

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA
COMPANY PETITION No. 2 of 2011
(UNDER SECTION 391/394 OF THE COMPANIES ACT, 1956)
IN THE MATTER OF COMPANIES ACT, 1956
AND
IN THE MATTER OF AMALGAMATION OF :

JAIPRAKASH POWER VENTURES LIMITED Transferee Company
AND	
JAYPEE KARCHAM HYDRO CORPORATION LIMITED Transferor Company No. 1
AND	
BINA POWER SUPPLY COMPANY LIMITED Transferor Company No. 2
1. JAIPRAKASH POWER VENTURES LIMITED having its registered office at JUIT Complex, Wagnaghat, P.O. Dumehar Bani, Kandaghat – 173 215, Distt. Solan (H.P.). [Also referred to hereinafter as “JPVL”] Transferee Company
2. JAYPEE KARCHAM HYDRO CORPORATION LIMITED having its registered office at JUIT Complex, Wagnaghat, P.O. Dumehar Bani, Kandaghat – 173 215, Distt. Solan (H.P.). [Also referred to hereinafter as “JKHCL”] Transferor Company No. 1
3. BINA POWER SUPPLY COMPANY LIMITED having its registered office at JUIT Complex, Wagnaghat, P.O. Dumehar Bani, Kandaghat – 173 215, Distt. Solan (H.P.). [Also referred to hereinafter as “BPSCL”] Transferor Company No. 2
 APPLICANTS/PETITIONERS

NOTICE CONVENING MEETING

To,
EQUITY SHAREHOLDERS OF JAIPRAKASH POWER VENTURES LIMITED

Take notice that by an order made on March 14, 2011, the Court has directed that a meeting of the **Equity Shareholders** of Jaiprakash Power Ventures Limited be held at the premises of JUIT Complex, Wagnaghat, P.O. Dumehar Bani, Kandaghat-173215, Distt. Solan (H.P.) on Saturday, the 30th April, 2011, at 10.30 AM for the purpose of considering, and if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation of the Transferor Company No. 1 and 2 with the Transferee Company as named above.

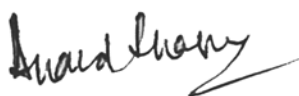
Take further notice that in pursuance of the said order, a meeting of the **Equity Shareholders** of the Company will be held at the premises of **JUIT Complex, Wagnaghat, P.O. Dumehar Bani, Kandaghat-173215, Distt. Solan (H.P.), on Saturday, the 30th April, 2011 at 10.30 AM**, when you are requested 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 JUIT Complex, Wagnaghat, P.O. Dumehar Bani, Kandaghat – 173 215, Distt. Solan (H.P.) not later than 48 hours before the meeting.

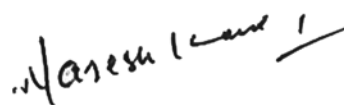
This Court has appointed Shri N.K. Sood, Advocate as Chairman, Shri Paresh Sharma, Advocate and Shri Rajiv Rai, Advocate as Co-Chairmen for the said meeting.

A copy each of the Scheme of Amalgamation, the Statement under Section 393 of the Companies Act, 1956 and a form of proxy is enclosed.

Dated this 21st day of March, 2011.



[Anand Sharma]
Advocate
Counsel for Applicant Companies



[N.K. Sood]
Advocate
Chairman appointed for the Meeting

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

**SCHEME OF AMALGAMATION
BETWEEN
JAYPEE KARCHAM HYDRO CORPORATION LIMITED
[TRANSFEROR COMPANY No. 1]
AND
BINA POWER SUPPLY COMPANY LIMITED
[TRANSFEROR COMPANY No. 2]
AND
JAIPRAKASH POWER VENTURES LIMITED
[TRANSFEE COMPANY]
AND THEIR RESPECTIVE SHAREHOLDERS AND CREDITORS**

This SCHEME OF AMALGAMATION, which provides for amalgamation of the above-named two Transferor Companies with the Transferee Company, is comprised of the following parts:

- PART - I** : DEFINITIONS
PART - II : BACKGROUND
PART - III : CAPITAL STRUCTURE AND FINANCIAL POSITION
PART - IV : TRANSFER AND VESTING
PART - V : CONSIDERATION AND ISSUE AND ALLOTMENT OF SHARES
PART - VI : ACCOUNTING TREATMENT
PART - VII : GENERAL TERMS AND CONDITIONS

**PART - I
DEFINITIONS**

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| <p>1.00 In this Scheme, unless repugnant to the meaning or context thereof, the under-mentioned expressions shall have the following meaning:</p> <p>1.01 “Act” means the Companies Act, 1956 and shall include any statutory modifications, re-enactment or amendment thereof for the time being in force.</p> <p>1.02 “Appointed Date” shall mean `1st day of April 2010`.</p> <p>1.03 “Board of Directors” in relation to respective Transferor Companies and/or Transferee Company, as the case may be, shall, unless it is repugnant to the context or otherwise, include a committee of directors or any person authorized by the board of directors or by such committee of directors.</p> <p>1.04 “Court” or the “High Court” means the Hon'ble High Court of Himachal Pradesh at Shimla and/ or the National Company Law Tribunal or any other Tribunal, if the jurisdiction of the High Court regarding sanction of the Scheme is transferred to such Tribunal under any law which may come into effect hereafter.</p> <p>1.05 “Effective Date” or “coming into effect of this Scheme” or “effectiveness of this Scheme” or the like expressions used in the Scheme means the date on which the certified copy of the order of the Hon'ble High Court of Himachal Pradesh sanctioning the Scheme is filed with the Registrar of Companies, Punjab, Himachal Pradesh & Chandigarh.</p> <p>1.06 “Record Date” means the date fixed by the Board of Directors of the Transferee Company after the Effective Date with reference to which the eligibility of the shareholders of the Transferor Companies for allotment of shares in the Transferee Company in terms of this Scheme shall be determined.</p> <p>1.07 “Scheme” means this Scheme in its present form as submitted to the Court or this Scheme with such modification(s), if any, as may be made by the shareholders and the creditors of the Transferor Companies and the Transferee Company in their meetings to be held as per the directions of the Court or such modifications(s) as may be imposed by any competent</p> | <p>1.08 “Shareholders” with reference to the Transferor Companies or the Transferee Company means persons holding equity shares in the said Companies in physical form or in electronic form and whose names are entered and registered as members in the Register of Members of the said Companies or whose names appear as the beneficial owners of the equity shares in the records of the Depositories as on the Record Date.</p> <p>1.09 “Transferee Company” or “JPVL” shall mean Jaiprakash Power Ventures Limited, a company incorporated under the Companies Act, 1956, and having its registered office at JUIT Complex, Wagnaghat, P.O. Dumehar Bani, Kandaghat-173 215, Distt. Solan (H.P.).</p> <p>1.10 “Transferor Company No. 1” or “JKHCL” shall mean Jaypee Karcham Hydro Corporation Limited, a company incorporated under the Companies Act, 1956, and having its registered office at JUIT Complex, Wagnaghat, P.O. Dumehar Bani, Kandaghat – 173 215, Distt. Solan (H.P.).</p> <p>1.11 “Transferor Company No. 2” or “BPSCl” shall mean Bina Power Supply Company Limited, a company incorporated under the Companies Act, 1956, and having its registered office at JUIT Complex, Wagnaghat, P.O. Dumehar Bani, Kandaghat – 173 215, Distt. Solan (H.P.).</p> <p>1.12 “Transferor Companies” shall mean and include the two Transferor Companies namely,
 (i) Jaypee Karcham Hydro Corporation Limited
 [Transferor Company No. 1]
 (ii) Bina Power Supply Company Limited
 [Transferor Company No. 2]
 either collectively or any of them as the context may require.
 The expressions/words not defined in this Scheme shall, unless repugnant or contrary to the context or meaning thereof, have the same meaning as ascribed to them under the Companies Act, 1956, Securities Contracts (Regulation) Act, 1956, Depositories Act, 1996 and other applicable laws, rules, regulations, bye-laws, as the case may be or any statutory modification or reenactment thereof from time to time.</p> |
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**PART - II
BACKGROUND**

- 2.01 Jaypee Karcham Hydro Corporation Limited (JKHCL), the Transferor Company No. 1, was incorporated as a public limited company under the Companies Act, 1956 on 29th April, 2002 in the State of Himachal Pradesh. It received Certificate of Commencement of Business on 4th July, 2002 and since then it has been in business.

The Transferee Company holds 53.98% of the equity share capital of Transferor Company No.1 and hence it is a subsidiary of the Transferee Company.

The Transferor Company No. 1 is in power generation business and it is presently setting up the 1000 MW Karcham Wangtoo Hydro Electric Project in Himachal Pradesh ["Karcham Wangtoo Project"].

- 2.02 Bina Power Supply Company Limited (BPSCL), the Transferor Company No. 2, was incorporated as a public limited company under the Companies Act, 1956 on 15th November, 1994 in the State of Madhya Pradesh. It received Certificate of Commencement of Business on 19th December, 1994 and since then it has been in business. The registered office of the Company was shifted from the State of Madhya Pradesh to the State of Maharashtra and this alteration was confirmed by the Company Law Board vide its Order dated 23rd April 1999. The order of the Company Law Board was duly registered with the Registrar of Companies, Maharashtra on 13th July 1999. The registered office of the Company was again shifted from the State of Maharashtra to the State of Himachal Pradesh and this alteration was also confirmed by the Company Law Board vide its Order dated 13th October 2010. The order of the Company Law Board was duly registered with the Registrar of Companies, Punjab, Himachal Pradesh and Chandigarh.

The Transferee Company holds 100% of the equity share capital of Transferor Company No.2 and hence it is a wholly-owned subsidiary of the Transferee Company.

The Transferor Company No. 2 is in power generation business and it is setting up a 500 MW in Phase- 1 of 1250 MW (to be increased from 1250 MW to 1500 MW) Thermal Power project in Bina in the State of Madhya Pradesh.

- 2.03 Jaiprakash Power Ventures Limited (JPVL), the Transferee Company, was incorporated as a public limited company under the Companies Act, 1956 on 21st December, 1994 in the State of Himachal Pradesh in the name of Jaiprakash Hydro-Power Limited. It received Certificate of Commencement of Business on 9th January, 1995 and since then it has been in business. The name of the Company was changed to Jaiprakash Power Ventures Limited on 23rd December 2009.

