mehta  
Advocate

(Chairman appointed for the meeting)

**Registered Office:**

Toll Plaza, DND Flyway,

Opposite Sector 15A,

Noida 201 301, Uttar Pradesh

[Note: All alterations made in the form of proxy should be initialed]

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M/s Noida Toll Bridge Company Limited  
a company incorporated under the Companies  
Act, 1956 having its registered office at:  
Toll Plaza, DND Flyway,  
Opposite Sector 15A,  
Noida 201 301, Uttar Pradesh

..... Applicant Company/Transferee Company

**EXPLANATORY STATEMENT UNDER SECTION 393 OF THE COMPANIES ACT, 1956:**

1. The Hon'ble High Court of Judicature at Allahabad by its order dated 14th day of November, 2006 directed Noida Toll Bridge Company Limited ("NTBCL" / "the Applicant Company"/" Transferee Company") to convene the meeting of the Equity Shareholders for the purpose of considering and, if thought fit, approving with or without modifications, the Scheme of Amalgamation (Scheme) between NTBCL and its 100% subsidiary, DND Flyway Limited ("the Transferor Company").
2. NTBCL was incorporated on April 8, 1996 in accordance with the provisions of the Act as a public limited company and became entitled to commence business on January 21, 1997. Its registered office is situated at Toll Plaza, DND Flyway, opposite Sector 15A, Noida 201 301, Uttar Pradesh.
3. The Memorandum and Articles of the Applicant Company and the Audited Balance Sheet and the Profit and Loss Account of the Applicant Company may be inspected at registered office of the Applicant Company during working hours until the date of conclusion of the meeting.
4. The object of the Scheme is to effect amalgamation of DND Flyway Limited with its holding company, NTBCL pursuant to Sections 391 to 394 and other relevant provisions of the Companies Act, 1956
5. The financial position of the Applicant Company would not be adversely affected by the approval of Scheme and the interest of the Shareholders will also not be prejudicially affected.
6. The main reasons for proposing the said Scheme, inter alia, are as follows:
  - (a) The Applicant/Transferee Company and Transferor Company are related companies and are owned, controlled and managed by the same management. The Transferor Company is 100% subsidiary of the Transferee Company.
  - (b) The said Scheme would result in reduction in administrative cost and overhead expenses which would lead to consolidation of operations, greater and effective executive control, focused management, channelise synergy of operations and use of infrastructure facilities and shall lead to optimum utilisation of the available resources and result in economies of scale.
  - (c) The Scheme will result in improved asset base and reduction in cost and compliances and would enable the Transferee Company to raise resources for future growth and expansion of the business.
  - (d) The Scheme would result in better and focused utilization of managerial resources.
  - (e) The said Scheme will thus have beneficial results for the said companies, their shareholders, employees and all concerned and will not prejudice interests of any concerned Member/ Creditor or General Public at large.

7. The salient feature of the Scheme are as under:

“6. TRANSFER OF ASSETS AND LIABILITIES :

- 6.1 With effect from the Appointed Date and subject to the provisions of the Scheme including in relation to the mode of transfer and vesting the Undertaking, and the entire business including all the movable and immovable properties, tangible and intangible assets, buildings, offices, investments of all kinds, lease and hire purchase contracts, capital works in progress, current assets, investments, powers, authorities, allotments, approvals and consents, licences, registration, contracts, engagements, rights, titles, interest, benefit of any security arrangements, reversions, arrangements of all kinds of benefits and advantages of whatsoever nature and wheresoever situate 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, including but without being limited to all patents, trade names, trade marks and other intellectual property rights of any nature whatsoever, and other industrial rights of any nature whatsoever and licenses in respect thereof, privileges, liberties, easements, advantages, benefits, leases, tenancy rights, ownership flats, quota rights, permits, approvals, authorizations, rights to use and avail of telephones, telexes, facsimile connections, computers and installations, utilities, electricity and other services, reserves, provisions, funds, benefits of all agreements and all other interests arising to the transferor company (hereinafter collectively referred to as the “said Assets”) shall be and stand transferred to and vested in and/or be deemed to be and stand transferred to and vested in the Transferee Company pursuant to the provisions of Section 394 of the Act for all the estate, right, title and interests of the Transferor company so as to become as and from the Appointed Date, the estate, assets, rights, title and interests of the Transferee Company.
- 6.2 It is expressly provided that in respect of such of the said Assets as are movable in nature or incorporeal property, or are otherwise capable of transfer by manual delivery or by endorsement and delivery, the same may be so transferred by the Transferor Company, and shall upon such transfer become the property of the Transferee Company in pursuance of the provisions of Section 394 of the said Act, as an integral part of the Transferee company. The same shall , without any further act, instrument or deed, be transferred and vested in and / or be deemed to be transferred and vested in the Transferee Company pursuant to an order being made thereof under section 394 of the Act.
- 6.3 With effect from the Appointed Date and upon the Scheme becoming effective, the land, with the buildings standing thereon, if any, held by Transferor Company, and any documents of title / rights and easements in relation thereto shall be vested in and transferred to and/or be deemed to have been transferred to and vested in the Transferee Company and shall belong to the Transferee Company. With effect from the Effective Date, the Transferee Company shall be liable for ground rent and municipal taxes in relation to properties subject to such taxes, if any. The mutation of title to the immovable properties shall be made and duly recorded by the appropriate authorities pursuant to the sanction of the Scheme and upon the Scheme becoming effective in accordance with terms hereof in favour of the Transferee Company.
- 6.4 Since the entire issued, subscribed and paid up capital of the Transferor Company is held by the Transferee Company, the vesting of properties from the Transferor Company to the Transferee Company is exempt from payment of stamp duty under the Finance Department, Central Board of Revenue Notification No. 1 D/- issued on 16-1-1937, remitting stamp duty payable for vesting of property between the parent company and its subsidiary in which not less than 90% of the issued share capital of the subsidiary company is beneficially owned by the parent company.
- 6.5 In so far as the various incentives, subsidies, special status and/or other benefits or privileges enjoyed or availed of from the Central Government and/or State Government authorities, statutory bodies or any other competent authorities or from any other person(s) by the Transferor Company is concerned, the same shall vest with and be available to the Transferee Company on the same terms and conditions with effect from the Appointed Date consequent to the sanction of the Scheme by the Hon'ble High Court.
- 6.6 It is clarified that on the Scheme becoming effective, the Transferee Company shall be the absolute owner of the intellectual property rights including the right to use the corporate names of the Transferor Company with or without any suffix or prefix and no person other than the Transferee Company or its successors shall have right, title or interest therein or thereof.
- 6.7 It is clarified that the Scheme shall not in any manner affect the rights and interests of the creditors of the Transferor Company or be deemed to be prejudicial to their interests other than the Transferee Company, the Transferor Company does not have any other creditors.
- 6.8 With effect from the Effective Date and till such time the names of the bank accounts of the Transferor Company are replaced with that of the Transferee Company, the Transferee Company shall be entitled to operate the bank accounts of the Transferor Company in their names, as the case may be, in so far as may be necessary.
- 6.9 The Transferee Company, at any time after the coming into effect of this Scheme, may execute deeds of confirmation in favour of any party to any contract or arrangement to which the Transferor Company is party or any writings as may be necessary to be executed in order to give formal effect to the above provisions. The Transferee Company shall, under the provisions of this Scheme, be deemed to be authorized to execute any such writings on behalf of the Transferor Company to be carried out or performed.
7. TRANSFER OF ASSETS SUBJECT TO CHARGE :
- 7.1 The transfer/vesting as aforesaid shall be subject to existing charges/ hypothecation/mortgage (if any as may be subsisting) over or in respect of the said Assets or any part thereof. Provided however, any reference in any security documents or arrangements to which the Transferor Company is a party to the assets of the Transferor Company offered or agreed to be offered as security for any financial assistance, or obligations to the secured creditors of the Transferor Company shall be construed as reference only to the assets pertaining to the undertaking of the

