

**SCHEME OF AMALGAMATION**  
**(UNDER SECTION 232 READ WITH SECTION 230 OF THE COMPANIES**  
**ACT, 2013)**  
**OF**  
**SUNDARAM INFOTECH SOLUTIONS LIMITED**  
**WITH**  
**SUNDARAM FINANCE LIMITED**  
**AND**  
**THEIR RESPECTIVE MEMBERS**

This Scheme of Amalgamation provides and is presented for the amalgamation of Sundaram Infotech Solutions Limited with Sundaram Finance Limited pursuant to the provisions of Section 232 read with Section 230 and other relevant provisions of the Companies Act, 2013 and all other applicable provisions, if any, of the Companies Act, 1956. This Scheme of Amalgamation also provides for various other matters consequential or otherwise integrally connected therewith.

The Scheme is divided into 3 (three) parts:

- (i) Part I, which deals with the introduction, rationale, definitions, share capital.
- (ii) Part II, which deals, *inter-alia*, with the mechanics of the transfer of the Undertaking of the Transferor Company to the Transferee Company, dissolution of the Transferor Company.
- (iii) Part III, which deals with general/residuary terms and conditions.

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Certified True Copy  
For Sundaram Finance Limited

  
P. Viswanathan  
Secretary & Compliance Officer

PART - I

**1. INTRODUCTION, DEFINITIONS AND SHARE CAPITAL**

**1.1 INTRODUCTION**

**1.1.1. Sundaram Infotech Solutions Limited.**

- (i) Sundaram Infotech Solutions Limited (hereinafter referred to as the “**Transferor Company**”) is a company incorporated under the Companies Act, 1956 on 19<sup>th</sup> July 2005.
- (ii) The Corporate Identity Number of the Transferor Company is U72200TN2005PLC056969.
- (iii) The Transferor Company presently has its registered office at No. 21, Patullos Road, Chennai- 600002.
- (iv) The equity shares of the Transferor Company are not listed on any stock exchange.
- (v) The Transferor Company is a wholly owned subsidiary of Sundaram Finance Limited, which is the Transferee Company herein.

**1.1.2 Sundaram Finance Limited**

- (i) Sundaram Finance Limited (Hereinafter referred to as the “**Transferee Company**”) is a company incorporated under the Indian Companies Act, 1913 on 11<sup>th</sup> August 1954.



- (ii) The Corporate Identity No. of the Transferee Company is L65191TN1954PLC002429.
- (iii) The Transferee Company presently has its registered office at No. 21, Patullos Road, Chennai- 600 002.
- (iv) The equity shares of the Transferee Company are listed on National Stock Exchange of India Limited. NSE Stock Code: SUNDARMFN, ISIN: INE660A01013.
- (v) The Transferee Company is the Holding Company of the Transferor Company.

### 1.1.3 Rationale of the Scheme

- (i) The Transferor Company is a wholly owned subsidiary of the Transferee Company and the amalgamation is therefore within the Group Companies.
- (ii) The Transferor Company has been facing considerable challenges in its operational performance and profitability in the past few years. The Transferor Company has not been able to grow because of its moderate size and difficulty to compete with major IT players.
- (iii) The Board of directors of both the Transferor and Transferee Companies are of the opinion that the proposed amalgamation would pave the way for sustained growth and profitability of the group as a whole, in the long run.



- (iv) The Transferor Company has built up significant experience in the Microsoft Dynamics domain and is a certified Microsoft Gold Partner. The Transferor Company is also a CMMI Level 3 Certified entity. By virtue of this expertise, the Transferor Company have acquired important customers over the years who will now migrate to the Transferee Company.
- (v) The Transferee Company's Information Technology division, viz., Sundaram Infotech Solutions (SIS) caters to the Information Technology and software needs of the Sundaram Finance group of companies. There are several talented resources in the Transferor Company, many of whom could be utilised in SIS to develop and deliver software solutions in the financial services domain. This would enable SIS to provide a wider array of services, increased talent pool and more depth in service offerings.
- (vi) The proposed amalgamation would be in the interest of both the companies concerned and would bring in economies in operations, thereby helping in reducing expenditure considerably.
- (vii) The amalgamation is in the interest of the shareholders, creditors and all other stakeholders of the respective companies, and is not prejudicial to the interests of the concerned shareholders, creditors or the general public at large.