The Transferee Company is in the business of generation of power and it owns and operates 300MW BASPA II Hydro Power Plant at District Kinnaur, Himachal Pradesh, and 400MW Hydro Power Plant at Vishnuprayag, Utrakhand. It is setting up a 1320 MW super critical technology Thermal Power Project at Nigrie, Madhya Pradesh.

In addition to above and besides implementing power projects through its two subsidiary companies being the Transferor Companies No. 1 and 2 as stated above, the Transferee Company is also setting up -

- (i) 2700 MW Lower Siang Hydro Electric Project and a 500 MW Hirong Hydro Electric Project both in Arunachal Pradesh [through its subsidiary company, Jaypee Arunachal Power Ltd.] ;
- (ii) 450 MW Kynshi-II Hydro Electric Project and 270 MW Umngot Hydro Electric Project both in the State of Meghalaya [through its subsidiary company, Jaypee Meghalaya Power Ltd.] ;
- (iii) 1980 MW Karchana Thermal Power Project in U.P. [through its subsidiary company, Sangam Power Generation Company Ltd.] ;

- (iv) 1980 MW Bara Thermal Power Project in U.P. with the permission to add two more units of 660MW thereby increasing the capacity to 3300 MW in U.P. [through its subsidiary company, Prayagraj Power Generation Company Ltd.].
- (v) Transmission system for evacuation of power of 1000 MW Karcham Wangtoo Hydro Electric Project [through its subsidiary, Jaypee Powergrid Limited].

2.04 All the three Companies are engaged in power generation business. Both the Transferor Companies are subsidiaries of the Transferee Company. The consolidation of the business of hydro, thermal, and other power projects in one entity will enable the Companies to harness and optimize the synergies of their business operations and gain increased competitive advantage. The amalgamation will result in achievement of economies of scale and management efficiency, reduction in administrative cost, optimization of resources, enhanced flexibility in funding of expansion plans, expansion of asset base, improving profitability and stronger balance sheet of the merged company etc. As a result, the merged entity is likely to achieve higher long-term financial returns than could be achieved by the companies individually. The Scheme is thus in the interest of all the three companies and their shareholders and creditors.

2.05 The Scheme ensures due compliance with the conditions laid down in Section 2(1B) of the Income Tax Act.

**PART - III
CAPITAL STRUCTURE AND FINANCIAL POSITION**

3.01 CAPITAL STRUCTURE :

The Authorised, Issued, Subscribed and Paid-up Share Capital of the Transferor Companies and the Transferee Company as on 31st March, 2010 has been as under:-

(i) TRANSFEROR COMPANY No. 1 Rs.

AUTHORISED CAPITAL : 220,00,00,000 Equity Shares of Rs. 10/- each	22,00,00,00,000
ISSUED, SUBSCRIBED AND PAID-UP CAPITAL: 1,32,50,00,000 Equity Shares of Rs. 10/- each fully paid up	13,25,00,00,000

The Company has issued and allotted 68,50,00,000 equity shares after 31st March, 2010 and hence the Issued, Subscribed and Paid-Up Share Capital of the Company now stands increased to Rs. 2010 Crores divided into 201 Crores Equity Shares of Rs.10/-each.

The Company has also received Rs. 135 Crores by way of Share Application money for which shares might be allotted either in full or in part. Upon such allotment the Issued, Subscribed and Paid up Share Capital will stand increased to the extent the shares are allotted.

(ii) TRANSFEROR COMPANY No. 2 Rs.

AUTHORISED CAPITAL : 220,00,00,000 Equity Shares of Rs. 10/- each	22,00,00,00,000
ISSUED, SUBSCRIBED AND PAID-UP CAPITAL: 22,41,58,550 Equity Shares of Rs. 10/- each fully paid up	2,24,15,85,500

The Company has issued and allotted 60,18,41,450 equity shares after 31st March, 2010 and hence the Issued, Subscribed and Paid-Up Share Capital of the Company now stands increased to Rs. 826 Crores divided into 82.60 Crores Equity Shares of Rs.10/-each.

(iii) TRANSFEREE COMPANY :**Rs.**

AUTHORISED CAPITAL : 3,90,00,00,000 Equity Shares of Rs. 10/- each	39,00,00,00,000
ISSUED, SUBSCRIBED AND PAID-UP CAPITAL: 2,09,56,80,200 Equity Shares of Rs. 10/- each fully paid up	20,95,68,02,000

There is no change in the above capital structure of the Transferee Company after 31st March, 2010.

3.02 The equity shares of the Transferee Company are listed on National Stock Exchange and Bombay Stock Exchange. The shares of the Transferor Companies are not listed on any Stock Exchange.

3.03 FINANCIAL POSITION:

The summarized financial position of the Transferor Companies and the Transferee Company as per their respective latest published audited Accounts as at 31st March, 2010 and as per audited provisional Accounts as at 31st December, 2010 is as under :-

TRANSFEROR COMPANY No. 1	Rs. In lacs As at 31 st March, 2010		Rs. in lacs As at 31 st December, 2010	
ASSETS:				
Fixed Assets (WDV)		43,98		44,76
Capital work in Progress & Incidental Expenditure during construction pending allocation and capitalization		4368,76		5726,53
Current Assets, Loans & Advances	278,36		345,44	
Less: Current Liabilities & Provisions	<u>491,84</u>	(213,48)	<u>166,59</u>	178,86
Profit and Loss Account		2,01		2,01
TOTAL		<u>4201,27</u>		<u>5952,16</u>
SOURCES OF FUNDS:				
Share Capital		1325,00		1890,00
Loans - Secured Loans		<u>2876,27</u>		<u>4062,16</u>
TOTAL		<u>4201,27</u>		<u>5952,16</u>
TRANSFEROR COMPANY No. 2				
ASSETS:				
Fixed Assets (WDV)		9,59		10,58
Capital work in Progress & Incidental Expenditure during construction pending allocation and capitalization		716,81		1467,12
Current Assets, Loans & Advances	18,07		119,14	
Less: Current Liabilities & Provisions	<u>89,46</u>	(71,39)	<u>130,22</u>	(11,08)
Profit and Loss Account		85		85
TOTAL		<u>655,86</u>		<u>1467,47</u>
SOURCES OF FUNDS:				
Share Capital		224,16		524,15
Loans - Secured Loans		<u>431,70</u>		<u>943,32</u>
TOTAL		<u>655,86</u>		<u>1467,47</u>
TRANSFEREE COMPANY				
ASSETS:				
Fixed Assets (WDV)		4598,21		4609,59
Pre- operative Expenses of new projects pending capitalization		242,31		303,82
Investments		1420,96		2799,55
Current Assets, Loans & Advances	2863,61		2808,75	
Less: Current Liabilities & Provisions	<u>138,73</u>	<u>2724,88</u>	<u>229,19</u>	<u>2579,56</u>
TOTAL		<u>8986,36</u>		<u>10292,52</u>
SOURCES OF FUNDS:				
Share Capital		2095,68		2095,68
Reserves & Surplus		1282,13		1350,10
Deferred Revenue		233,97		293,25
Secured Loans		4111,58		5645,49
Unsecured Loans		<u>1263,00</u>		<u>908,00</u>
TOTAL		<u>8986,36</u>		<u>10292,52</u>

Full details of the financial position are given in the published Accounts of the Transferor Companies and the Transferee Company for the FY ended on 31st March, 2010 and in the audited Provisional Accounts for the period ended on 31st December, 2010.

3.04 The above capital structure and financial position of the Transferor Companies and the Transferee Company may change pending the Scheme coming into effect in view of the following -

- (i) The Companies may be required to raise funds, both equity and debt for their respective ongoing projects which may result in changes in the financial position and capital structure of the Companies.

- (ii) The Transferee Company may subscribe to the equity share capital of the Transferor Companies and/or provide secured or unsecured loans to the Transferor Companies which may result in changes in the financial position and capital structure of the Companies.
- (iii) The Transferee Company's Foreign Currency Convertible Bonds of USD 200 Million may be converted into Equity Shares of Rs. 10/- each by the bondholders, which may result in changes in the financial position and capital structure of the Transferee Company.
- (iv) The continuance of business operations of the Companies up to the Effective Date may result in changes in the capital structure and financial position of the Companies.

**PART – IV
TRANSFER AND VESTING**

- 4.01 (i) With effect from the Appointed Date and upon this Scheme coming into effect, the entire business and the whole of the Undertakings [as defined and described in sub-clause (ii) below] of the Transferor Companies shall stand transferred to and vested in or deemed to have been transferred to and vested in the Transferee Company as going concerns, pursuant to the provisions of Sections 391 to 394 and other applicable provisions of the Act and without any further act, instrument or deed, together with all the properties, estate, assets, rights, title, interest, authorities and privileges and with all liabilities and obligations, so as to become, as and from the Appointed Date, the property, estate, assets, rights, title, interest, authorities and privileges and liabilities and obligations etc. of the Transferee Company.
- (ii) The term “**Undertakings**” for the above purposes means and includes -
- (a) all the assets and properties of the Transferor Companies as on the Appointed Date i.e. all the undertakings, the entire business, all the properties (whether movable or immovable – freehold or leasehold, tangible or intangible), plant and machinery, buildings and structures, offices, residential and other premises, capital work in progress, furniture, fixture, office equipment, appliances, accessories, power lines, earnest moneys, security and other deposits, stocks, assets, investments of all kinds and in all forms, cash balances with banks, loans, advances, contingent rights or benefits, receivables, benefit of any deposits, financial assets, leases, hire purchase contracts and assets, lending contracts, benefit of any security arrangements, reversions, powers, authorities, allotments, approvals, permissions, permits, import and other quotas, rights, entitlements, authorizations, approvals, agreements and contracts including Power Purchase Agreements, leases, industrial and other licenses, permits, registrations, tenancies, carbon credit benefits, benefits under all guarantees including guarantees given by the Central or State Governments or any authorities, deeds, bonds, insurance policies, benefits of assets or properties or other interest held in trust, exemptions, concessions, remissions, benefits, privileges and rights under various laws including Trade Tax/ Commercial Tax/Sales Tax/ VAT, Entry Tax, Service Tax, Central Excise Act, Income Tax, Wealth Tax etc. including but not limited to credit for Minimum Alternate Tax (“MAT”) paid under Section 115JA/115JB of the Income Tax Act, 1961 (“IT Act”), advance taxes and tax deducted at source, right to carry forward and set off unabsorbed losses and depreciation, right to claim deductions under

Section 80-IA of the IT Act including its continuing benefits, deferred tax assets, carbon credits, benefits of all engagements and arrangements of all kinds, exemptions, benefits, incentives, privileges and rights under State tariff regulations and under various laws; loan agreements, titles, interests, trade and service names and marks, patents, copyrights, and other intellectual property rights, to use and avail of telephones, telexes, facsimile, email, interest, leased line connections and installations, utilities, electricity and other services, reserves, provisions, funds, all records, files, papers, computer programmes, manuals, data, catalogues, sales and advertising materials, lists and other details of present and former customers and suppliers, customer credit information, customer and supplier pricing information and other records, and all other interests of whatsoever nature belonging to or in the ownership, power, possession or the control of or vested in or granted in favour of or held for the benefit of or enjoyed by the Transferor Companies or which have accrued to the Transferor Companies as on the Appointed Date or which may accrue thereafter, whether in India or abroad, of whatsoever nature and wherever situated.