Transferor Company as are vested in the Transferee Company by virtue of the aforesaid Clause, to the end and intent that such security, mortgage and charge shall not extend or be deemed to extend to any of the assets or to any of the other units or divisions of the Transferee Company with such secured creditors and subject to the consents and approvals of the existing secured creditors of the Transferee Company.

## 8. TRANSFER OF LIABILITIES

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

- (a) All secured and unsecured debts, liabilities, including contingent liabilities, whether disclosed or undisclosed, duties and obligations of the Transferor Company along with any charge, encumbrance, lien or security thereon (hereinafter referred to as the "said Liabilities") shall also be vested or deemed to be and stand vested or be deemed to be and stand transferred, without any further act, instrument or deed, to the Transferee Company, pursuant to the provisions of Section 394 of the Act so as to become as and from the Appointed Date the debts, liabilities, duties and obligations of the Transferee Company, and further that 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 debts, liabilities, duties and obligations have arisen in order to give effect to the provisions of this Clause.
- (b) In respect of the shares issued by the Transferor Company and held by the Transferee Company, the same shall stand cancelled as of the Effective Date, and shall be of no effect and the Transferor Company, shall have no further obligation outstanding in that behalf. Similarly, all the loans and advances extended by the Transferee Company to the Transferor Company and vice versa shall also stand cancelled and the Transferor Company and the Transferee Company, as the case may be, shall have no further obligation in that behalf.

## 9. CONDUCT OF BUSINESS BY TRANSFEROR COMPANY TILL EFFECTIVE DATE

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

- (a) the Transferor Company shall carry on and shall be deemed to have carried on its business and activities and shall hold and stand possessed of and shall be deemed to have held and stood possessed of all the said Assets on account of, and in trust for, the Transferee Company;
- (b) the Transferor Company shall carry on its business and activities with reasonable diligence and business prudence and shall not alienate, charge, mortgage, encumber, or otherwise deal with the said Assets or any part thereof, except in the ordinary course of business, or without the prior written consent of the Transferee Company, or pursuant to any pre-existing obligation undertaken by the Transferor Company prior to the Appointed Date; the Transferor Company shall not undertake any additional financial commitments of any nature whatsoever, borrow any amounts nor incur any other liabilities or expenditure, issue any additional guarantee, indemnities, letters of comfort or commitments, either for themselves or on behalf of their subsidiaries, if any, or group companies or any third party, or save as expressly permitted by this Scheme or with the prior written consent of the Transferee Company except where it is necessary in the ordinary course of business,
- (c) All profits or incomes accruing or arising to the Transferor Company or expenditure, or losses arising or incurred (including the effect of taxes, if any, thereon) by The Transferor Company on and after the Appointed Date shall, for all purposes, be treated and be deemed to be and accrue as the profits or incomes or expenditure or losses of the Transferee Company, as the case may be.
- (d) provided that as far as the obligations in sub-clause (a), (b) and (c) above are concerned, the restrictions thereunder shall be applicable from the date of the acceptance of the present Scheme by the respective Boards of the two Companies even if the same be prior to the Appointed Date.

## 10. LEGAL PROCEEDINGS

### 10.1 Upon the coming into effect of this Scheme,

- (a) all suits, actions and proceedings of whatsoever nature by or against the Transferor Company pending and/or arising on or before the Effective Date shall be continued and be enforced by or against the Transferee Company as effectively as if the same had been pending and/or arising by or against the Transferee Company.
- (b) the Transferee Company undertakes to have all legal or other proceedings initiated by or against the Transferor Company referred to in sub-clause (a) above transferred to its name and to have the same continued, prosecuted and enforced by or against the Transferee Company.

## 11. ENFORCEMENT OF CONTRACTS, DEEDS, BONDS AND OTHER INSTRUMENTS

11.1 Upon the coming into effect of this Scheme, and subject to the provisions of this Scheme, all contracts, deeds, bonds, agreements, arrangements, leasehold rights, tenancy rights and other instruments of whatsoever nature to which the Transferor Company is party or to the benefit of which the Transferor Company may be eligible, and which are subsisting or having effect immediately before the Effective Date, shall be in full force and effect against or in favour of the Transferee Company as the case may be 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 thereto. The Transferee Company shall, wherever necessary, enter into and/or issue and/or execute deeds, writings or confirmations, enter into any tripartite arrangements, confirmations or novation to which the Transferor Company will, if necessary, also be a party in order to give formal effect to the provisions of this Clause.

11.2 The Transferee Company, at any time after the coming into effect of this Scheme, may execute deeds of confirmation in favour of any party to any contract arrangement, agreement etc. as referred in clause (a) above, to which the Transferor company is party or any writings as may be necessary to be executed in order to give formal effect to the above provisions. The Transferee company shall, under the provisions of this Scheme, be deemed to be authorized

to execute any such writings on behalf of the Transferor company to carry out or perform all such formalities or compliance, referred to above on the part of the transferor company to be carried out or performed.

## 12. NO EFFECT OF TRANSFER OF UNDERTAKING ON THE TRANSACTIONS/ CONTRACTS ALREADY CONCLUDED BY THE TRANSFEROR COMPANY

12.1 The transfer and vesting of the said assets and the said liabilities of the Transferor Company to the Transferee Company and the continuance of all the legal proceedings and all the contracts by or against the Transferor Company after the Appointed Date shall not affect any transaction, contract or proceedings already concluded by the Transferor Company in the ordinary course of business on or after the Appointed Date to the end and intent that the Transferee Company accepts on behalf of itself and adopts all acts, deeds and things done and executed lawfully by or on behalf of the Transferor Company as acts, deeds and things done and executed lawfully by or on behalf of the Transferee Company.