## 1.2 DEFINITIONS

In this Scheme, unless inconsistent with the meaning or context thereof, the following expressions shall have the following meanings and the word(s) and expression(s) elsewhere defined in the Scheme will have the meaning(s) respectively ascribed thereto:

- (a) “**Act**” as the context may require shall mean (i) the Companies Act, 2013 (to the extent that such enactment is in force and applicable to the context in which such term is used herein), or (ii) the Companies Act, 1956 (to the extent that such enactment is in force and applicable to the context in which such term is used herein), and such term shall include all amendments, modifications and Re-enactments of the foregoing;
- (b) “**Appointed Date**” means the opening of the 1<sup>st</sup> day of April 2016 (01.04.2016) or such other date(s) as may be fixed by the Registrar or the Central Government as the case may be.
- (c) “**Board**” means the Board of Directors of the Transferor Company or the Transferee Company, as the case may be and as the context may require.
- (d) “**Effective Date**” means the last of the dates on which the following conditions get fulfilled: (1) sanction of this Scheme by the Hon’ble Tribunal (2) The copy of the Orders of the Hon’ble Tribunal being filed by the Transferor Company and the Transferee Company with the Registrar of Companies.



- (e) **“Encumbrance”** means any options, pledge, mortgage, lien, security, interest, claim, charge, pre-emptive right, easement, limitation, attachment, restraint or any other encumbrance of any kind or nature whatsoever; and the term “Encumbered” shall be construed accordingly.
- (f) **“Scheme”** means this Scheme of Amalgamation in its present form or with such modifications as may be required by any of the authorities/Tribunal pursuant to Section 232 read with section 230 and other relevant provisions of the Companies Act, 2013.
- (g) **“Tribunal”** means the National Company Law Tribunal, Chennai Bench.
- (h) **“Undertaking of the Transferor Company”** means the entire undertaking of the Transferor Company including:
- (i) All the properties, assets and rights of the Transferor Company, as on the Appointed Date;
  - (ii) All the debts, liabilities, duties and obligations of the Transferor Company, as on the Appointed Date;

Without prejudice to the generality of the foregoing clauses (i) and (ii) above, the said Undertaking shall include the business of the Undertaking of the Transferor Company and shall also include all rights, powers, interests, authorities, privileges, liberties and all properties and assets, all rights and interests in moveable or immovable, freehold or leasehold, tangible or intangible, real or personal, corporeal or incorporeal, in possession or reversion, present or contingent of whatsoever nature and wherever situated including all lands, buildings, plant and machinery, office equipment, inventories, debentures, bonds and other securities, sundry debtors, cash and bank balances, bank



accounts, loans and advances, benefits of security arrangements, computers, insurance policies, telephones, mobile phones, telexes, facsimile connections, communication facilities, equipment and installations and utilities, electricity, water and other service connections, permits, rights, entitlements, allotments, approvals, consents, privileges, liberties, goodwill, deposits, reserves, preliminary expenses, provisions, advances, receivables, deposits, funds, subsidies, grants, tax credits / incentives, sales tax, value added tax, turnover tax, customs duties, excise duties, service tax including all accumulated losses and credits in respect of income tax and minimum alternate tax and other claims and powers, of whatsoever nature and wherever situated belonging to or in the possession of or granted in favour of or enjoyed by the Transferor Company, leases and all other interests and rights in or arising out of such property together with all liberties, easements, advantages, exemptions, trademarks, patents, copyrights, import entitlements and other quotas, if any, held, applied for or as may be obtained hereafter by the Transferor Company or which the Transferor Company are entitled to together with the benefit of all respective contracts and engagements and all respective books, records, files, papers, records of standard operating procedures, lists of present and former customers and suppliers, customer credit information and other records, whether in physical or electronic form of the Transferor Company as on the Appointed Date;

(iii) All permanent employees of the Transferor Company.

### 1.3 SHARE CAPITAL

The authorised, issued, subscribed and paid-up share capital of the Transferor Company and the Transferee Company is as under:

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1.3.1 Transferor Company as on 31<sup>st</sup> March 2016:

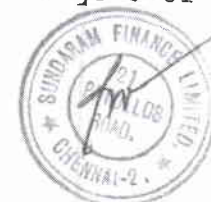
Particulars	(Amount in Rs)
<u>Authorised Share Capital</u>	
1,70,00,000 Equity Shares of Rs.10/- each	17,00,00,000
<u>Issued, Subscribed and Paid up Share Capital</u>	
1,64,00,000 Equity Shares of Rs.10/- each	16,40,00,000

- (i) The entire paid-up equity share capital of the Transferor Company is held by the Transferee Company, along with its nominees. Accordingly, the Transferor Company is a wholly owned (100%) subsidiary of the Transferee Company.
- (ii) There has been no change in the authorised, issued, subscribed and paid-up equity share capital of the Transferor Company since 31<sup>st</sup> March 2016.

1.3.2. Transferee Company as on 31<sup>st</sup> March 2016:

Particulars	(Amount in Rs)
<u>Authorised Share Capital</u>	
25,00,00,000 Equity Shares of Rs. 10/-	250,00,00,000
<u>Issued, Subscribed and Paid up Share Capital</u>	
11,11,03,860 Equity Shares of Rs. 10/-	111,10,38,600

- (i) There has been no change in the authorised, issued, subscribed and paid-up equity share capital of the Transferee Company since 31<sup>st</sup> March 2016.