- (b) all loans, debts, advances, sundry creditors, liabilities and provisions, deferred tax liabilities, encumbrances and other obligations, including contingent liabilities, whether secured or unsecured, (including any guarantees, letters of credit, letters of comfort or any other instrument or arrangement which may give rise to a contingent liability in whatever form), if any, due or which may become due at any time in future, whether provided for or not and whether known or unknown, pertaining to the activities or operations of the Transferor Companies.

4.02 Without prejudice to Clause 4.01 above, in respect of such of the assets of the Transferor Companies as are movable in nature or are otherwise capable of transfer by manual delivery or by enforcement and/or delivery, the same may be so transferred by the Transferor Companies by physical deliveries, and shall, upon such transfer, become the property of the Transferee Company. The other assets shall, without any further act, instrument or deed, be transferred to and vested in and/or be deemed to be transferred and vested in the Transferee Company pursuant to the provisions of Sections 391 to 394 of the Act.

4.03 With effect from the Appointed Date and pursuant to the provisions of Sections 391 to 394 of the Act and without any further act, instrument or deed :

- (i) All secured and unsecured debts, (whether in rupees or in foreign currency), all liabilities whether provided for or not in the books of the Transferor Companies, duties and obligations of the Transferor Companies along with any charge, encumbrance, lien or security thereon (hereinafter referred to as the “said Liabilities”) shall be and stand transferred to and vested in or deemed to have been transferred to and vested in, so as to become 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.

It is clarified that in so far as the assets of the Transferor Companies are concerned, the security or charge over such assets or any part thereof, relating to any loans, debentures or borrowing of the Transferor Companies,

shall, without any further act or deed continue to relate to such assets or any part thereof, after the Effective Date and shall not relate to or be available as security in relation to any or any part of the assets of the Transferee Company, save to the extent warranted by the terms of the existing security arrangements to which any of the Transferor Companies and the Transferee Company are parties, and consistent with the joint obligations assumed by them under such arrangement.

It is further clarified that this Scheme shall not be construed to enlarge the security for any loan, deposit or facility created by the Transferor Companies which shall vest in the Transferee Company in terms of this Scheme and the Transferee Company shall not be obliged or required to create any further or additional security after the Scheme becomes effective or otherwise.

It is further clarified that unless otherwise agreed between the lenders, promoters and the Transferee Company, nothing contained in this Scheme shall be construed to impose any obligations on the promoters to provide additional collateral security in respect of any loans, debentures or borrowings by the Transferor Companies or the Transferee Company by way of pledge of their shareholding in the Transferor Companies/Transferee Company.

- (ii) Loans, advances and other obligations (including any guarantees, letters of credit, letters of comfort or any other instrument or arrangement which may give rise to a contingent liability in whatever form), if any, due or which may at any time in future become due between the Transferor Companies inter se or between the Transferee Company or any of the Transferor Companies shall stand discharged and there shall be no liability in that behalf on either party.

- 4.04 All the properties, leases, estates, assets, rights, titles, interests, licenses, approvals, permissions and authorities etc. as described in Clause 4.01, accrued to and/or acquired by the Transferor Companies after the Appointed Date, shall have been and deemed to have accrued to and/ or acquired for and on behalf of the Transferee Company and shall, upon the coming into effect of the Scheme, pursuant to the provisions of Sections 391 to 394 of the Act and without any further act, instrument or deed, be and stand transferred to and vested in or be deemed to have been transferred to and vested in the Transferee Company to that extent and shall become the properties, leases, estates, assets, right, title, interests, licenses, approvals, permissions and authorities etc. of the Transferee Company.
- 4.05 All loans raised and utilized and all debts, duties, undertakings, liabilities, obligations etc. as described in Clause 4.01, raised, used, incurred or undertaken by the Transferor Companies after the Appointed Date, shall be deemed to have been raised, used, incurred or undertaken for and on behalf of the Transferee Company and to the extent they are outstanding on the Effective Date, shall, upon the coming into effect of the Scheme, be and stand transferred to and vested in or be deemed to have been transferred to and vested in the Transferee Company pursuant to the provisions of Sections 391 to 394 of the Act and without any further act, instrument or deed, and shall become the debt, duties, undertakings, liabilities and obligations of the Transferee Company which shall meet, discharge and satisfy the same.
- 4.06 Where any of the liabilities and obligations of the Transferor Companies as on the Appointed Date transferred to the Transferee Company have been discharged by the Transferor Companies after the Appointed Date, such discharge shall be deemed to have been for and on account of the Transferee Company.
- 4.07 If on the Effective Date, any suit, writ petition, appeal, revision

or other proceedings of whatever nature (hereinafter called the "Proceedings") by or against the Transferor Companies be pending before any Court or Authority, the same shall not abate, or discontinued or in anyway be prejudicially affected by reason of this Scheme coming into effect. All such proceedings may be continued, prosecuted and enforced, by or against the Transferee Company in the same manner and to the same extent as they would or might have been continued, prosecuted and enforced by or against the Transferor Company concerned, if this Scheme had not come into effect, pursuant to the provisions of Sections 391 to 394 of the Act and without any further act, instrument or deed.

- 4.08 Upon the coming into effect of the Scheme and subject to the provisions of the Scheme, all contracts, deeds, bonds, insurance policies, agreements, arrangements and other instruments (including all tenancies, leases, licenses and other assurances in favour of the Transferor Companies or powers or authorities granted by or to it) of whatsoever nature, to which any of the Transferor Companies is a party or to the benefit of which the Transferor Companies may be eligible, and which are subsisting or having effect immediately before the Effective Date, shall, pursuant to the provisions of Sections 391 to 394 of the Act and without any further act, instrument or deed, be in full force and effect 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.
- 4.09 The transfer and vesting of the assets and the liabilities of the Transferor Companies in the Transferee Company and the continuance of all contracts or proceedings by or against the Transferee Company in terms of the Scheme shall not affect any contracts or proceedings relating thereto already concluded on or after the Appointed Date.
- 4.10 The Transferee Company may, at any time after the coming into effect of the Scheme, if so required, under any law or otherwise, enter into, or issue or execute deeds, writings, confirmations, novations, declarations, or other documents with, or in favour of any party to any contract or arrangement to which any of the Transferor Companies is a party or any writings as may be necessary to be executed in order to give formal effect to the above provisions.
- 4.11 Upon the Scheme coming into effect,
 - (i) All the employees of the Transferor Companies in service on the Effective Date, shall become the employees of the Transferee Company on such date without any break or interruption in service and on terms and conditions as to remuneration and otherwise, not less favourable than those subsisting (with reference to the respective Transferor Companies), as on the effective date.
 - (ii) The accumulated balances standing to the credit of the employees of the Transferor Companies on the Effective Date in the Provident fund, Gratuity Fund, Superannuation Fund and/or other funds and including any surplus in any such funds created or existing for the benefit of the employees of the Transferor Companies shall be identified, determined and transferred to the corresponding funds of the Transferee Company in due course.
- 4.12 Any debt or other trading or similar obligations, if any, due inter-se i.e. between the Transferor Companies and the Transferee Company as on the Effective Date, shall stand automatically extinguished. All inter party balances between the Transferor Companies and the Transferee Company as may be outstanding on the Appointed Date or the transactions on account of any debt or trading or the like which may take place subsequent to the Appointed Date and prior to the Effective Date, shall be considered as intra party balances or transactions, as the case may be, for all purposes.
- 4.13 Upon the Scheme coming into effect,