## 13. ACCOUNTING TREATMENT AND CONSIDERATION

### (A) Accounting Treatment

13.1 A Concession Agreement entered into between NTBCL, Infrastructure Leasing and Financial Services Ltd (IL&FS, the Promoter Company) and the New Okhla Industrial Development Authority, Government of Uttar Pradesh, conferred the right to NTBCL to implement the project and recover the project cost, through the levy of fees/toll revenue. The Concession Agreement provides for a designated rate of return over the concession period of 30 years commencing from December 30, 1998 i.e. the date of Certificate of Commencement or till such time the designated return is recovered, whichever is earlier. The Concession Agreement provides for the 20% rate of return computed with reference to the project costs, cost of major repairs and the shortfall in the recovery of the designated returns in earlier years.

Considering the current scheme of arrangements, it is proposed that such amount of designated return which is based on the terms of the Concession Agreement in view of the residual life of the concession period be brought to the extent of Rs.1,713.3 million being the amount required to write off the accumulated losses and other incidental expenses in relation to the business restructuring of NTBCL, the details of which are provided in Clause 13.2 below.

Considering that restructuring is a one-time event Company intends to capture the value of the embedded assets up to an amount of Rs.1,713.3 million by debiting to Toll Equalisation Receivable Account and crediting to General Reserve Account.

13.2 Upon the Scheme becoming effective and as on the Effective Date:

- (i) The balances, if any, lying to the credit of the "General Reserve Account" in the books of account of the Transferor Company shall be credited by the Transferee Company to its "General Reserve Account" and shall constitute the Transferee Company's free reserve, as if the same was credited by the Transferee Company out of its own earned and distributable profits.
- (ii) The balances lying to the debit of the "Profit and Loss Account" in the books of account of the Transferor Company shall be debited by the Transferee Company to its "Profit and Loss Account".
- (iii) The amount appearing in the books of Transferor Company inter-se as Debtors and Creditors or vis-à-vis the Transferee Company shall stand cancelled.
- (iv) The Stock in Trade appearing in the Books of the Transferor Company shall be transferred to the assets appearing in the Books of the Transferee Company.
- (v) Share capital of the Transferor Company to the extent the same is held by the Transferee Company shall stand cancelled. Correspondingly, the investments appearing in the books of the Transferee Company also stand extinguished. Any difference in the values at which such share capital and investments of the Transferor Company and/or the Transferee Company get extinguished shall be adjusted through the "General Reserve Account" in the books of the Transferee Company.
- (vi) The net surplus/deficit, if any, arising out of the amalgamation in the books of the Transferee Company, after providing for the adjustments set forth above, shall be appropriately credited or debited by the Transferee Company, to the "General Reserve Account".
- (vii) The General Reserve will be credited by the transferee company with the Toll Equalisation Receivable A/c amounting to Rs.1713.3 million.
- (viii) The General Reserve Account of the Transferee Company shall be utilized for making the following adjustments:
  - Set off of Accumulated losses of Transferor Company and the Transferee Company amounting to Rs.1125.1 million.
  - Provision of Rs.432.5 million towards the balance liability of Zero Coupon Bonds Series B issued to the Lenders.
  - Unamortised ancillary cost incurred in connection with arrangement of borrowings for restructuring of DDBs – Rs.108.7 million.
  - Contingencies for Bond issue expenses – Rs.17 million.
  - Contingencies for prepayment of loans – Rs.30 million.

The above adjustments in the form of journal entries are attached as Annexure-1.

14. CONSIDERATION

14.1 As the entire issued, subscribed and paid up share capital of the Transferor Company is held by the Transferee Company, upon the Scheme becoming finally effective, the said share capital of the Transferor Company will stand automatically cancelled and there will be no issue and allotment of shares by the Transferee Company in consideration of amalgamation of the Transferor Company with the Transferee Company..

15. TRANSFEROR COMPANY'S EMPLOYEES

15.1 Upon the coming into effect of this Scheme,

- (a) Any staff, workmen or other employees in the service of the Transferor Company immediately preceding the Effective Date shall become the staff, workmen and employees of the Transferee Company on the basis that:
- (i) their services shall be deemed to have been continuous and not have been interrupted by reasons of the said transfer.
- (ii) The terms and conditions of service applicable to such staff, workmen or employees after such transfer shall not in any way be less favourable to them than those applicable to them immediately preceding the transfer.
- (b) It is expressly provided that as far as the maintenance of any provident fund with the Regional Provident Fund Commissioner or any Gratuity fund, Superannuation Scheme or any other Special Fund(s) including any surplus in such funds created or existing for the benefit of any employees of the Transferor Company is concerned, upon the coming into effect of this Scheme, the Transferee Company shall stand substituted for the Transferor Company for all purposes whatsoever, related to the administration or operation of such Schemes or funds or in relation to the obligation to make contributions to the said Schemes or funds in accordance with provisions of such funds as per the terms provided in the respective trust deeds or other documents and all the rights, duties powers and obligations of the Transferor Company in relation to such Schemes/funds shall become those of the Transferee Company. It is clarified that the services of any employees of the Transferor Company will be treated as having been continuous for the purpose of the aforesaid Scheme.

16. DISSOLUTION OF THE TRANSFEROR COMPANY

16.1 The Transferor Company, upon coming into effect of this Scheme, shall be dissolved without winding up, subject to an order being made by the Hon'ble High Courts under section 394 of the Companies Act, 1956."

8. That the Directors of both the Transferor and the Transferee Companies have no material interest in the proposed Scheme of Amalgamation except to the extent of their share holding, which is as follows:

Shareholding of Directors (As second holders) of DND Flyway Limited (Transferor Company) in the Transferor Company as on date:

Sr.No.	Name of the Shareholder	No. of Shares	%age
1.	First Holder Noida Toll Bridge Company Limited Second Holder Gopi K. Arora	1	0.00%
2.	First Holder Noida Toll Bridge Company Limited Second Holder Pradeep Puri	1	0.00%
	<b>Total</b>	2	0.00%

Shareholding of Directors of Noida Toll Bridge Company Limited (Transferee Company) in the Transferee Company as on September 30, 2006

Sr.No.	Name of the Shareholder	No. of Shares	%age
1.	Gopi K.Arora	26,611	0.0143
2.	R.K. Bhargava	40,000	0.0215
3.	Arun K Saha	1,00,000	0.0537
4.	K. Ramachand	1,00,000	0.0537
	<b>Total</b>	2,66,611	0.1432

Other than the above Directors holding shares in the Transferor Company and the Transferee Company as stated aforesaid, no other Director of either the Applicant/Transferee Company or the Transferor Company holds any shares in either of the Companies.

9. The Scheme is conditional and subject to approvals and sanctions.
10. No investigation proceedings have been instituted or are pending under Sections 235 to 251 of the Act against the Applicant Company.
11. This statement may also be treated as an Explanatory Statement under Section 173 read with Section 393 of the Companies Act, 1956.