**PART – II**

**AMALGAMATION OF THE TRANSFEROR COMPANY WITH THE  
TRANSFEEE COMPANY**

**2. TRANSFER AND VESTING OF THE UNDERTAKING OF THE  
TRANSFEROR COMPANY IN THE TRANSFEEE COMPANY**

- 2.1 With effect from the Appointed Date, the Transferor Company shall stand amalgamated with the Transferee Company, as provided in this Scheme. Accordingly, the Undertaking of the Transferor Company shall, pursuant to the provisions contained in Sections 232 of the Companies Act, 2013 and other applicable provisions of the Act and subject to the provisions of the Scheme in relation to the mode of transfer and vesting, stand transferred to and vest in or be deemed to be transferred to and vested in the Transferee Company, as a going concern without any further act, deed, matter or thing (save as provided in Clause 2.4 below) so as to become on and from the Appointed Date, the Undertaking of the Transferee Company.
- 2.2 The transfer and vesting of the Undertaking of the Transferor Company, as aforesaid, shall be subject to the Encumbrances, if any, over or in respect of any of the assets or any part thereof, provided however that such Encumbrances shall be confined only to the relevant assets of the Transferor Company or part thereof on or over which they are subsisting on transfer to and vesting of such assets in the Transferee Company and no such Encumbrances shall extend over or apply to any other asset(s) of the Transferee Company. Any reference in any security documents or arrangements (to which the Transferor Company is a party) to any assets of



the Transferor Company shall be so construed to the end and intent that such security shall not extend, nor be deemed to extend, to any of the other asset(s) of the Transferee Company. Similarly, the Transferee Company shall not be required to create any additional security over assets acquired by it under this Scheme for any loans, debentures, deposits or other financial assistance already availed/to be availed by it and the Encumbrances in respect of such indebtedness of the Transferee Company shall not extend or be deemed to extend or apply to the assets so acquired by the Transferee Company.

- 2.3 It is expressly provided that in respect of such of the said assets as are movable in nature or otherwise capable of being transferred by manual delivery or by endorsement and delivery, the same shall be so transferred by the Transferor Company and shall become the property of the Transferee Company accordingly without requiring any deed or instrument of conveyance for the same.
- 2.4 All debts, liabilities including contingent liabilities, duties and obligations of the Transferor Company shall also be transferred to the Transferee Company, without any further act or deed, pursuant to the provisions of Section 232 of the Act and other applicable provisions of the Act, so as to become the debts, liabilities, duties and obligations of the Transferee Company.
- 2.5 Subject to the other provisions of this Scheme, all licenses, permissions, approvals, consents, registrations, eligibility certificates, fiscal incentives and no-objection certificates obtained by the Transferor Company for their respective operations and/or to which the Transferor Company is entitled to in terms of the various statutes and / or schemes of Union and State Governments, shall be available to and vest in the Transferee Company, without any further act or deed and shall be appropriately mutated by the statutory authorities concerned therewith in favour of the Transferee Company. Since the Undertaking of the



Transferor Company will be transferred to and vested in the Transferee Company as a going concern without any break or interruption in the operations thereof, the Transferee Company shall be entitled to the benefit of all such licenses, permissions, approvals, consents, registrations, eligibility certificates, fiscal incentives and no-objection certificates and to carry on and continue the operations of the Undertaking of the respective Transferor Company on the basis of the same from the Effective Date. Further, all benefits, including, but not limited to under income tax, excise, service tax, sales tax, goods and service tax (including value added tax/central value added tax), etc., to which the Transferor Company is entitled in terms of the various statutes and / or schemes of the Union and State Governments, etc., shall be available to and vest in the Transferee Company from the Effective Date. Also, from the Effective Date, the Transferee Company shall be entitled to revise *inter alia* its income tax returns, financial statements, sales tax returns/value added tax returns, service tax returns etc., to give effect to the consequential treatment/implications for tax purposes.

- 2.6 For the removal of doubt, it is clarified that to the extent that there are inter-company loans, deposits, obligations, balances or other outstandings as between the Transferor Company and the Transferee Company, the obligations in respect thereof shall come to an end and there shall be no liability in that behalf and corresponding effect shall be given in the books of account and records of the Transferee Company for the reduction of such assets or liabilities as the case may be and there would be no accrual of interest or any other charges in respect of such inter-company loans, deposits or balances, with effect from the Appointed Date.