- (i) The benefits of all taxes paid under all Laws, including but not limited to Minimum Alternate Tax paid under Section 115JA/115JB, advance taxes and tax deducted at source, and the benefit by way of right to carry forward and set off unabsorbed losses and depreciation, right to claim deductions under Section 80-IA of the Income Tax Act including its continuing benefits, by and available to the Transferor Companies from the Appointed Date, regardless of the period to which they relate, shall be deemed to have been paid for and on behalf of and to the credit of the Transferee Company and available to the Transferee Company as effectively as if the Transferee Company had paid the same and was itself entitled to such benefits.
- (ii) All tax holiday benefits, exemptions, concessions, incentives and other benefits enjoyed by or available in respect of any of the Units, Works and activities and operations of the Transferor Companies as on the Appointed Date, under any law shall continue to remain available to and enjoyed by the Transferee Company in respect of such Units, Works etc. after the Effective Date in the same manner and to the same extent as were being availed and enjoyed by the Transferor Companies before the Effective Date. The right of the Transferee Company to avail and enjoy such tax holiday benefits, exemptions, concessions, incentives and other benefits etc. under such laws shall not be prejudiced or otherwise adversely affected in any manner whatsoever, merely on the ground of transfer and vesting of such Units/ Works etc. to the Transferee Company in terms of this Scheme. All such benefits shall relate back to the Appointed Date as if the Transferee Company was originally entitled to all such benefits under the applicable laws.
- (iii) The Transferee Company shall be entitled to file/revise its income tax returns, TDS Returns and other statutory returns under all applicable laws, if required, and shall have the right to claim refunds, depreciation benefits, advance tax credits, other deductions, exemptions, credits etc., if any, as also the income tax returns and other returns filed by the Transferor Companies upto the Effective Date which may become necessary upon the Scheme becoming effective.
- 4.14 Upon the Scheme coming into effect,
- (i) The resolutions, including resolutions passed under Section 293(1)(d) of the Act, if any, of the respective Transferor Companies, which are valid and subsisting on the Effective Date, shall, mutatis mutandis, continue to be valid and subsisting and be considered as resolutions of the Transferee Company and if any such resolutions have upper monetary or other limits being imposed under the provisions of the Act, or any other applicable provisions, then all the said limits shall be added and the aggregate of the said limits shall constitute the limit for the Transferee Company.
- (ii) The Transferee Company shall be deemed to be authorised to commence and carry on all such business as the Transferor Companies have been carrying on as on the Effective Date, without any further resolution or compliance with the procedure laid down in Section 149(2A) or any other provisions of the Act.
- (iii) The Authorised Share Capital of all the Transferor Companies shall stand transferred to and combined with the Authorised Share Capital of the Transferee Company without any further act or deed. The filing fee and stamp duty already paid by the respective Transferor Companies on their 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 further fee/stamp duty on the Authorised Share Capital so increased. The existing Clause V of the Memorandum of Association of the Transferee Company relating to the Authorised Share Capital shall stand altered to give effect to the above increase in the authorised capital.
- (iv) The resolution passed by the equity shareholders of the Transferee Company approving the Scheme and the filing of the certified copy of the order of the Court sanctioning the Scheme with the Registrar of Companies, Punjab, Himachal Pradesh and Chandigarh, by the Transferee Company under section 394(3) of the Act, shall be deemed to be due compliance with the provisions of Sections 94 and 95 and other applicable provisions of the Act, as the case may be, and no further procedure will be required to be followed by the Transferee Company to give effect to the above increase in the Authorised Capital and alteration in the Memorandum of Association.
- 4.15 The Scheme shall not affect the manner of tariff determination as applicable immediately before the Scheme comes into effect, in respect of power projects under implementation or in operation. The paid up equity capital for the purposes of computation of Return on Equity shall continue to be taken as per the already approved financial package / parameters notwithstanding the change in the equity share capital consequent upon this Scheme coming into effect. It is further clarified that -
- (i) For 1000 MW Karcham Wangtoo Hydro Electric Project being set up by the Transferor Company No. 1 in Himachal Pradesh, the tariff for the power generated will be determined by the appropriate Regulations and shall be based on pre-merger financial package.
- (ii) For 500 MW in Phase- 1 of 1250 MW (to be further increased to 1500 MW) Thermal Power project being set up by the Transferor Company No. 2 in Madhya Pradesh, the tariff for the power generated will be determined by the appropriate Regulations and shall be based on pre-merger financial package.
- (iii) For 300 MW BASPA II Hydro Power Plant owned and operated by the Transferee Company in District Kinnaur, Himachal Pradesh, the tariff for the power generated will continue to be determined by the Himachal Pradesh Electricity Regulatory Commission under the Power Purchase Agreement based on the financial package approved by it from time to time based on pre-merger financial package .
- (iv) For 400 MW Hydro Power Plant owned and operated by the Transferee Company at Vishnuprayag, Uttarakhand, will continue to be determined by the U.P.State Electricity Board under the Power Purchase Agreement based on the financial package approved by it from time to time based on pre-merger financial package.
- 4.16 With effect from the Appointed Date and upto the Effective Date :
- (i) The Transferor Companies shall carry on and shall be deemed to have carried on all their respective businesses and activities as hitherto for the benefit of and in trust for, the Transferee Company and shall hold and stand possessed of all their businesses including assets on account of, and for the benefit of and in trust for, the Transferee Company.
- (ii) The Board of Directors of the Transferor Companies shall continue to exercise their powers to carry on the business of their respective Companies in the manner they deem fit and they shall, inter alia, be entitled to take up new projects if the opportunities so arise, raise funds whether by way of long term loans, bonds or debentures, or by issuing further share capital, create further security in favour of the lenders by charge or mortgage of properties.

- (iii) The Board of Directors of the Transferor Companies shall continue to exercise their powers to alienate or dispose of any assets, whether movable or immovable.
 - (iv) All the profits or incomes accruing or arising to the Transferor Companies or expenditure or losses arising or incurred (including the effect of taxes, if any, thereon) by the Transferor Companies, pursuant to the carrying on of business after the Appointed Date and upto the Effective Date, shall, for all purposes, be treated and be deemed to be and accrue as the profits or incomes or expenditure or losses or taxes of the Transferee Company, as the case may be.
 - (v) The right of the Transferor Companies and the Transferee Company to declare and pay dividends, whether interim or final, to their respective equity shareholders shall remain unaffected. It is clarified that this is only an enabling provision and shall not be deemed to confer any right on the shareholders to demand or claim any dividends which, subject to the provisions of the Act, shall be entirely at the discretion of the respective Board of Directors of the Company concerned and subject, wherever necessary, to the approval of the shareholders of the respective companies.
 - (vi) The shareholders of the Transferor Companies and the Transferee Company shall, save as expressly provided otherwise in the Scheme, continue to enjoy their existing rights under their respective Articles of Association including the right to receive dividends.
- 4.17 (a) The Transferee Company has plans/commitments of making investments in various Projects implemented/being implemented by it directly or through its subsidiary/ Joint Venture companies besides its obligations in respect of its own loans and other liabilities incurred in connection with various projects as detailed in para 2.03 above. The Transferee Company intends to raise funds to make such investments/service the said liabilities by sale of shares held by it in the two Transferor Companies at the appropriate time. Since, presently the projects undertaken by the two Transferor Companies are under implementation, it is felt by the Transferee Company that sale of the said shares immediately or in short term may not fetch reasonable price and hence it would be desirable to sell the shares at a later stage when projects become operative so as to have access to the true price potential. With that object, it is considered prudent that suitable provision be made in the Scheme clarifying that the said shares will not stand cancelled upon the Scheme coming into effect and the right of the Transferee Company to dispose of the said shares later on through some Trusts will not be affected in any way by anything contained in the Scheme.
- (b) Accordingly, it is provided that nothing contained in this Scheme shall be construed to restrict the right of the Transferee Company to sell or otherwise dispose of any of the shares held by it in the Transferor Companies before the Effective Date. Instead of making direct sale in the market, the Transferee Company may, if thought fit, transfer the said shares or any part thereof, before the Effective Date, in favour of one or more Trusts, to be created for that purpose and this power of the Transferee Company shall not be deemed to have been fettered or otherwise affected by anything contained in this Scheme. Upon such transfer of shares whether by direct sale in the market or by transfer in favour of the Trustees before the Effective Date, the Transferee Company shall cease to be member in respect of such shares and the names of such transferees [including the Trustees] shall be entered in the Register of Members of the Transferor Companies concerned or in the records

of the Depositories, as the case may be, in place of the Transferee Company. The transferees [including the Trustees], as members in respect of the shares so transferred in their names, shall be entitled to allotment of shares in the Transferee Company in terms of Clause 5.01 of this Scheme. It is, however, made clear that the Trusts so created will be for a specified period not exceeding 5 years and shall be for the sole benefit of the Transferee Company. The Trust Deed shall also provide for appointment of independent trustees unrelated to the promoters of the Transferee Company. The Trusts shall be governed by the Indian Trusts Act, 1882. If the Transferee Company decides not to sell or transfer the aforesaid shares or any part thereof before the Effective Date, then the shares not sold/transferred shall stand cancelled upon the Scheme coming into effect and no allotment of shares in lieu thereof shall be made under Clause 5.01 of this Scheme.

**PART – V
CONSIDERATION AND
ISSUE AND ALLOTMENT OF SHARES**

- 5.01 (i) In consideration of transfer and vesting of the entire undertakings of the Transferor Companies as going concerns in the Transferee Company in terms of this Scheme, the Transferee Company shall, without any applications, issue and allot its Equity Shares to the equity shareholders of the Transferor Companies, as per details given below,
- (a) 1 (One) Equity Shares of Rs. 10 each in the Transferee Company credited as fully paid up shall be allotted for every 5 (Five) Equity shares of Rs. 10 each fully paid held in the Transferor Company No. 1 ;
 - (b) 2 (Two) Equity Shares of Rs. 10 each in the Transferee Company credited as fully paid up shall be allotted for every 13 (Thirteen) Equity shares of Rs. 10 each fully paid held in the Transferor Company No. 2.
- (ii) The allotment of above shares shall be made to those shareholders whose names are recorded in the Register of Members of the Transferor Companies or whose names appear as the beneficial owners of the equity shares of the said Companies in the records of the Depositories as on the Record Date to be fixed by the Board of Directors of the Transferee Company.
- 5.02 The equity shares issued and allotted by the Transferee Company in terms of the Scheme, shall be subject to the provisions of the Memorandum and Articles of Association of the Transferee Company and shall rank pari passu with the existing shares of the Transferee Company and shall be eligible for dividend, as may be declared by the Transferee Company for the financial year 2010-11 onwards.
- 5.03 The equity shareholders of the Transferor Companies becoming eligible for equity shares in the Transferee Company in terms of this Scheme, may exercise their option by notice in writing sent to the Transferee Company within such period as may be notified by the Board of Directors of the Transferee Company, to receive the shares in the Transferee Company either in physical form or in electronic form. In the absence of such notice, the Transferee Company shall issue the shares to such members in physical form.
- 5.04 No certificate(s) shall be issued by the Transferee Company in respect of fractional entitlements, to which the shareholders of the Transferor Companies may become entitled to on issue and allotment of equity shares of the Transferee Company in terms of the Scheme. The Board of Directors of the Transferee Company shall, instead consolidate all such fractional entitlements into/upto round numbers and thereupon issue and allot equity shares in lieu thereof to custodian(s), to be nominated by the Board of Directors of the

Transferee Company. Such custodian(s) shall hold the shares in trust for the beneficiaries entitled to fractional entitlements with the express understanding that such custodian(s) shall sell the said shares in the market at such times and at such prices and to such persons as he/they deem fit, and pay to the Transferee Company, the net sale proceeds thereof. The Transferee Company shall, thereafter, distribute such net sale proceeds to the beneficiaries in proportion to their respective fractional entitlements.

- 5.05 The approval of the Scheme shall be deemed to be the approval of the shareholders of the Transferee Company under Section 81(1A) and other applicable provisions of the Act and no further approval of the shareholders will be required for the increase in the share capital of the Transferee Company consequent upon the issue and allotment of shares in terms of the Scheme.
- 5.06 Upon the Scheme coming into effect and with effect from the Record Date, all the existing shares/share certificates pertaining to the shares of the Transferor Companies, both in physical form and in electronic form, shall be deemed to have been automatically cancelled and will become invalid and shall cease to be tradeable thereafter. The Board of Directors of the Transferee Company may not require the shareholders of the Transferor Companies to surrender their share certificates before issuing the new share certificates for the shares allotted in terms of the Scheme.
- 5.07 The Equity Shares issued and allotted by the Transferee Company in terms of Clause 5.01 above shall be listed and/or admitted to trading by the Bombay Stock Exchange and the National Stock Exchange, where the Equity Shares of the Transferee Company are already listed.
- 5.08 After the issue and allotment of shares pursuant to the Scheme, the Transferee Company shall use its best endeavors to increase the public shareholdings in the Company to such minimum level within such period as may be stipulated by or under the Listing Agreement or under other applicable regulatory provisions.