Dated this 20th day of November, 2006

Sd/-  
Ashok Mehta  
Advocate  
(Chairman appointed for the meeting)

**Regd. Office**  
Toll Plaza, DND Flyway,  
Opposite Sector 15A, Noida 201 301,  
Uttar Pradesh

**SCHEME OF AMALGAMATION  
OF  
DND FLYWAY LIMITED,  
WITH  
NOIDA TOLL BRIDGE COMPANY LIMITED**

**1. GENERAL**

1.1 **This Scheme of Amalgamation** (hereinafter referred to as the “**Scheme**”) concerns the merger of DND Flyway Limited (100% subsidiary of Noida Toll Bridge Company Limited), into Noida Toll Bridge Company Limited. The Scheme is made pursuant to the provisions of Section 391 to 394 and other relevant provisions of the Companies Act, 1956 (“the Act”).

**2. DEFINITIONS**

2.1 In the Scheme, unless inconsistent with the subject or context, the following expressions shall have the meaning given below;

- a) “**Act**” means the Companies Act, 1956 or any amendments thereto or re-amendments thereof.
- b) “**Assets**” shall have the meaning assigned to it under Clause 7.1.
- c) “**The Appointed Date**” for the purposes of the Scheme means the 1st Day of July 2006 or such other date(s) as approved or directed by the shareholders or as the Hon’ble High Courts may direct.
- d) “**The Effective Date**” means the last of the dates on which all the approvals & sanctions necessary in respect of the Scheme have been obtained or the date on which the certified copy of the Order passed by the Hon’ble High Courts sanctioning this Scheme is filed with the Registrar of Companies, NCT of Delhi and Haryana and Kanpur, whichever is later.
- e) “**High Courts**” means the High Courts of judicature at Allahabad and Delhi or such other Tribunal, having jurisdiction over the matter.
- f) “**Liabilities**” shall have the meaning assigned to it under Clause 9.1 (a)
- g) “**Scheme**” means the Scheme of Amalgamation in its present form with any modifications approved or imposed or directed by the shareholders or creditors and/or by the Hon’ble High Courts or any other relevant authority.
- h) “**The Transferor Company**” means DND Flyway Limited, a company incorporated under the Act and having its registered office at A-16/9, Vasant Vihar, New Delhi.
- i) “**The Transferee Company**” means Noida Toll Bridge Company Limited, a company incorporated under the Act and having its registered office at Noida Toll Bridge Company Limited, Toll Plaza, DND Flyway, Noida-201 301, Uttar Pradesh.
- j) “**Undertaking**” shall mean (i) the entire business and undertaking of the Transferor Company including all movable and immovable properties including but not limited to all fixed assets, estates, current assets, investments, powers, authorities, allotments, approvals and consents, licences, registration, contracts, engagements, rights, titles, interest, benefits, enjoyments, exemptions, grants, subsidies, incentives and advantages of whatsoever nature and wheresoever situate 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, including but without being limited to all trade names, goodwill and other rights of any nature whatsoever, privileges, liberties, easements, advantages, benefits, leases, hire purchase contracts, tenancy rights, ownership flats, permits, approvals, authorizations, right to use and avail of telephones, telexes, facsimile connections and installations, utilities, electricity and other services, reserves, provisions funds benefit of all agreements and all other interests arising to the Transferor Company, (ii) all debts, liabilities, including contingent liabilities, deferred credits, duties, obligations, mortgages, liens, charges and all other encumbrances of the Transferor Company as on the Appointed Date, whether provided for in the books of account of the Transferor Company or not and whether disclosed or undisclosed in its Balance Sheets and (iii) all books of accounts, documents and records of the Transferor Company.

**3. NATURE OF BUSINESS**

**3.1 Main Objects of the Transferor Company:**

- a. To execute road/toll/development projects and other related activities/manage and run flyovers, toll booths etc on a Build Own Operate Transfer (BOOT) basis including but not limited to purchasing, acquiring, taking on lease or in exchange or in any other lawful manner any area, land, buildings, structures and turning the same into account, developing the same and disposing off or maintaining the same and building townships, markets or other buildings residential and commercial or conveniences thereon and equipping the same or part thereof with all or any amenities or conveniences, drainage facility, electric, telephonic, television installations and dealing with the same in any manner whatsoever, and by advancing money to and entering into contracts and arrangements of all kinds with builders, tenants and others. Constructing, erecting, building, repairing, re-modeling, demolishing, developing, improving, grading, curving, paving, macadamizing, cementing and maintaining buildings, structures, houses, apartments, highways, roads, paths, streets, sideways, courts, alleys, pavements and doing other similar construction, leveling or paving work, and for these purposes purchasing, taking on lease, or otherwise acquiring and holding any lands and preparing lay-out or buildings of any tenure or description wherever situate, or rights or interests therein or connected therewith.

- b. To acquire, promote, develop, improve land and hereditaments and to erect and build thereon flats, houses, shops and other buildings and to hold occupy, exchange, underlet, mortgage, sell or otherwise deal with the same and deal in real estates of all kinds. To build, purchase, acquire, take on lease or in exchange or in any other lawful manner any area, land, building, structures, apartments, houses, flats, rooms, huts or other accommodation and to turn the same into account, develop the same, to lease, to let or dispose of the same in full or in part of installment basis, hire purchase basis or by outright sale or by any other mode of disposition and to build township markets, cinemas, other buildings and conveniences thereon and to equip the same or any part thereof with all or any amenities or conveniences, drainage, electric, telegraphic, telephonic, television installation and other amenities or all kinds and to dispose of and deal with the same in any manner.
- c. To lay out, develop, construct, build, erect, demolish, re-erect, alter, repair, remodel or do any other work in connection with any building or building scheme, roads, highways, docks, sewers, bridges, canals, wells, springs, dams, bours, wharves, ports, reservoirs, embankments, tramways, railways, irrigations, reclamations, improvements, sanitary, water, gas, electric light, telephonic, telegraphic and power supply works, or any other structural or architectural work of any kind and for such purpose to prepare estimates, designs, plans, specification or models therefore.
- d. To purchase, sell, develop, take in exchange, or on lease, hire or otherwise acquire whether for investment or sale, or working the same, any real or personal estate including lands, business, building, factories, mill, houses, cottages, shops, depots, warehouses, machinery, plant, concessions, privileges, licences, easement or interest in or with respect to any property or interest in or with respect to any property whatsoever for the purpose of the Company in consideration for a gross sum or rent partly in one way and partly in the other or for any other consideration and to carry on business as proprietors of flats and buildings and to let on lease or otherwise apartments therein and to provide for the conveniences commonly provided in flats, suites and residential and business quarters.
- e. To build, take on lease, purchase or acquire in any manner, whatsoever any apartments, houses, flats, bungalows, raw houses, rooms or other accommodation for residential use and to let or dispose off the same on any system of installment payment basis, rent, purchase basis or by outright sale, whether by private treaty or in any other mode of disposition of all or any integral part thereof.