**3. ALTERATION AND INCREASE IN THE AUTHORISED SHARE CAPITAL**



3.1 Consequent to and as part of the amalgamation of the Transferor Company with the Transferee Company herein, the entire authorised share capital of the Transferor Company shall stand merged into and be combined with the authorised share capital of the Transferee Company pursuant to the Scheme, without any further act of deed. The Filing fees and stamp duty paid by the Transferor Company on its authorised share capital, shall be deemed to have been so paid by the Transferee Company on the combined authorised share capital and accordingly, the Transferee Company shall not be required to pay any fee / stamp duty for its increased authorised share capital. Accordingly, the authorised equity share capital of the Transferee Company resulting from the amalgamation of the Transferor Company with the Transferee Company shall aggregate Rs 267,00,00,000/- [Rupees Two hundred and Sixty-Seven Crores Only] comprising 26,70,00,000 Equity Shares of Rs 10/- each.

3.2 Clause V of the Memorandum of Association of the Transferee Company shall, without any further act, instrument or deed, be and stand altered, modified and amended etc., pursuant to Sections 232, 13 and 61 of the Companies Act, 2013 and other applicable provisions of the Act and the relevant rules framed thereunder by deleting the existing Clause and replacing it by the following:

“The Authorised share capital of the Company is Rs 267,00,00,000/- [Rupees Two hundred and Sixty Seven Crores Only] divided into 26,70,00,000 Equity Shares of Rs 10/- each” (Rupees Ten) each, with concomitant power to increase, reduce, sub-divide, vary, modify and abrogate any rights, privileges and conditions attaching thereto, subject to and in accordance with the provisions of the Companies Act, 2013 and the rules thereunder.”

3.3 Article 3 (i) of the Articles of Association of the Transferee Company shall, without any further act, instrument or deed, be and stand altered, modified and amended pursuant to Sections 232 and 14 of the Companies Act, 2013 and other



applicable provisions of the Act and the relevant rules framed by deleting the existing Clause and replacing the same with the following:

The Authorised Capital of the Company shall be as stated in the Memorandum of Association of the Company from time to time.

3.4 The approval of this Scheme by the shareholders of the Transferor Company and the Transferee Company under Section 232 of the Companies Act, 2013 shall be deemed to have the approval under Sections 13, 14, 61 and other applicable provisions of the Companies Act, 2013 and the relevant rules framed thereunder and any other consents and approvals required in this regard.

#### **4. ISSUE OF SHARES BY THE TRANSFEE COMPANY**

The Transferor Company is a wholly owned subsidiary of the Transferee Company and the entire Issued, Subscribed and Paid-up Equity Capital of the Transferor Company are held by the Transferee Company and its nominees. Consequently, and from the Effective Date, the entire Issued, Subscribed and Paid-Up Share Capital of the Transferor Company will stand automatically cancelled and there will be no issue and allotment of any shares by the Transferee Company to the shareholders of the Transferor Company in pursuance of this Scheme.

#### **5. LEGAL PROCEEDINGS**

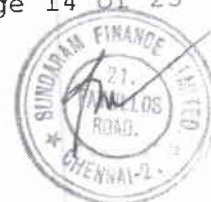
If any suit(s), actions and proceedings of whatsoever nature (hereinafter called the "Proceedings") by or against the Transferor Company are pending on the Effective Date, the same shall neither abate nor be discontinued nor in any way be prejudicially affected by reason of the amalgamation of the Transferor



Company with the Transferee Company or anything contained in the Scheme, but the Proceedings may be continued and enforced by or against the Transferee Company post the Effective Date as effectually and in the same manner and to the same extent as the same would or might have continued and enforced by or against the Transferor Company, in the absence of the Scheme.

## 6. CONTRACTS AND DEEDS

- 6.1 Subject to other provisions of this Scheme, all contracts, deeds, bonds, agreements, arrangements, engagements 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 have not lapsed and are subsisting on the Effective Date, shall remain in full force and effect against or in favour of the Transferee Company as the case may be, and may be enforced by or against the Transferee Company as fully and effectually as if, instead of the Transferor Company, the Transferee Company had been a party or beneficiary thereto.
- 6.2 The Transferee Company shall, if and to the extent required by law, enter into and / or issue and/or execute deeds, writings or confirmations, or enter into any tripartite arrangement, confirmation or novation to give formal effect to the provisions of this Clause.
- 6.3 Even after the Effective Date, the Transferee Company shall, in its own right, be entitled to realise all monies and complete and enforce all pending contracts and transactions in respect of the Undertaking 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 is formally accepted by the parties concerned.



6.4 Without prejudice to the aforesaid, it is clarified that if any contracts, deeds, bonds, agreements, schemes, arrangements or other instruments of whatsoever nature in relation to the Undertaking of the Transferor Company which the Transferor Company own or to which the Transferor Company are a party, cannot be transferred to the Transferee Company for any reason whatsoever, the Transferor Company shall hold such assets, contracts, deeds, bonds, agreements, schemes, arrangements or other instruments of whatsoever nature in trust for the benefit of the Transferee Company, in so far as it is permissible so to do, till such time as the transfer is effected.