PART - VI ACCOUNTING TREATMENT

- 6.01 Upon the Scheme becoming effective, the Transferee Company shall account for the assets and liabilities of the Transferor Companies vested in it in terms of the Scheme and all other transactions in accordance with the provisions made under Accounting Standard No. 14 or other applicable Accounting Standards, if any, issued by the Institute of Chartered Accountants of India.
- 6.02 If and to the extent the same is not in conflict with the accounting treatment prescribed in the applicable Accounting Standards,
- (i) The Transferee Company shall account for the assets and liabilities of the Transferor Companies vested in it in terms of the Scheme at their respective book values as appearing in the books of the Transferor Companies.
 - (ii) The Transferee Company shall record in its books of accounts, all the transactions of the Transferor Companies pertaining to the period from the Appointed Date till the Effective Date, in respect of assets, liabilities, income, expenses, receipts and payments, etc. at their book values.
 - (iii) The inter-company balances, if any, shall stand cancelled.
 - (iv) The identity of statutory reserves of the Transferor Companies, if any, shall be preserved and they shall appear in the financial statements of the Transferee Company in the same form and manner in which they appeared in the financial statements of the Transferor Companies, prior to this Scheme becoming effective.

- (v) The balances in the Profit & Loss Account and the Free Reserves Accounts, if any, of the Transferor Companies shall be carried as the balances in the respective accounts of the Transferee Company.
- (vi) The difference between the book value of such assets and liabilities over the balance of Profit & Loss Account and the amount of Free Reserves referred to in (v) above shall be ascertained. The excess of such ascertained amount over the paid up value of shares allotted under Clause 5.01, shall be credited to the Amalgamation Reserve. The Amalgamation Reserve shall be utilized, to the extent possible, to write off goodwill existing in the books of the Transferee Company. If the amount so ascertained is less than the paid up value of shares allotted under Clause 5.01, then such shortfall shall be transferred to Goodwill Account which shall be written off over a period not exceeding ten years against Securities Premium Account and/or Capital Reserves and/or General Reserves and/or balance standing to the credit of Profit & Loss account, as may be decided from time to time by the Board of Directors of the Transferee Company.

PART - VII GENERAL TERMS AND CONDITIONS

- 7.01 The amalgamation of the Transferor Companies with the Transferee Company in terms of this Scheme is contemplated in accordance with the provisions of Section 2(1B) of the Income Tax Act, 1961. If at any stage any terms or provisions of the Scheme are found or interpreted to be inconsistent with the said provisions of the Income Tax Act as they exist now or as may be amended subsequently, then the provisions of this Scheme shall be read down to avoid such inconsistency and, if necessary, it will be open to the Board of Directors of the Transferor Companies and the Transferee Company to seek amendment of the Scheme in accordance with law. No further approval of the shareholders or the creditors will be necessary for giving effect to the provisions contained in this clause.
- 7.02 The Scheme provides for the amalgamation of the Transferor Companies with the Transferee Company and transfer and vesting of their Undertakings as a whole on a going concern basis to the Transferee Company with effect from the Appointed Date, pursuant to Sections 391 to 394 of the Act, and nothing contained in any of the clauses of this Scheme shall be construed to imply transfer of individual assets and liabilities or any combination thereof or with effect from a date other than the Appointed Date.
- 7.03 As provided in Clause 4.01(i) above, the transfer and vesting of the Undertakings of the Transferor Companies in the Transferee Company shall be deemed to have taken place with effect from the Appointed Date immediately upon the Scheme becoming effective. It is clarified that nothing contained in the Scheme shall be construed to imply that such transfer and vesting shall remain or deemed to have remained suspended or in abeyance till the process of issue and allotment of shares in terms of Clause 5.01 is completed.
- 7.04 If any part of this Scheme is found invalid, ruled illegal by any Court or authority of competent jurisdiction or found unenforceable under the present or future laws, then it is the intention of the Transferor Companies and the Transferee Company that such part shall be severable from the remainder of the Scheme and the Scheme shall not be affected thereby, unless the deletion of such part shall cause this Scheme to become materially adverse to either Company, in which case the Board of Directors of the Transferor Companies and the Transferee Company shall attempt to bring about a modification in the Scheme, as will best preserve for the Companies, the benefits and obligations of this Scheme, including but not limited to such part. It is made clear that

- no further approval of the shareholders or creditors shall be necessary for giving effect to the provisions contained in this clause.
- 7.05 The approval of the Scheme by the shareholders of the Transferor Companies and the Transferee Company, whether at their respective meetings convened by the Court under section 391/394 of the Act or by their consent letters/ affidavits, shall be deemed to be their approval of the Scheme as a whole under all the applicable provisions of the Act and under the respective Memorandum and Articles of Association of the Companies and under all other contracts, arrangements and understandings, as may be applicable, as well as under all other applicable laws, rules and regulations and it will not be necessary to specify or obtain separate or specific approval under each applicable provision.
- 7.06 The respective Board of Directors of the Transferor Companies and the Transferee Company may assent to any alterations or modifications in the Scheme which the Court and/or any other competent authority may deem fit to approve or impose or which may otherwise become necessary. No further approval of the shareholders or the creditors shall be necessary for giving effect to the provisions contained in this clause
- 7.07 The Board of Directors of the any of the Transferor Companies as well as the Board of Directors of the Transferee Company shall be at liberty to withdraw from the Scheme at any time before the Scheme is sanctioned by the Court. They shall also be entitled to withdraw from this Scheme in case any condition or alteration imposed by the Court or any other authority is not acceptable to either of them. If either of them withdraws from the Scheme as above, the Scheme shall become null and void. No further approval of the shareholders or the creditors shall be necessary for giving effect to the provisions contained in this clause.
- 7.08 This Scheme is conditional upon and subject to its approval by the requisite majority of the shareholders and the creditors of the Transferor Companies and the Transferee Company as may be required under the Act and/or the orders of the Court; sanction of the Court under Sections 391 to 394 of the Act; and filing of the certified copy of the order of the Court with the Registrar of Companies, Punjab, Himachal Pradesh and Chandigarh.
- 7.09 The Scheme shall become effective with effect from the date the certified copy of the order of the Court sanctioning the Scheme is filed with the Registrar of Companies, Punjab, Himachal Pradesh and Chandigarh. The said date shall be the 'Effective Date'. The Scheme, though operative with effect from the 'Appointed Date' shall take effect from the Effective Date.
- 7.10 In the event of the Scheme failing to take effect by 10-08-2011 or by such later date as may be mutually agreed by the Board of Directors of the Transferor Companies and the Transferee Company, the Scheme shall become null and void. No further approval of the shareholders or the creditors shall be necessary for giving effect to the provisions contained in this clause.
- 7.11 No party claiming to have acted in anticipation of this Scheme taking effect, shall get any cause of action against the Transferor Companies or the Transferee Company or any of their directors or officers, if the Scheme becomes null and void or does not take effect for any reason whatsoever, or is withdrawn, amended or modified.
- 7.12 The Board of Directors of the Transferee Company may give such directions, as they may consider necessary, to settle any question or difficulty arising in regard to the implementation of the Scheme or in any matter connected therewith (including any question or difficulty arising in connection with any deceased or insolvent shareholder) such that the same shall be binding on all parties, in the same manner as if the same were specifically incorporated in the Scheme.
- 7.13 In the event of any inconsistency between any of the terms and conditions of any earlier arrangement or agreement between the Transferor Companies and the Transferee Company and their respective shareholders and/or creditors, and the terms and conditions of this Scheme, the latter shall prevail.
- 7.14 If any inconsistency or conflict between the different clauses of this Scheme is observed at any time, then the Board of Directors of the Transferee Company shall resolve such inconsistency or conflict and their decision in the matter shall be final and binding on all parties.
- 7.15 The respective Board of Directors of the Transferor Companies and the Transferee Company may empower any committee of directors or officers or any individual director, officer or other person to discharge all or any of the powers and functions, which the said Board of Directors are entitled to exercise and perform under this Scheme and may empower such committee or officer(s) to sub-delegate the authority so delegated.
- 7.16 On the Scheme becoming effective, the Transferor Companies shall stand dissolved without winding up.
- 7.17 The Transferor Companies and the Transferee Company shall, with all reasonable dispatch, make all applications/ petitions under Section 391 and 394 and other applicable provisions of the Act to the Court for directions to convene and/or dispense with all or any of the meetings and for the sanctioning of the Scheme and to other authorities and bodies for obtaining their approvals, no objections, consents etc., as may be required, under any law, agreement or otherwise.
- 7.18 Save and except as provided elsewhere in the Scheme, all costs, charges taxes, levies and other expenses including registration fee of any deed, in relation to or in connection with negotiations leading upto the Scheme and of carrying out and implementing the terms and provisions of this Scheme and incidental to the completion of the Scheme shall be borne and paid by the Transferee Company.
- 7.19 If this Scheme is rendered null and void under any of the clauses of this Scheme, then the Transferor Companies and Transferee Company shall bear their own costs and expenses.