### **3.2 Main Objects Of The Transferee Company.**

- a. To promote, develop, finance, establish, design, construct, equip, operate, maintain, modify and upgrade the Delhi Noida Bridge across river Yamuna by linking Maharani Bagh with Sector 15A - 16A of Noida area and its ancillary facilities including the approach roads, minor and major bridges, flyovers, inter-changes, culverts, links, buildings, restaurants, commercial premises, hoardings, toll booths, electric fittings, drains, waterways, etc on a Build Own Operate Transfer (BOOT) basis and to charge and collect tolls, fees, cess, rents from the users of the Bridge and its ancillary facilities and to retain and appropriate receivables under a concession received from the Government and including but not limiting to:
  - (i) making or constructing in or upon, across, under or over any lands, or any streets, hills, valleys, roads, railway, tramways, or any rivers, canals, brooks, streams or other Waters, or any drains, water pipes, gas-pipes, oil pipes, sewers, electric supply lines, or telegraph lines, such temporary or permanent inclined - planes, bridges, tunnels, culverts, embankments, aqueducts, roads, lines of railways, passages, conduits, drains, piers, cuttings and fences, in-take wells, tube-wells, dams, river training and protection works as the Company thinks proper;
  - (ii) altering the course of any rivers, brooks, streams or other water courses, for the purpose of constructing and maintaining tunnels, bridges, passages or other works over or under them, and divert or alter, either temporarily or permanently, the course or any rivers, brooks, streams or other water courses or any roads, streets or ways, or raise or sink the level thereof, in order to carry them more conveniently over or under or by the side of the railway;
  - (iii) making drains or conduits into, through or under any lands adjoining the railway for the purpose of conveying water from or to the railway;
  - (iv) erecting and constructing such houses, warehouses, offices and other buildings, and such yards, stations, wharves, engines, machinery apparatus and other works and conveniences as the Company thinks proper;
  - (v) altering, repairing or discontinuing such buildings, works and conveniences as aforesaid or any of them, and substitute others in their stead;
  - (vi) erecting, operating and maintaining or repairing any telegraph and telephone lines, any electric traction equipment, power supply and distribution installation in connection with the working of the railway;
  - (vii) making and maintaining works for the accommodation of the owners and occupation of lands adjoining the railway. such as crossings, bridges, over bridges, under bridges, culverts, tunnels, roads, drains, water sources or other passages over, under or by the sides of or leading to or from the railway.
  - (viii) making boundary marks or fences, erecting gates, chains, bars, stiles or hand rails in connection with the working of railway;
  - (ix) establishment of ferries for the accommodation of its traffic railway or otherwise providing and maintaining: bridges and roadways, carrying other traffic roadways constructing and maintaining roads for the accommodation of traffic passing, providing and maintaining any means of transport including motor transport or aircraft service with a terminus at or near a station on its railway which may be required for the reasonable convenience of passengers, animals or goods carried or to be carried on its railway.

- (x) establishment of Mass Transit and other people mover systems of all types and disciplines, Rail, Road, Sea, Underground and Air Based including Rail based mass capacity rapid transit systems; Surface heavy rail system; Heavy metro systems, surface, elevated or underground Light Rail Transit Systems; People Mover Systems, including magnetic levitation systems and monorails.
  - (xi) doing all other acts necessary for making, maintaining, altering or repairing and using the railway.
- b. To promote, establish, construct, equip, operate, upgrade and maintain all types of systems and methods in order to facilitate travel, transportation and commuting of passengers, cargo and freight and to further these objectives amongst others, to construct, equip, operate and maintain roads, paths, routes, circuits, courses, itinerary, streets, access, approach arteries, avenues, boulevards, channels, drags, highways, passes, promenades, roadways, strait thoroughfares, trails, bridges, overpasses, trestles, viaducts, tunnels, passageways, conduits, pathways, shafts, subways, tubes, bye-passes, freeways, highways, expressways and all types of infrastructure and all other works, erections and things of any description whatsoever either upon the lands acquired, by the Company or upon other lands and generally, to alter and improve the lands and other properties of the Company and to finance all such activities. To promote, plan, locate, establish, build, lease, construct, finance, equip, maintain, operate, administer, manage, service, improve, upgrade and carry out repairs in respect of all types of projects, systems and methods in the infrastructure sector on a "Build Own Operate" (BOO), "Build Own Operate Maintain" (BOOM), "Build Own Operate Transfer" (BOOT), basis, and particularly in sectors relating to roads, bridges, highways, waterways, telecommunications, ports, power, energy, urban development, airports, railways, tramways with a view to facilitating, improving, and developing the level of infrastructure in the economy.
  - c. To acquire by purchase, lease, license, exchange, hire or otherwise immovable properties including lands, buildings, tenements and premises and other easement right of any tenure whether subject or not to any charges or encumbrances and to hold and develop or to sell, let, alienate, mortgage, charge, license or otherwise deal with all or any of such lands, buildings, tenements or premises or other immovable property.
  - d. To participate in various Schemes or programmes sponsored or promoted by the Government for and to undertake regulation and improvement of transport facilities and provide the requisite infrastructure therefore and to collect fees, tolls, charges and dues from the public for providing, managing or maintaining facilities or infrastructure put up or acquired by the Company as principals or as agents of all and as concessionaire on behalf of Government or any other authority or any person whatsoever.

#### 4. PURPOSE

1. The Transferor Company and Transferee Company are related companies and are owned, controlled and managed by the same management. The Transferor company is 100% subsidiary of the Transferee Company. Presently the management of day to day affairs of two separate companies is becoming very cost consuming and time consuming affair. The management of Transferee Company which is also a holding company of the Transferor Company has thus decided to reduce administrative cost and overhead expenses which would lead to greater and effective executive control, channelise synergy of operations and use of infrastructure facilities and shall lead to optimum utilisation of the available resources and will result in economies of scale. Therefore, with a view to reduce the overhead expenses and for consolidation through focussed management, the Board of Directors of both the companies have thought it appropriate to amalgamate the Transferor Company with the Transferee Company.
2. On amalgamation, the amalgamated company would be in a better position to plan for growth. The amalgamation will result in improved asset base and reduction in cost and enable the Transferee Company to raise resources for future growth and expansion of the business.
3. This Scheme would enable the merged entity to attain beneficial results for the Companies, their shareholders, creditors, employees and will not prejudice and interests of any concerned member/ creditor or general public at large.