## 7. **SAVING OF CONCLUDED TRANSACTIONS**

The transfer of the Undertaking of the Transferor Company under Clause 2 above, the continuance of the Proceedings under Clause 5 above and the effectiveness of contracts and deeds under Clause 6 above, shall not affect any transaction or Proceedings already concluded by the Transferor Company on or before the Effective Date, to the end and intent that the Transferee Company accepts and adopts all acts, deeds and things done and executed by the Transferor Company in respect thereto, as if done and executed on its behalf.

## 8. **EMPLOYEES**

On and from the Effective Date:

8.1 The permanent employees of the Transferor Company in service on the Effective Date (“**Employees**”), if any, shall become the employees of the Transferee Company on the same terms and conditions on which they are engaged by the Transferor Company without treating it as a break, discontinuance or interruption in service on the said date. Accordingly, the



services of such Employees for the purpose of provident fund, leave salary or medical insurance benefits or gratuity or superannuation or other statutory purposes and for all purposes will be reckoned from the date of their respective appointments with the Transferor Company provided the Employees of the Transferor Company shall comply with all such procedures and conditions which are applicable to the employees of the Transferee Company.

- 8.2 It is expressly provided that the provident funds, gratuity funds, superannuation fund or any other fund or funds created or existing for the benefit of the employees, as applicable, of the Transferor Company shall be continued by the Transferee Company and the Transferee Company shall stand substituted for the Transferor Company for all purposes whatsoever, including in relation to the obligation to make contributions to the said fund or funds in accordance with the provisions thereof to the end and intent that all rights, duties, powers and obligations of the respective Transferor Company in relation to such fund or funds shall become those of the Transferee Company.
- 8.3 In relation to any other fund created or existing for the benefit of the Employees, the Transferee Company shall stand substituted for the Transferor Company, for all purposes whatsoever, including those relating to the obligation to make contributions to the said funds in accordance with the provisions of such scheme, funds, bye laws, etc., in respect of such Employees.
- 8.4 The Transferee Company agrees that, for the purpose of payment of any retrenchment compensation, gratuity and other terminal benefits, the past services of such permanent Employees with the Transferor Company shall also be taken into account.





**9. DIVIDEND**

9.1 Until the Effective Date, the Transferor Company and the Transferee Company shall, with the prior approval of their respective Boards/shareholders, be entitled to declare and pay dividends, whether interim or final, to their respective shareholders in respect of the accounting period after the Appointed Date and prior to the Effective Date.

9.2 Until the Effective Date, the holders of the shares of the Transferor Company and the Transferee Company shall continue to enjoy their existing rights under their respective Articles of Association including the right to receive dividends.

9.3 Subject to the provisions of the Scheme, the profits of the Transferor Company, for the period beginning from the Appointed Date, shall belong to and be the profits of the Transferee Company and will be available to the Transferee Company for being disposed of in any manner as it thinks fit.

9.4 It is clarified that the aforesaid provisions in respect of declaration of dividends are enabling provisions only and shall not be deemed to confer any right on any member of the respective Transferor and/or the Transferee Company(ies) to demand or claim any dividends which, subject to the provisions of applicable laws, shall be entirely at the discretion of the Boards of the Transferor and/or the Transferee Company(ies) and the approval of its shareholders.

**10. DISSOLUTION OF THE TRANSFEROR COMPANY**



10.1 The Transferor Company shall be dissolved without winding up pursuant to the provisions of Section 232(3) (d) of the Companies Act, 2013 and other applicable provisions without any further act or deed.

10.2 On and from the Effective Date, the name of the Transferor Company shall be struck off from the records of the Registrar of Companies.

## **11. CONDUCT OF BUSINESS TILL EFFECTIVE DATE**

11.1 Until the Effective Date:

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

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

11.1.5 The Transferor Company shall carry on their businesses and activities with due diligence and business prudence and shall not charge, mortgage, encumber or otherwise deal with or alienate its assets or any part thereof, nor incur, accept or acknowledge any debt, obligation or any liability or incur any major expenditure, save and except, in each case, in the following circumstances:

- (i) if the same is in the ordinary course of business as carried on by it till the Effective Date of the Scheme; or



- (ii) if the same is expressly permitted by this Scheme; or
- (iii) if the written consent of the Transferee Company, as the case may be, has been obtained.

11.1.6 All assets acquired and all liabilities incurred by the Transferor Company shall also, without any further act, instrument or deed, stand transferred to and vested in or to be deemed to have been transferred to or vested in the Transferee Company from the Effective Date; and

11.1.7 Any of the rights, powers, authorities, privileges of the Transferor Company that have been exercised by it shall be deemed to have been exercised by the Transferor Company for and on behalf of, and in trust for and as an agent of the Transferee Company. Similarly, any of the obligations, duties and commitments that have been undertaken or discharged by the Transferor Company shall be deemed to have been undertaken for and on behalf of, and in trust for and as an agent of the Transferee Company.