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

EXPLANATORY STATEMENT

UNDER SECTION 393 OF THE COMPANIES ACT, 1956

ANNEXED TO THE NOTICES CONVENING THE MEETINGS OF SHAREHOLDERS/CREDITORS

PURSUANT TO THE ORDER DATED MARCH 14, 2011 PASSED BY THE

HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

IN

COMPANY PETITION NO. 2 OF 2011

IN THE MATTER OF AMALGAMATION OF :

- JAIPRAKASH POWER VENTURES LIMITED Transferee Company
- AND
- JAYPEE KARCHAM HYDRO CORPORATION LIMITED Transferor Company No. 1
- AND
- BINA POWER SUPPLY COMPANY LIMITED Transferor Company No. 2
1. JAIPRAKASH POWER VENTURES LIMITED
having its registered office at
JUIT Complex, Wagnaghat,
P.O. Dumehar Bani, Kandaghat – 173 215,
Distt. Solan (H.P.).
[Also referred to hereinafter as “JPVL”] Transferee Company
2. JAYPEE KARCHAM HYDRO CORPORATION LIMITED
having its registered office at
JUIT Complex, Wagnaghat,
P.O. Dumehar Bani, Kandaghat – 173 215,
Distt. Solan (H.P.).
[Also referred to hereinafter as “JKHCL”] Transferor Company No. 1
3. BINA POWER SUPPLY COMPANY LIMITED
having its registered office at
JUIT Complex, Wagnaghat,
P.O. Dumehar Bani, Kandaghat – 173 215,
Distt. Solan (H.P.).
[Also referred to hereinafter as “BPSCCL”] Transferor Company No. 2

..... APPLICANTS/PETITIONERS

1. The above-named Companies have moved a Company Petition, being Company Petition No. 2 of 2011 in the Hon'ble High Court of Himachal Pradesh at Shimla seeking directions to convene meetings of the Equity Shareholders & Creditors of the Transferee Company and those of the Creditors of the Transferor Company No. 1 & Transferor Company No. 2, for considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation amongst the Applicant/Petitioner Companies and other directions incidental thereto. On the above Petition, the Hon'ble Court has passed Order dated March 14, 2011 convening the meetings of the Equity Shareholders & Creditors of the Transferee Company and those of the Creditors of the Transferor Company No.1 & Transferor Company No.2, has appointed Chairman and Co-Chairmen for each meeting, fixed date and time of the meetings and quorum for each meeting and has given directions regarding dispatch and publication of notices and other directions incidental thereto.
2. The above Scheme of Amalgamation has been approved by the respective Board of Directors of the Applicant Companies at their meeting duly convened and held on 14th February 2011.
3. **Reg. TRANSFEE COMPANY :
[JAIPRAKASH POWER VENTURES LIMITED]**
- (i) Jaiprakash Power Ventures Limited (JPVL), the Transferee Company was incorporated as a public limited company, with the name of Jaiprakash Hydro-Power Limited, under the Companies Act, 1956 on 21st December 1994 in the State of Himachal Pradesh. It received Certificate of Commencement of Business on 9th January, 1995 and since then it has been in business. The name of the Company was changed to Jaiprakash Power Ventures Limited on 23rd December 2009. Copy of Certificate of Incorporation, Certificate of Commencement of Business and copy of Certificate of

Change of Name from Jaiprakash Hydro-Power Limited to Jaiprakash Power Ventures Limited issued by the Registrar of Companies, form part of the Memorandum and Articles of Association of the Company.

- (ii) The Registered Office of the Company is situate at JUIT Complex, Wagnaghat, P.O. Dumehar Bani, Kandaghat – 173 215, Distt. Solan (H.P.).
- (iii) The Authorised, Issued, Subscribed and Paid up Capital of the Company as on 31st March 2010 has been as under:-

JPVL (Transferee Company)	Rs.
AUTHORISED CAPITAL 3,90,00,00,000 Equity Shares of Rs. 10/- each	39,00,00,00,000
ISSUED, SUBSCRIBED AND PAID-UP CAPITAL 2,09,56,80,200 Equity Shares of Rs. 10/- each fully paid up	20,95,68,02,000

There is no change in the above capital structure of the Transferee Company after 31st March, 2010.

- (iv) The Transferee Company is a subsidiary of Jaiprakash Associates Limited, which holds 76.252% of the Paid Up Capital of the Transferee Company.
- (v) The objects of the Company are set out in the Object Clause of the Memorandum of Association. The Company is in the business of generation of power and it owns and operates 300MW BASPA II Hydro Power Plant at District Kinnaur, Himachal Pradesh and 400MW Hydro Power Plant at Vishnuprayag, Utrakhhand. It is also setting up a 1320 MW super critical technology Thermal Power Project at Nigrie, Madhya Pradesh.

In addition to above, the Transferee Company is also setting up various Hydro/Thermal Power Projects through its subsidiary/Joint Venture companies, as detailed in para 2.03 of the Scheme.

- (vi) The audited accounts of the Company have been presented to the shareholders up to the financial year ended on 31st March, 2010. The summarized financial position of the Company as per the latest published audited Accounts as at 31st March, 2010 and as per audited provisional Accounts as at 31st December, 2010 is as under :-

(Rs. in Lacs)

JPVL [TRANSFEREE COMPANY]	As at 31 st March 2010	As at 31 st December 2010
ASSETS:		
Fixed Assets (WDV)	4598,21	4609,59
Pre- operative Expenses of new projects pending capitalization	242,31	303,82
Investments	1420,96	2799,55
Current Assets, Loans & Advances:	2863,61	2808,75
Less: Current Liabilities & Provisions:	<u>138,73</u>	<u>229,19</u>
TOTAL	<u>8986,36</u>	<u>10292,52</u>
SOURCES OF FUNDS:		
Share Capital	2095,68	2095,68
Reserves & Surplus	1282,13	1350,10
Deferred Revenue	233,97	293,25
Secured Loans	4111,58	5645,49
Unsecured Loans	<u>1263,00</u>	<u>908,00</u>
TOTAL	<u>8986,36</u>	<u>10292,52</u>

There has been no material change in the financial position of the Company after 31st December 2010 except in the normal course of Business.

4. **Reg. TRANSFEROR COMPANY NO. 1:**
[JAYPEE KARCHAM HYDRO CORPORATION LIMITED]

- (i) Jaypee Karcham Hydro Corporation Limited (JKHCL), the Transferor Company No. 1 was incorporated as a public limited company under the Companies Act, 1956 on 29th April, 2002 in the State of Himachal Pradesh. It received its Certificate of Commencement of Business on 4th July, 2002 and since then it has been in business. Copy of Certificate of Incorporation and Certificate of Commencement of Business issued by the Registrar of Companies form part of the Memorandum and Articles of Association of the Company.
- (ii) The Registered Office of the Company is situate at JUIT Complex, Wagnaghat, P.O. Dumehar Bani, Kandaghat – 173 215, Distt. Solan (H.P.).
- (iii) The Authorised, Issued, Subscribed and Paid up Capital of the Company as on 31st March, 2010 has been as under –

JKHCL (Transferor Company No. 1)	Rs.
AUTHORISED CAPITAL 220,00,00,000 Equity Shares of Rs. 10/- each	22,00,00,00,000
ISSUED, SUBSCRIBED AND PAID-UP CAPITAL 1,32,50,00,000 Equity Shares of Rs. 10/- each Fully paid up	13,25,00,00,000

The Company has issued and allotted 68,50,00,000 equity shares after 31st March, 2010 and hence the Issued, Subscribed and Paid-Up Share Capital of the Company now stands increased to Rs. 2010 Crores divided into 201 Crores Equity Shares of Rs.10 each. The Company has also received Rs. 135 Crores by way of Share Application money for which shares might be allotted either in full or in part. Upon such allotment the Issued, Subscribed and Paid up Share Capital will stand increased to the extent the shares are allotted.

- (iv) That the Transferor Company No. 1 is a subsidiary of Jaiprakash Power Ventures Limited, which holds 53.98% of the Paid Up Capital of the Transferor Company No. 1 as on 14th February 2011.
- (v) That the objects of the Company are set out in the Objects Clause of the Memorandum of Association. The Transferor Company No. 1 is in power generation business and it is setting up the 1000 MW Karcham Wangtoo Hydro Electric Project in Himachal Pradesh ["Karcham Wangtoo Project"].
- (vi) The audited accounts of the Company have been presented to the shareholders up to the financial year ended 31st March 2010. The summarized financial position of the company as per the latest published Audited Accounts as at 31st March 2010 and as per audited provisional Accounts as at 31st December 2010 is as under :

(Rs. in Lacs)

JKHCL TRANSFEROR COMPANY No. 1	As at 31 st March 2010	As at 31 st December 2010
ASSETS:		
Fixed Assets (WDV)	43,98	44,76
Capital work in Progress & Incidental Expenditure during construction pending allocation and capitalization	4368,76	5726,53
Current Assets, Loans & Advances	278,36	345,44
Less: Current Liabilities & Provisions	<u>491,84</u>	<u>166,59</u>
Profit and Loss Account	<u>2,01</u>	<u>2,01</u>
TOTAL	<u>4201,27</u>	<u>5952,16</u>
SOURCES OF FUNDS:		
Share Capital	1325,00	1890,00
Loans -		
Secured Loans	<u>2876,27</u>	<u>4062,16</u>
TOTAL	<u>4201,27</u>	<u>5952,16</u>

There has been no material change in the financial position of the Company after 31st December 2010, except in the normal course of business and that the Company has made allotment of 12 crore equity shares of Rs. 10 each aggregating Rs. 120 Crores on 14th February, 2011. The Company has also received Rs. 135 Crores by way of Share Application money for which shares might be allotted either in full or in part. Upon such allotment the Issued, Subscribed and Paid up Share Capital will stand increased to the extent the shares are allotted.

5. **Reg. TRANSFEROR COMPANY No. 2 :**
[BINA POWER SUPPLY COMPANY LIMITED]

- (i) Bina Power Supply Company Limited (BPSCL), the Transferor Company No. 2 was incorporated as a public limited company under the Companies Act, 1956 on 15th November, 1994 in the State of Madhya Pradesh. It received Certificate of Commencement of Business on 19th December, 1994 and since then it has been in business. The registered office of the Company was shifted from the State of Madhya Pradesh to the State of Maharashtra and this alteration was confirmed by the Company Law Board vide its Order dated 23rd April 1999. The order of the Company Law Board was duly registered with the Registrar of Companies, Maharashtra on 13th July 1999. The registered office of the Company was again shifted from the State of Maharashtra to the State of Himachal Pradesh and this alteration was also confirmed by the Company Law Board vide its Order dated 13th October 2010. The order of the Company Law Board was duly registered with the Registrar of Companies, Punjab, Himachal Pradesh and Chandigarh. Copy of Certificate of Incorporation, Certificate of Commencement of Business and copy of certificate for shifting of Registered Office from State of Madhya Pradesh to the State of Maharashtra and from the State of Maharashtra to the State of Himachal Pradesh, issued by the Registrar of Companies, form part of the Memorandum and Articles of Association of the Company.
- (ii) The Registered Office of the Company is situate at JUIT Complex, Waknaghat, P.O. Dumehar Bani, Kandaghat-173 215, Distt. Solan (H.P.).
- (iii) The Authorised, Issued, Subscribed and Paid up Capital of the Company as on 31st March 2010 has been as under–

BPSCL (Transferor Company No. 2)	Rs.
AUTHORISED CAPITAL 220,00,00,000 Equity Shares of Rs. 10/- each	22,00,00,00,000
ISSUED, SUBSCRIBED AND PAID-UP CAPITAL 22,41,58,550 Equity Shares of Rs. 10/- each Fully paid up	2,24,15,85,500

The Company has issued and allotted 60,18,41,450 equity shares after 31st March, 2010 and hence the Issued, Subscribed and Paid-Up Share Capital of the Company now stands increased to Rs. 826 Crores divided into 82.60 Crores Equity Shares of Rs.10/-each.