#### 5. SHARE CAPITAL FOR TRANSFEROR COMPANY

- 5.1 The authorized, issued, subscribed and paid up capital of the Transferor Company and the Transferee Company as on 30.06.2006 is as under:

##### Transferor Company:

Name of the Company.	Authorised Share-Capital (In Rupees)	Authorised Number of Shares in Capital	Issued, Subscribed & Paid- up Capital	
			Total Share Capital	No. of Shares
DND Flyway Limited	5,00,000	50,000 equity shares of Rs. 10 per share fully paid up	5,00,000	Divided into 50,000 equity shares of Rs. 10 per share fully paid up

##### SHARE CAPITAL OF TRANSFEE COMPANY –

Name of the Company.	Authorised Share-Capital (In Rupees)	Authorised Number of Shares in Capital	Issued, Subscribed & Paid- up Capital	
			Total Share Capital	No. of Shares
Noida Toll Bridge Company Limited	2000,000,000/-	200,00,000 Equity Shares of Rs 10/- each	1861,950,020/-	186,195,002 Equity Shares of Rs 10/- each

## **6. TRANSFER OF ASSETS AND LIABILITIES**

- 6.1 With effect from the Appointed Date and subject to the provisions of the Scheme including in relation to the mode of transfer and vesting the Undertaking, and the entire business including all the movable and immovable properties, tangible and intangible assets, buildings, offices, investments of all kinds, lease and hire purchase contracts, capital works in progress, current assets, investments, powers, authorities, allotments, approvals and consents, licences, registration, contracts, engagements, rights, titles, interest, benefit of any security arrangements, reversions, arrangements of all kinds of benefits and advantages of whatsoever nature and wheresoever situate 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, including but without being limited to all patents, trade names, trade marks and other intellectual property rights of any nature whatsoever, and other industrial rights of any nature whatsoever and licenses in respect thereof, privileges, liberties, easements, advantages, benefits, leases, tenancy rights, ownership flats, quota rights, permits, approvals, authorizations, rights to use and avail of telephones, telexes, facsimile connections, computers and installations, utilities, electricity and other services, reserves, provisions, funds, benefits of all agreements and all other interests arising to the Transferor Company (hereinafter collectively referred to as the "said Assets") shall be and stand transferred to and vested in and/or be deemed to be and stand transferred to and vested in the Transferee Company pursuant to the provisions of Section 394 of the Act for all the estate, right, title and interests of the Transferor Company so as to become as and from the Appointed Date, the estate, assets, rights, title and interests of the Transferee Company.
- 6.2 It is expressly provided that in respect of such of the said Assets as are movable in nature or, incorporeal property, or are otherwise capable of transfer by manual delivery or by endorsement and delivery, the same may be so transferred by the Transferor Company, and shall upon such transfer become the property of the Transferee Company in pursuance of the provisions of Section 394 of the Act, as an integral part of the Transferee Company. The same shall, without any further act, instrument or deed, be transferred and vested in and / or be deemed to be transferred and vested in the Transferee Company pursuant to an order being made thereof under section 394 of the Act.
- 6.3 With effect from the Appointed Date and upon the Scheme becoming effective, the land, with the buildings standing thereon, if any, held by Transferor Company, and any documents of title / rights and easements in relation thereto shall be vested in and transferred to and/or be deemed to have been transferred to and vested in the Transferee Company and shall belong to the Transferee Company. With effect from the Effective Date, the Transferee Company shall be liable for ground rent and municipal taxes in relation to properties subject to such taxes, if any. The mutation of title to the immovable properties shall be made and duly recorded by the appropriate authorities pursuant to the sanction of the Scheme and upon the Scheme becoming effective in accordance with terms hereof in favour of the Transferee Company.
- 6.4 Since the entire issued, subscribed and paid up capital of the Transferor Company is held by the Transferee Company, the vesting of properties from the Transferor Company to the Transferee Company is exempt from payment of stamp duty under the Finance Department, Central Board of Revenue Notification No. 1 D/- issued on 16-1-1937, remitting stamp duty payable for vesting of property between the parent company and its subsidiary in which not less than 90% of the issued share capital of the subsidiary company is beneficially owned by the parent company.
- 6.5 In so far as the various incentives, subsidies, special status and/or other benefits or privileges enjoyed or availed of from the Central Government and/or State Government authorities, statutory bodies or any other competent authorities or from any other person(s) by the Transferor Company is concerned, the same shall vest with and be available to the Transferee Company on the same terms and conditions with effect from the Appointed Date consequent to the sanction of the Scheme by the Hon'ble High Courts.
- 6.6 It is clarified that on the Scheme becoming effective, the Transferee Company shall be the absolute owner of the intellectual property rights including the right to use the corporate names of the Transferor Company with or without any suffix or prefix and no person other than the Transferee Company or its successors shall have right, title or interest therein or thereof.
- 6.7 It is clarified that the Scheme shall not in any manner affect the rights and interests of the creditors of the Transferor Company or be deemed to be prejudicial to their interests. Other than the Transferee Company, the Transferor Company does not have any creditors.
- 6.8 With effect from the Effective Date and till such time the names of the bank accounts of the Transferor Company are replaced with that of the Transferee Company, the Transferee Company shall be entitled to operate the bank accounts of the Transferor Company in their names, as the case may be, in so far as may be necessary.
- 6.9 The Transferee Company, at any time after the coming into effect of this Scheme, may execute deeds of confirmation in favour of any party to any contract or arrangement to which the Transferor Company is party or any writings as may be necessary to be executed in order to give formal effect to the above provisions. The Transferee Company shall, under the provisions of this Scheme, be deemed to be authorized to execute any such writings on behalf of the Transferor Company to carry out or perform all such formalities or compliance, referred to above on the part of the Transferor Company to be carried out or performed.

## **7. TRANSFER OF ASSETS SUBJECT TO CHARGE.**

- 7.1 The transfer/vesting as aforesaid shall be subject to existing charges/ hypothecation/mortgage (if any as may be subsisting) over or in respect of the said Assets or any part thereof. Provided however, any reference in any security documents or arrangements to which the Transferor Company is a party to the assets of the Transferor Company offered or agreed to be offered as security for any financial assistance, or obligations to the secured creditors of the Transferor Company shall be construed as reference only to the assets pertaining to the undertaking of the Transferor Company as are vested in the Transferee Company by virtue of the aforesaid Clause, to the end and

intent that such security, mortgage and charge shall not extend or be deemed to extend to any of the assets or to any of the other units or divisions of the Transferee Company with such secured creditors and subject to the consents and approvals of the existing secured creditors of the Transferee Company.

## **8. TRANSFER OF LIABILITIES**

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

- (a) All secured and unsecured debts, liabilities, including contingent liabilities, whether disclosed or undisclosed, duties and obligations of the Transferor Company along with any charge, encumbrance, lien or security thereon (hereinafter referred to as the "said Liabilities") shall also be vested or deemed to be and stand vested or be deemed to be and stand transferred, without any further act, instrument or deed, to the Transferee Company, pursuant to the provisions of Section 394 of the Act so as to become as and from the Appointed Date the debts, liabilities, duties and obligations of the Transferee Company, and further that 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 debts, liabilities, duties and obligations have arisen in order to give effect to the provisions of this Clause.
- (b) In respect of the shares issued by the Transferor Company and held by the Transferee Company, the same shall stand cancelled as of the Effective Date, and shall be of no effect and the Transferor Company, shall have no further obligation outstanding in that behalf. Similarly, all the loans and advances extended by the Transferee Company to the Transferor Company and vice versa shall also stand cancelled and the Transferor Company and the Transferee Company, as the case may be, shall have no further obligation in that behalf.