11.2 The Transferor Company and/or the Transferee Company shall be entitled, pending the registration of this Scheme, to apply to the Central/State Government and all other agencies, departments and authorities concerned as are necessary under any law for such consents, approvals and sanctions which the Transferee Company may require to own and carry on the business of the Undertaking of the Transferor Company.

11.3 On the Effective Date and with effect from the Appointed Date, the Transferee Company shall commence and carry on and shall be authorised to carry on the businesses carried on by the Undertaking of the Transferor Company.



- 11.4 The Transferee Company shall be entitled to take credit for all taxes paid by the Transferor Company including credit of the tax deducted at source in relation to the Transferor Company, for the period between the Appointed Date and the Effective Date.

## **12. COMPLIANCE WITH TAX LAWS**

This Scheme is in compliance with the conditions relating to "Amalgamation" as specified 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 at a later date including resulting from any retrospective amendment of law or for any other reason whatsoever, till the Effective Date, the Scheme shall stand modified to the extent determined necessary to comply with the provisions of the then prevalent Section 2(1B) of the Income Tax Act, 1961.

## **13. ACCOUNTING**

- 13.1 The amalgamation shall be accounted for in the books of account of the Transferee Company according to the pooling of interests method under Accounting Standard (AS) 14, 'Accounting for Amalgamations' issued by the Institute of Chartered Accountants of India and other Generally Accepted Accounting Principles.
- 13.2 Accordingly on and from the Appointed Date and subject to the provisions hereof and such other corrections and adjustments as may, in the opinion of the Board of the Transferee Company, be required and except to the extent required otherwise by law, all assets and liabilities of the Transferor Company transferred to the Transferee Company under the Scheme shall be recorded in



the books of accounts of the Transferee Company at the book value as recorded in the Transferor Company books of accounts.

- 13.3 The Transferee Company shall record the reserves of the Transferor Company in the same form and at the same values as they appear in the financial statements of the Transferor Company at the close of business of the day immediately preceding the Appointed Date.
- 13.4 The balance in the profit and loss account appearing in the financial statements of the Transferor Company shall be aggregated with the balance in the profit and loss account appearing in the financial statements of the Transferee Company.
- 13.5 In case of any difference in accounting policy between the Transferor Company and the Transferee Company, the impact of the same till the Appointed Date will be quantified and adjusted in the general reserve to ensure that the financial statements of the Transferee Company reflect the financial position on the basis of consistent accounting policy.

### **PART – III**

#### **GENERAL/RESIDUARY TERMS AND CONDITIONS**

#### **14. STEPS TO BE TAKEN BY THE COMPANIES.**

The Transferor Company and the Transferee Company will take necessary steps to comply with the provisions of Section 232 of the Companies Act, 2013 to the extent applicable in order to make this Scheme effective. The Transferor Company and the Transferee Company shall also apply for and obtain such other approvals, as may be necessary in law, if any, for bringing the Scheme into effect. Further, the Transferor Company (through their respective Board of



Directors) and the Transferee Company (through its Board of Directors) shall be entitled to take such other steps as may be necessary or expedient to give full and formal effect to the provisions of this Scheme.

## **15. APPROVALS AND MODIFICATIONS**

The Transferor Company and the Transferee Company (by their respective Boards or such other person or persons, as the respective Boards may authorise) are empowered and authorised:

- 15.1 To assent, from time to time, to any modifications or amendments or substitutions of the Scheme or of any conditions or limitations which the Tribunal or authorities under law may deem fit to approve or direct or as may be otherwise deemed expedient or necessary by the respective Boards as being in the best interest of the said companies and their shareholders.
- 15.2 To settle all doubts or difficulties that may arise in carrying out the Scheme; to give their approval to all such matters and things as is contemplated or required to be given by them in terms of this Scheme; and to do and execute all other acts, deeds, matters and things necessary, desirable or proper for putting the Scheme into effect.

Without prejudice to the generality of the foregoing, the Transferor Company and the Transferee Company (by their respective Boards or such other person or persons, as the respective Board may authorise) shall each be at liberty to withdraw from this Scheme in case any condition or alteration imposed by any authority is unacceptable to them or as may otherwise be deemed expedient or necessary.

## **16. SCHEME CONDITIONAL UPON**



This Scheme is and shall be conditional upon and subject to the Transferor and the Transferee Company complying with the provisions of Section 232 read with Section 230 of the Companies Act, 2013 to the extent applicable to such Companies.

**17. SEVERABILITY**

If any part of provision of this Scheme is found unworkable for any reason whatsoever, 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.

**18. REVOCATION OF THE SCHEME**

In the event of any of the said sanctions and approvals referred to in Clause 16 not being obtained before such date as the Board of Directors of the Transferor and Transferee Companies think fit, this Scheme shall stand revoked, cancelled and be of no effect, save and except in respect of any act or deed done prior thereto as is contemplated hereunder or as to any rights and/ or liabilities which might have arisen or accrued pursuant thereto and which shall be governed and be preserved or worked out as is specifically provided in the Scheme or as may otherwise arise in law. In such event, each company shall bear and pay its respective costs, charges and expenses for and or in connection with the Scheme.