- (iv) The Transferor Company No. 2 is a wholly-owned subsidiary of Jaiprakash Power Ventures Limited, which holds 100% of the Paid Up Capital of the Transferor Company No. 2 as on 14-02-2011.
- (v) The objects of the Company are set out in the Objects Clause of the Memorandum of Association. The Transferor Company No. 2 is in power generation business and it is setting up a 500 MW in Phase- 1 of 1250 MW (to be increased from 1250 MW to 1500 MW) Thermal Power project in Bina in the State of Madhya Pradesh.
- (vi) The audited accounts of the Company have been presented to the shareholders up to the financial year ended 31st March 2010. The summarized financial position of the company as per the latest published Audited Accounts as at 31st March, 2010 and as per the audited provisional Accounts as at 31st December, 2010 is as under:

(Rs. in Lacs)

BPSCL TRANSFEROR COMPANY No. 2	As at 31st March, 2010	As at 31st December, 2010
ASSETS:		
Fixed Assets (WDV)	9,59	10,58
Capital work in Progress & Incidental Expenditure during construction pending allocation and capitalization	716,81	1467,12
Current Assets, Loans & Advances	18,07	119,14
Less: Current Liabilities & Provisions	<u>89,46</u>	<u>(71,39)</u>
Profit and Loss Account	85	<u>130,22</u>
TOTAL	<u>655,86</u>	<u>(11,08)</u> <u>85</u> <u>1467,47</u>
SOURCES OF FUNDS:		
Share Capital	224,16	524,15
Loans -		
Secured Loans	<u>431,70</u>	<u>943,32</u>
TOTAL	<u>655,86</u>	<u>1467,47</u>

There has been no material change in the financial position of the Company after 31st December,2010, except in the normal course of Business and that the Company has made an allotment of 30,18,41,450 equity shares of Rs. 10/- each aggregating Rs. 301,84,14,500 on 14th February, 2011.

6. The circumstances which may result in change in the capital structure and/or financial position of the Applicant Companies are given in Clause 3.04 of the Scheme attached to the notice convening the meetings.
7. The main provisions of the proposed Scheme of Amalgamation are stated below –
[Para numbers are as assigned in the Scheme]

1.02 "Appointed Date" shall mean 1st day of April 2010.

1.05 The "Effective Date" or "coming into effect of this Scheme" or "effectiveness of this Scheme" or the like expressions used in the Scheme means the date on which certified copy of the Order of the Hon'ble High Court of Himachal Pradesh sanctioning the

Scheme is filed with the Registrar of Companies, Punjab, Himachal Pradesh & Chandigarh.

**PART IV
TRANSFER AND VESTING**

- 4.01 (i) With effect from the Appointed Date and upon this Scheme coming into effect, the entire business and the whole of the Undertakings [as defined and described in sub-clause (ii) below] of the Transferor Companies shall stand transferred to and vested in or deemed to have been transferred to and vested in the Transferee Company as going concerns, pursuant to the provisions of Sections 391 to 394 and other applicable provisions of the Act and without any further act, instrument or deed, together with all the properties, estate, assets, rights, title, interest, authorities and privileges and with all liabilities and obligations, so as to become, as and from the Appointed Date, the property, estate, assets, rights, title, interest, authorities and privileges and liabilities and obligations etc. of the Transferee Company.
- (ii) The term “**Undertakings**” for the above purposes means and includes -
- (a) all the assets and properties of the Transferor Companies as on the Appointed Date i.e. all the undertakings, the entire business, all the properties (whether movable or immovable – freehold or leasehold, tangible or intangible), plant and machinery, buildings and structures, offices, residential and other premises, capital work in progress, furniture, fixture, office equipment, appliances, accessories, power lines, earnest moneys, security and other deposits, stocks, assets, investments of all kinds and in all forms, cash balances with banks, loans, advances, contingent rights or benefits, receivables, benefit of any deposits, financial assets, leases, hire purchase contracts and assets, lending contracts, benefit of any security arrangements, reversions, powers, authorities, allotments, approvals, permissions, permits, import and other quotas, rights, entitlements, authorizations, approvals, agreements and contracts including Power Purchase Agreements, leases, industrial and other licenses, permits, registrations, tenancies, carbon credit benefits, benefits under all guarantees including guarantees given by the Central or State Governments or any authorities, deeds, bonds, insurance policies, benefits of assets or properties or other interest held in trust, exemptions, concessions, remissions, benefits, privileges and rights under various laws including Trade Tax/Commercial Tax/Sales Tax/VAT, Entry Tax, Service Tax, Central Excise Act, Income Tax, Wealth Tax etc. including but not limited to credit for Minimum Alternate Tax (“MAT”) paid under Section 115JA/115JB of the Income Tax Act, 1961 (“IT Act”), advance taxes and tax deducted at source, right to carry forward and set off unabsorbed losses and depreciation, right to claim deductions under Section 80-IA of the IT Act including its continuing benefits, deferred tax assets, carbon credits, benefits of all engagements and arrangements of all kinds, exemptions, benefits, incentives, privileges and rights under State tariff regulations and under various laws; loan agreements, titles, interests, trade and service names and marks, patents, copyrights, and other intellectual property rights, to use and avail of telephones, telexes, facsimile, email, interest, leased line connections and installations, utilities, electricity and other services, reserves, provisions, funds, all records, files, papers, computer programmes, manuals, data, catalogues, sales and advertising materials, lists and other details of present and former customers and suppliers, customer credit information, customer and supplier pricing information and other records, and all other interests of whatsoever nature belonging to or in the ownership, power, possession or the control of or vested in or granted in favour of or held for the benefit of or enjoyed by the Transferor Companies or which have accrued to the Transferor Companies as on the Appointed Date or which may accrue thereafter, whether in India or abroad, of whatsoever nature and where-ever situated.
- (b) all loans, debts, advances, sundry creditors, liabilities and provisions, deferred tax liabilities, encumbrances and other obligations, including contingent liabilities, whether secured or unsecured, (including any guarantees, letters of credit, letters of comfort or any other instrument or arrangement which may give rise to a contingent liability in whatever form), if any, due or which may become due at any time in future, whether provided for or not and whether known or unknown, pertaining to the activities or operations of the Transferor Companies.
- 4.02 Without prejudice to Clause 4.01 above, in respect of such of the assets of the Transferor Companies as are movable in nature or are otherwise capable of transfer by manual delivery or by enforcement and/or delivery, the same may be so transferred by the Transferor Companies by physical deliveries, and shall, upon such transfer, become the property of the Transferee Company. The other assets shall, without any further act, instrument or deed, be transferred to and vested in and/or be deemed to be transferred and vested in the Transferee Company pursuant to the provisions of Sections 391 to 394 of the Act.
- 4.03 With effect from the Appointed Date and pursuant to the provisions of Sections 391 to 394 of the Act and without any further act, instrument or deed :
- (i) All secured and unsecured debts, (whether in rupees or in foreign currency), all liabilities whether provided for or not in the books of the Transferor Companies, duties and obligations of the Transferor Companies along with any charge, encumbrance, lien or security thereon (hereinafter referred to as the “said Liabilities”) shall be and stand transferred to and vested in or deemed to have been transferred to and vested in, so as to become 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.
- It is clarified that in so far as the assets of the Transferor Companies are concerned, the security or charge over such assets or any part thereof, relating to any loans, debentures or borrowing of the Transferor Companies, shall, without any further act or deed continue to relate to such assets or any part thereof, after the Effective Date and shall not relate to or be available as security in relation to any or any part of the assets of the Transferee Company, save to the extent warranted by the terms of the existing security arrangements to which any of the Transferor Companies and the Transferee Company are parties, and consistent with the joint obligations assumed by them under such arrangement.

It is further clarified that this Scheme shall not be construed to enlarge the security for any loan, deposit or facility created by the Transferor Companies which shall vest in the Transferee Company in terms of this Scheme and the Transferee Company shall not be obliged or required to create any further or additional security after the Scheme becomes effective or otherwise.

It is further clarified that unless otherwise agreed between the lenders, promoters and the Transferee Company, nothing contained in this Scheme shall be construed to impose any obligations on the promoters to provide additional collateral security in respect of any loans, debentures or borrowings by the Transferor Companies or the Transferee Company by way of pledge of their shareholding in the Transferor Companies/Transferee Company.