## **9. CONDUCT OF BUSINESS BY TRANSFEROR COMPANY TILL EFFECTIVE DATE**

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

- (a) the Transferor Company shall carry on and shall be deemed to have carried on its business and activities and shall hold and stand possessed of and shall be deemed to have held and stood possessed of all the said Assets on account of, and in trust for, the Transferee Company;
- (b) the Transferor Company shall carry on its business and activities with reasonable diligence and business prudence and shall not alienate, charge, mortgage, encumber, or otherwise deal with the said Assets or any part thereof, except in the ordinary course of business, or without the prior written consent of the Transferee Company, or pursuant to any pre-existing obligation undertaken by the Transferor Company prior to the Appointed Date; the Transferor Company shall not undertake any additional financial commitments of any nature whatsoever, borrow any amounts nor incur any other liabilities or expenditure, issue any additional guarantee, indemnities, letters of comfort or commitments, either for themselves or on behalf of their subsidiaries, if any, or group companies or any third party, or save as expressly permitted by this Scheme or with the prior written consent of the Transferee Company except where it is necessary in the ordinary course of business,
- (c) All profits or incomes accruing or arising to the Transferor Company or expenditure, or losses arising or incurred (including the effect of taxes, if any, thereon) by The Transferor Company on and after the Appointed Date shall, for all purposes, be treated and be deemed to be and accrue as the profits or incomes or expenditure or losses of the Transferee Company, as the case may be.
- (d) provided that as far as the obligations in sub-clause (a), (b) and (c) above are concerned, the restrictions thereunder shall be applicable from the date of the acceptance of the present Scheme by the respective Boards of the two Companies, even if the same be prior to the Appointed Date.

## **10. LEGAL PROCEEDINGS**

10.1 Upon the coming into effect of this Scheme,

- (a) all suits, actions and proceedings of whatsoever nature by or against the Transferor Company pending and/or arising on or before the Effective Date shall be continued and be enforced by or against the Transferee Company as effectively as if the same had been pending and/or arising by or against the Transferee Company.
- (b) the Transferee Company undertakes to have all legal or other proceedings initiated by or against the Transferor Company referred to in sub-clause (a) above transferred to its name and to have the same continued, prosecuted and enforced by or against the Transferee Company.

## **11. ENFORCEMENT OF CONTRACTS, DEEDS, BONDS AND OTHER INSTRUMENTS**

11.1 Upon the coming into effect of this Scheme, and subject to the provisions of this Scheme, all contracts, deeds, bonds, agreements, arrangements, leasehold rights, tenancy rights and other instruments of whatsoever nature to which the Transferor Company is party or to the benefit of which the Transferor Company may be eligible, and which are subsisting or having effect immediately before the Effective Date, shall be in full force and effect against or in favour of the Transferee Company as the case may be 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 thereto. The Transferee Company shall, wherever necessary, enter into and/or issue and/or execute deeds, writings or confirmations, enter into any tripartite arrangements, confirmations or novation to which the Transferor Company will, if necessary, also be a party in order to give formal effect to the provisions of this Clause.

11.2 The Transferee Company, at any time after the coming into effect of this Scheme, may execute deeds of confirmation in favour of any party to any contract arrangement, agreement etc. as referred in clause (a) above, to which the Transferor Company is party or any writings as may be necessary to be executed in order to give formal effect to the above provisions. The Transferee Company shall, under the provisions of this Scheme, be deemed to be authorized to execute any such writings on behalf of the Transferor Company to carry out or perform all such formalities or

compliance, referred to above on the part of the transferor company to be carried out or performed.

## **12 NO EFFECT OF TRANSFER OF UNDERTAKING ON THE TRANSACTIONS/ CONTRACTS ALREADY CONCLUDED BY THE TRANSFEROR COMPANY**

12.1 The transfer and vesting of the said Assets and the said Liabilities of the Transferor Company to the Transferee Company and the continuance of all the legal proceedings and all the contracts by or against the Transferor Company after the Appointed Date shall not affect any transaction, contract or proceedings already concluded by the Transferor Company in the ordinary course of business on or after the Appointed Date to the end and intent that the Transferee Company accepts on behalf of itself and adopts all acts, deeds and things done and executed lawfully by or on behalf of the Transferor Company as acts, deeds and things done and executed lawfully by or on behalf of the Transferee Company.

## **13 ACCOUNTING TREATMENT AND CONSIDERATION**

### **(A) Accounting Treatment**

13.1 A Concession Agreement entered into between NTBCL, Infrastructure Leasing and Financial Services Ltd (IL&FS, the Promoter Company) and the New Okhla Industrial Development Authority, Government of Uttar Pradesh, conferred the right to NTBCL to implement the project and recover the project cost, through the levy of fees / toll revenue. The Concession Agreement provides for a designated rate of return over the concession period of 30 years commencing from December 30, 1998 ie the date of Certificate of Commencement, or till such time the designated return is recovered, whichever is earlier. The Concession Agreement provides for the 20% rate of return computed with reference to the project costs, cost of major repairs and the shortfall in the recovery of the designated returns in earlier years

Considering the current scheme of arrangements, it is proposed that such amount of designated return which is based on the terms of the Concession Agreement in view of the residual life of the concession period be brought to the extent of Rs 1,713.3 million being the amount required to write off the accumulated losses and other incidental expenses in relation to the business restructuring of NTBCL, the details of which are provided in Clause 13.2 below

Considering that restructuring is a one-time event Company intends to capture the value of the embedded assets up to an amount of Rs 1,713.3 million by debiting to Toll Equalisation Receivable Account and crediting to General Reserve Account

13.2 Upon the Scheme becoming effective and as on the Effective Date:

- (i) The balances, if any, lying to the credit of the "General Reserve Account" in the books of account of the Transferor Company shall be credited by the Transferee Company to its "General Reserve Account" and shall constitute the Transferee Company's free reserve, as if the same was credited by the Transferee Company out of its own earned and distributable profits.
- (ii) The balances lying to the debit of the "Profit and Loss Account" in the books of account of the Transferor Company shall be debited by the Transferee Company to its "Profit and Loss Account".
- (iii) The amount appearing in the books of Transferor Company inter-se as Debtors and Creditors or vis-à-vis the Transferee Company shall stand cancelled.
- (iv) The Stock in Trade appearing in the Books of the Transferor Company shall be transferred to the assets appearing in the Books of the Transferee Company.
- (v) Share capital of the Transferor Company to the extent the same is held by the Transferee Company shall stand cancelled. Correspondingly, the investments appearing in the books of the Transferee Company also stand extinguished. Any difference in the values at which such share capital and investments of the Transferor Company and/or the Transferee Company get extinguished shall be adjusted through the "General Reserve Account" in the books of the Transferee Company.
- (vi) The net surplus/deficit, if any, arising out of the amalgamation in the books of the Transferee Company, after providing for the adjustments set forth above, shall be appropriately credited or debited by the Transferee Company, to the "General Reserve Account".
- (vii) The General reserve will be credited by the transferee company with the Toll Equalisation Receivable A/c amounting to Rs. 1713.3 million.
- (viii) The General Reserve Account of the Transferee Company shall be utilized for making the following adjustments:
  - Set off of Accumulated losses of Transferor Company and the Transferee Company amounting to Rs. 1125.1 million.
  - Provision of Rs 432.5 million towards the balance liability of Zero Coupon Bonds Series B issued to the Lenders.
  - unamortised ancillary cost incurred in connection with arrangement of borrowings for restructuring of DDBs - Rs. 108.7 million
  - Contingencies for Bond issue expenses – Rs 17 million.
  - Contingencies for prepayment of loans - Rs 30 million .