**19. COSTS, CHARGES AND EXPENSES**

All costs, charges and expenses, in connection with the Scheme, arising out of or incurred in carrying out and implementing the Scheme and matters incidental



thereto including charges arising out of or incurred in connection with and in implementing this Scheme and matters incidental thereto, shall be borne and paid in such manner as the Transferor and the Transferee Companies may deem fit. In the event the Scheme does not take effect or stands withdrawn for any reason whatsoever, each company shall pay and bear its own costs.

## **20. RESIDUAL PROVISIONS**

- 20.1 On the approval of the Scheme by the members of the Transferor Company pursuant to Section 230 of the Act, it shall be deemed that the said members have also accorded all relevant consents under any other provisions of the Act to the extent the same may be considered applicable.
- 20.2 Even after the Effective Date, the Transferee Company shall be entitled to operate all bank accounts of the Transferor Company and realise all monies and complete and enforce all pending contracts and transactions in respect of the Transferor Company in the name of the Transferee 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 is formally accepted by the parties concerned.
- 20.3 In the event of this Scheme failing to take effect finally, this Scheme shall become null and void and in that case no rights or liabilities whatsoever shall accrue to or be incurred inter-se by the parties, their shareholders, creditors, employees or any other person.
- 20.4 If any doubt or difference or issue shall arise between the parties hereto or any of their shareholders, creditors, employees and/or any other person as to the construction hereof or as to any account, valuation or apportionment to be taken or made of any asset or liability transferred under this Scheme or as to the





accounting treatment thereof or as to anything else contained in or relating to or arising out of this Scheme, the same shall be referred to the Board of Directors of the Transferee Company, whose decision shall be final and binding on all concerned.

20.5 The Transferor [through its Board of Directors] or Transferee Companies [through its Board of Directors] shall be at liberty to take such steps as may be necessary as they may deem necessary for the purpose of implementing the Scheme or for proper working of the Scheme.

-XXX-

Certified True Copy  
For Sundaram Finance Limited



P. Viswanathan  
Secretary & Compliance Officer



21054  
11-09-2017

TAMIL NADU

Sundaram Infotech  
Solutions Firmseal

44AB 600688  
S. VANISHA PERMAL  
No. 25/2017  
REGD.

BEFORE THE HON'BLE NATIONAL COMPANY LAW TRIBUNAL  
CHENNAI BENCH AT CHENNAI

CP/ /CAA/2017

IN THE MATTER OF SECTIONS 232 READ WITH SECTION 230 OF THE  
COMPANIES ACT, 2013

AND

IN THE MATTER OF SCHEME OF AMALGAMATION

OF

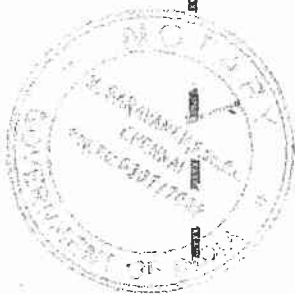
SUNDARAM INFOTECH SOLUTIONS LIMITED

WITH

SUNDARAM FINANCE LIMITED

AND

THEIR RESPECTIVE MEMEBERS



**SUNDARAM INFOTECH SOLUTIONS LIMITED**

Represented by its Company Secretary

Mr. K. Rajagopal

..... Petitioner Company

**Affidavit filed on behalf of the Petitioner Company**

I, K. Rajagopal, son of S. Kannan, aged 39 years residing at 21/10 Hanumantha Rayan Koil Street, Triplicane, Chennai 600005, do hereby solemnly affirm and state as follows:

1. I am the Company Secretary of the Petitioner Company and I perused the Regional Director's report on the Scheme of amalgamation.
2. With regard to Para 8 of the Regional Director's report I submit that the Transferee Company undertakes to file the amended MOA and AOA after sanction of the Scheme by this Hon'ble NCLT.
3. With regard to Para 9 of the Regional Director's report, it is submitted that the Transferee Company is a NBFC and its object clause permits it to carry on the business of the Transferor Company, namely Information Technology and software development. Clause 10.B (iv) and (v) of the objects clause of Transferee Company's Memorandum of Association is as follows :

"(iv) To manage and administer Computer Centres, Call Centres; secure internet usage and payment as well as transaction- oriented databases.

(v) To engage in the Development and distribution of business application software packages, implementation of on-site and offshore projects and to provide business to business and business to consumer E-commerce and other information Technology solutions."

4. Therefore, it is submitted that the Transferee Company's object clause permits it to carry on the business of Information Technology and software development.