The above adjustments in the form of journal entries are attached as Annexure - 1

#### **14. CONSIDERATION**

14.1 As the entire issued, subscribed and paid up share capital of the Transferor Company is held by the Transferee Company, upon the Scheme becoming finally effective, the said share capital of the Transferor Company will stand automatically cancelled and there will be no issue and allotment of shares by the Transferee Company in consideration of amalgamation of the Transferor Company with the Transferee Company..

#### **15. TRANSFEROR COMPANY'S EMPLOYEES**

15.1 Upon the coming into effect of this Scheme,

- (a) Any staff, workmen or other employees in the service of the Transferor Company immediately preceding the Effective Date shall become the staff, workmen and employees of the Transferee Company on the basis that:
  - (i) their services shall be deemed to have been continuous and not have been interrupted by reasons of the said transfer.
  - (ii) The terms and conditions of service applicable to such staff, workmen or employees after such transfer shall not in any way be less favourable to them than those applicable to them immediately preceding the transfer.
- (b) It is expressly provided that as far as the maintenance of any provident fund with the Regional Provident Fund Commissioner or any Gratuity fund, Superannuation Scheme or any other Special Fund(s) including any surplus in such funds created or existing for the benefit of any employees of the Transferor Company is concerned, upon the coming into effect of this Scheme, the Transferee Company shall stand substituted for the Transferor Company for all purposes whatsoever, related to the administration or operation of such Schemes or funds or in relation to the obligation to make contributions to the said Schemes or funds in accordance with provisions of such funds as per the terms provided in the respective trust deeds or other documents and all the rights, duties powers and obligations of the Transferor Company in relation to such Schemes/funds shall become those of the Transferee Company. It is clarified that the services of any employees of the Transferor Company will be treated as having been continuous for the purpose of the aforesaid Scheme.

#### **16. DISSOLUTION OF THE TRANSFEROR COMPANY**

16.1 The Transferor Company, upon coming into effect of this Scheme, shall be dissolved without winding up, subject to an order being made by the Hon'ble High Courts under section 394 of the Companies Act, 1956.

#### **17. OTHER CONDITIONS APPLICABLE TO THE SCHEME**

17.1 The Transferor and the Transferee Company shall with all reasonable care dispatch, make applications / petitions to the Hon'ble High Courts under Section 391 and 394 and other applicable provisions of the Act, for sanctioning the Scheme of Amalgamation and for dissolution of the Transferor Company without winding up and for convening the meeting of the shareholders and creditors (if ordered), and to obtain all other approvals as may be required under law.

17.2 The Transferor Company (by their directors), and the Transferee Company (by its directors) may make or assent from time to time on behalf of all persons concerned to any modification or amendments of this Scheme or any of conditions or limitation which the Hon'ble High Courts and/or any authorities under law may deem fit to approve or impose and to resolve all doubts or difficulties that may arise for carrying out the Scheme and to do and execute all acts, deeds, matters and things necessary for putting the Scheme into effect.

17.3 The Transferor Company and the Transferee Company by their respective Boards or delegates of the respective Boards may in their full and absolute discretion assent to any alterations to or modifications of the Scheme which the Hon'ble High Courts and/or any other competent authority may deem fit and approve or impose and may give such directions as they may consider necessary to settle any question or difficulty arising under the Scheme connected therewith.

17.4 For the purpose of giving effect to this Scheme or to any modification or amendments thereof, the directors of the Transferee Company may give and are authorized to give all such directions as are necessary including directions for settling any question or doubt or difficulty that may arise.

17.5 This Scheme is conditional on and subject to :

- (a) The approval of and agreement to the Scheme by the requisite majorities of shareholders and such classes of person of the Transferor Company and the Transferee Company as may be directed by the Hon'ble High Courts on the applications made for directions under Section 391 of the Act for calling meetings and necessary resolutions being passed under the Act for the purpose.
  - (b) The sanctions of the Hon'ble High Courts, being obtained under section 391 and 394 and other applicable provisions of the Act, if so required on behalf of the Transferor and the Transferee Company.
  - (c) The certified copies of the orders of the Hon'ble High Courts being filed with Registrar of Companies, NCT of Delhi and Haryana and Kanpur.
  - (d) Such other sanctions and approvals including sanction of any govt. or regulatory authority, as may be required by law in respect of the Scheme being obtained.
- 17.6 The Transferee Company will file the relevant intimations, as may be necessary or required, to the statutory authorities concerned, who shall take the same on record and endorse the name of the Transferee Company for the Transferor Company.

17.7 The Transferor Company, upon coming into effect of this Scheme, shall be dissolved without winding up, subject to an Order being made by the Hon'ble High Courts under section 394 of the Companies Act, 1956.

**18 EXPENSES CONNECTED WITH SCHEME**

18.1 All costs charges and expenses of the Transferor and Transferee Company in relation to or in connection with the negotiations leading to this scheme and to the agreements between the parties hereto in respect thereof and of carrying out and completing the terms and provisions of this Scheme and the agreements entered into by and between the parties hereto relating thereto and of incidental expenses incurred for the completion of the amalgamation and merger of the Transferor Company with the Transferee Company shall be borne by the Transferee Company.

**For DND FLYWAY LIMITED**

Sd/-  
Director

**For NOIDA TOLL BRIDGE COMPANY LIMITED**

Sd/-  
Director

**Proposed Adjustments in the Scheme of Amalgamation**

	<b><u>Rs Mn</u></b>
Toll Equalisation Receivable Account	1,713.3
To General Reserve	1,713.3
(Part of Return realizable as per Concession Agreement taken to Toll Equalisation Receivable Account)	
General Reserve	1,713.3
To P&L Account (Accumulated losses)	1,125.1
To ZCB B	432.5
To Restructuring expenses (DDBs)	108.7
To Contingencies for Bond issue Expenses	17.0
To Contingencies for prepayment of loans	30.0
(Adjustments against General Reserve)	