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5. It is submitted that there is no statutory prohibition for a NBFC carrying on a business other than its NBFC business. Section 45I(f) of the Reserve Bank of India Act, 1934 defines the term 'Non-banking financial company' and does not prohibit a NBFC from carrying on any other business. Definition of 'Non-banking financial company' as set out in Section 45I(f) of the Reserve Bank of India Act, 1934 is as follows;  
"non-banking financial company" means-

- (i) a financial institution which is a company;
- (ii) a non-banking institution which is a company and which has as its principal business the receiving of deposits, under any scheme or arrangement or in any other manner, or lending in any manner;
- (iii) such other non-banking institution or class of such institutions, as the Bank may, with the previous approval of the Central Government and by notification in the Official Gazette, specify."

6. On reading the above Section it is clear that there is no restriction with regard to ancillary business which is incidental to the main business of a NBFC. Further, Section 45I(c) of the Reserve Bank of India Act, 1934 which defines the term 'Financial Institution' excludes only those institutions which carries on the businesses specified therein as its principal business. The Definition of 'Financial Institution' as provided under Section 45I(c) of the Reserve Bank of India Act, 1934 is as follows;

"financial institution" means any non-banking institution which carries on as its business, or part of its business any of the following activities, namely:-

- (i) the financing, whether by way of making loans or advances or otherwise, of any activity other than its own;
- (ii) the acquisition of shares, stock, bonds, debentures or securities issued by a Government or local authority or other marketable securities of a like nature
- (iii) letting or delivering of any goods to a hirer under a hire-purchase agreement as defined in clause (c) of section 2 of the Hire-Purchase Act, 1972



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- (iv) the carrying on of any class of insurance business;
- (v) managing, conducting or supervising, as foreman, agent or in any other capacity, of chits or kuries as defined in any law which is for the time being in force in any State, or any business, which is similar thereto; collecting, for any purpose or under any scheme or arrangement by whatever name called, monies in lump sum or otherwise, by way of subscriptions or by sale of units, or other instruments or in any other manner and awarding prizes or gifts, whether in cash or kind, or disbursing monies in any other way, to persons from whom monies are collected or to any other person,

But does not include any institution, which carries on as its principal business,-

- (a) agricultural operations; or
- (aa) industrial activity; or
- (b) the purchase or sale of any goods (other than securities) or the providing of any services; or
- (c) the purchase, construction or sale of immovable property, so however, that no portion of the income of the institution is derived from the financing of purchases, constructions or sales of immovable property by other persons

Explanation.- For the purposes of this clause, "industrial activity" means any activity specified in sub-clauses (i) to (xviii) of clause (c) of section 2 of the Industrial Development Bank of India Act, 1964."

7. Though the term 'principal business' is not defined under the Reserve Bank of India Act, 1934, the objective is to ensure that companies predominantly engaged in financial activity are registered with the RBI for regulation and supervision by the RBI. However, a company registered as a NBFC with RBI is not restricted in any manner from carrying any other business.

8. Therefore it is submitted that there is no statutory restriction for the Transferee Company to carry on the Transferor Company's business.



*[Handwritten signature]*

9. With regard to the other representation made by the Regional Director in Para 9, it is submitted that a copy of the notice of the Scheme (as per Section 230(5) of the Companies Act, 2013) was served on the Reserve Bank of India for its comments on 12.05.2017. However, the Reserve Bank of India did not make any representation within 30 days of serving the notice. Hence it is presumed that RBI has no objection to the Scheme of amalgamation. A copy of letter evidencing the service of documents on the Reserve Bank of India is annexed herewith.

In view of the above, it is prayed that this Hon'ble Tribunal may be pleased to sanction the Scheme of amalgamation as prayed for and to render justice.

Solemnly affirmed at Chennai  
on this the 11<sup>th</sup> day of September 2017  
and signed his name in  
my presence.

  
BEFORE ME

ADVOCATE: CHENNAI



M. SARAVANAN, S.C.,  
ADVOCATE & NOTARY PUBLIC,  
No. 20, The Cross Street, Sankarapuram,  
Chennai - 600 002.  
Tel: 452 10000

**BEFORE THE NATIONAL COMPANY  
LAW TRIBUNAL**

**CHENNAI BENCH AT CHENNAI**

**CP/135/CAA/2017**

**IN**

**CA/60/CAA/2017**

**IN THE MATTER OF SECTION 232  
READ WITH SECTION 230 OF  
COMPANIES ACT, 2013**

**SUNDARAM INFOTECH SOLUTIONS  
LIMITED**

**... 1<sup>ST</sup> Applicant/Transferor Company**

**SUNDARAM FINANCE LIMITED**

**... 2<sup>ND</sup> Applicant/Transferee Company**

**AFFIDAVIT FILED ON BEHALF OF  
THE PETITIONER COMPANY**

**A.K.MYLSAMY & ASSOCIATES  
COUNSEL FOR PETITIONERS**