- (ii) *Loans, advances and other obligations (including any guarantees, letters of credit, letters of comfort or any other instrument or arrangement which may give rise to a contingent liability in whatever form), if any, due or which may at any time in future become due between the Transferor Companies inter se or between the Transferee Company or any of the Transferor Companies shall stand discharged and there shall be no liability in that behalf on either party.*
- 4.04 *All the properties, leases, estates, assets, rights, titles, interests, licenses, approvals, permissions and authorities etc. as described in Clause 4.01, accrued to and/or acquired by the Transferor Companies after the Appointed Date, shall have been and deemed to have accrued to and/or acquired for and on behalf of the Transferee Company and shall, upon the coming into effect of the Scheme, pursuant to the provisions of Sections 391 to 394 of the Act and without any further act, instrument or deed, be and stand transferred to and vested in or be deemed to have been transferred to and vested in the Transferee Company to that extent and shall become the properties, leases, estates, assets, right, title, interests, licenses, approvals, permissions and authorities etc. of the Transferee Company.*
- 4.05 *All loans raised and utilized and all debts, duties, undertakings, liabilities, obligations etc. as described in Clause 4.01, raised, used, incurred or undertaken by the Transferor Companies after the Appointed Date, shall be deemed to have been raised, used, incurred or undertaken for and on behalf of the Transferee Company and to the extent they are outstanding on the Effective Date, shall, upon the coming into effect of the Scheme, be and stand transferred to and vested in or be deemed to have been transferred to and vested in the Transferee Company pursuant to the provisions of Sections 391 to 394 of the Act and without any further act, instrument or deed, and shall become the debt, duties, undertakings, liabilities and obligations of the Transferee Company which shall meet, discharge and satisfy the same.*
- 4.06 *Where any of the liabilities and obligations of the Transferor Companies as on the Appointed Date transferred to the Transferee Company have been discharged by the Transferor Companies after the Appointed Date, such discharge shall be deemed to have been for and on account of the Transferee Company.*
- 4.07 *If on the Effective Date, any suit, writ petition, appeal, revision or other proceedings of whatever nature (hereinafter called the "Proceedings") by or against the Transferor Companies be pending before any Court or Authority, the same shall not abate, or discontinued or in anyway be prejudicially affected by reason of this Scheme coming into effect. All such proceedings may be continued, prosecuted and enforced, by or against the Transferee Company in the same manner and to the same extent as they would or might have been continued, prosecuted and enforced by or against the Transferor Company concerned, if this Scheme had not come into effect, pursuant to the provisions of Sections 391 to 394 of the Act and without any further act, instrument or deed.*
- 4.08 *Upon the coming into effect of the Scheme and subject to the provisions of the Scheme, all contracts, deeds, bonds, insurance policies, agreements, arrangements and other instruments (including all tenancies, leases, licenses and other assurances in favour of the Transferor Companies or powers or authorities granted by or to it) of whatsoever nature, to which any of the Transferor Companies is a party or to the benefit of which the Transferor Companies may be eligible, and which are subsisting or having effect immediately before the Effective Date, shall, pursuant to the provisions of Sections 391 to 394 of the Act and without any further act, instrument or deed, be in full force and effect 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.*
- 4.09 *The transfer and vesting of the assets and the liabilities of the Transferor Companies in the Transferee Company and the continuance of all contracts or proceedings by or against the Transferee Company in terms of the Scheme shall not affect any contracts or proceedings relating thereto already concluded on or after the Appointed Date.*
- 4.10 *The Transferee Company may, at any time after the coming into effect of the Scheme, if so required, under any law or otherwise, enter into, or issue or execute deeds, writings, confirmations, novations, declarations, or other documents with, or in favour of any party to any contract or arrangement to which any of the Transferor Companies is a party or any writings as may be necessary to be executed in order to give formal effect to the above provisions.*
- 4.11 *Upon the Scheme coming into effect,*
- (i) *All the employees of the Transferor Companies in service on the Effective Date, shall become the employees of the Transferee Company on such date without any break or interruption in service and on terms and conditions as to remuneration and otherwise, not less favourable than those subsisting (with reference to the respective Transferor Companies), as on the effective date.*
- (ii) *The accumulated balances standing to the credit of the employees of the Transferor Companies on the Effective Date in the Provident fund, Gratuity Fund, Superannuation Fund and/or other funds and including any surplus in any such funds created or existing for the benefit of the employees of the Transferor Companies shall be identified, determined and transferred to the corresponding funds of the Transferee Company in due course.*
- 4.12 *Any debt or other trading or similar obligations, if any, due inter-se i.e. between the Transferor Companies and the Transferee Company as on the Effective Date, shall stand automatically extinguished. All inter party balances between the Transferor Companies and the Transferee Company as may be outstanding on the Appointed Date or the transactions on account of any debt or trading or the like which may take place subsequent to the Appointed Date and prior to the Effective Date, shall be considered as intra party balances or transactions, as the case may be, for all purposes.*
- 4.13 *Upon the Scheme coming into effect,*
- (i) *The benefits of all taxes paid under all Laws, including but not limited to Minimum Alternate Tax paid under Section 115JA/115JB, advance taxes and tax deducted at source, and the benefit by way*

of right to carry forward and set off unabsorbed losses and depreciation, right to claim deductions under Section 80-IA of the of the Income Tax Act including its continuing benefits, by and available to the Transferor Companies from the Appointed Date, regardless of the period to which they relate, shall be deemed to have been paid for and on behalf of and to the credit of the Transferee Company and available to the Transferee Company as effectively as if the Transferee Company had paid the same and was itself entitled to such benefits.

- (ii) All tax holiday benefits, exemptions, concessions, incentives and other benefits enjoyed by or available in respect of any of the Units, Works and activities and operations of the Transferor Companies as on the Appointed Date, under any law shall continue to remain available to and enjoyed by the Transferee Company in respect of such Units, Works etc. after the Effective Date in the same manner and to the same extent as were being availed and enjoyed by the Transferor Companies before the Effective Date. The right of the Transferee Company to avail and enjoy such tax holiday benefits, exemptions, concessions, incentives and other benefits etc. under such laws shall not be prejudiced or otherwise adversely affected in any manner whatsoever, merely on the ground of transfer and vesting of such Units/ Works etc. to the Transferee Company in terms of this Scheme. All such benefits shall relate back to the Appointed Date as if the Transferee Company was originally entitled to all such benefits under the applicable laws.
- (iii) The Transferee Company shall be entitled to file/ revise its income tax returns, TDS Returns and other statutory returns under all applicable laws, if required, and shall have the right to claim refunds, depreciation benefits, advance tax credits, other deductions, exemptions, credits etc., if any, as also the income tax returns and other returns filed by the Transferor Companies upto the Effective Date which may become necessary upon the Scheme becoming effective.

4.14 Upon the Scheme coming into effect,

- (i) The resolutions, including resolutions passed under Section 293(1)(d) of the Act, if any, of the respective Transferor Companies, which are valid and subsisting on the Effective Date, shall, mutatis mutandis, continue to be valid and subsisting and be considered as resolutions of the Transferee Company and if any such resolutions have upper monetary or other limits being imposed under the provisions of the Act, or any other applicable provisions, then all the said limits shall be added and the aggregate of the said limits shall constitute the limit for the Transferee Company.
- (ii) The Transferee Company shall be deemed to be authorised to commence and carry on all such business as the Transferor Companies have been carrying on as on the Effective Date, without any further resolution or compliance with the procedure laid down in Section 149(2A) or any other provisions of the Act.
- (iii) The Authorised Share Capital of all the Transferor Companies shall stand transferred to and combined with the Authorised Share Capital of the Transferee Company without any further act or deed. The filing fee and stamp duty already paid by the respective Transferor Companies on their 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 further fee/ stamp duty on the Authorised Share Capital so increased. The existing Clause V of the Memorandum of Association of the Transferee Company relating to the Authorised Share Capital shall stand altered to give effect to the above increase in the authorised capital.

- (iv) The resolution passed by the equity shareholders of the Transferee Company approving the Scheme and the filing of the certified copy of the order of the Court sanctioning the Scheme with the Registrar of Companies, Punjab, Himachal Pradesh and Chandigarh, by the Transferee Company under section 394(3) of the Act, shall be deemed to be due compliance with the provisions of Sections 94 and 95 and other applicable provisions of the Act, as the case may be, and no further procedure will be required to be followed by the Transferee Company to give effect to the above increase in the Authorised Capital and alteration in the Memorandum of Association.

4.15 The Scheme shall not affect the manner of tariff determination as applicable immediately before the Scheme comes into effect, in respect of power projects under implementation or in operation. The paid up equity capital for the purposes of computation of Return on Equity shall continue to be taken as per the already approved financial package / parameters notwithstanding the change in the equity share capital consequent upon this Scheme coming into effect. It is further clarified that –

- (i) For 1000 MW Karcham Wangtoo Hydro Electric Project being set up by the Transferor Company No. 1 in Himachal Pradesh, the tariff for the power generated will be determined by the appropriate Regulations and shall be based on pre-merger financial package.
- (ii) For 500 MW in Phase- 1 of 1250 MW (to be further increased to 1500 MW) Thermal Power project being set up by the Transferor Company No. 2 in Madhya Pradesh, the tariff for the power generated will be determined by the appropriate Regulations and shall be based on pre-merger financial package.
- (iii) For 300 MW BASPA II Hydro Power Plant owned and operated by the Transferee Company in District Kinnaur, Himachal Pradesh, the tariff for the power generated will continue to be determined by the Himachal Pradesh Electricity Regulatory Commission under the Power Purchase Agreement based on the financial package approved by it from time to time based on pre-merger financial package .
- (iv) For 400 MW Hydro Power Plant owned and operated by the Transferee Company at Vishnuprayag, Uttarakhand, will continue to be determined by the U.P.State Electricity Board under the Power Purchase Agreement based on the financial package approved by it from time to time based on pre-merger financial package.

4.16 With effect from the Appointed Date and upto the Effective Date :

- (i) The Transferor Companies shall carry on and shall be deemed to have carried on all their respective businesses and activities as hitherto for the benefit of and in trust for, the Transferee Company and shall hold and stand possessed of all their businesses including assets on account of, and for the benefit of and in trust for, the Transferee Company .
- (ii) The Board of Directors of the Transferor Companies shall continue to exercise their powers to carry on the business of their respective Companies in the manner they deem fit and they shall, inter alia, be entitled to take up new projects if the opportunities so

arise, raise funds whether by way of long term loans, bonds or debentures, or by issuing further share capital, create further security in favour of the lenders by charge or mortgage of properties .

- (iii) The Board of Directors of the Transferor Companies shall continue to exercise their powers to alienate or dispose of any assets, whether movable or immovable.
 - (iv) All the profits or incomes accruing or arising to the Transferor Companies or expenditure or losses arising or incurred (including the effect of taxes, if any, thereon) by the Transferor Companies, pursuant to the carrying on of business after the Appointed Date and upto the Effective Date, shall, for all purposes, be treated and be deemed to be and accrue as the profits or incomes or expenditure or losses or taxes of the Transferee Company, as the case may be.
 - (v) The right of the Transferor Companies and the Transferee Company to declare and pay dividends, whether interim or final, to their respective equity shareholders shall remain unaffected. It is clarified that this is only an enabling provision and shall not be deemed to confer any right on the shareholders to demand or claim any dividends which, subject to the provisions of the Act, shall be entirely at the discretion of the respective Board of Directors of the Company concerned and subject, wherever necessary, to the approval of the shareholders of the respective companies.
 - (vi) The shareholders of the Transferor Companies and the Transferee Company shall, save as expressly provided otherwise in the Scheme, continue to enjoy their existing rights under their respective Articles of Association including the right to receive dividends.
- 4.17 (a) The Transferee Company has plans/commitments of making investments in various Projects implemented/ being implemented by it directly or through its subsidiary/ Joint Venture companies besides its obligations in respect of its own loans and other liabilities incurred in connection with various projects as detailed in para 2.03 above. The Transferee Company intends to raise funds to make such investments/service the said liabilities by sale of shares held by it in the two Transferor Companies at the appropriate time. Since, presently the projects undertaken by the two Transferor Companies are under implementation, it is felt by the Transferee Company that sale of the said shares immediately or in short term may not fetch reasonable price and hence it would be desirable to sell the shares at a later stage when projects become operative so as to have access to the true price potential. With that object, it is considered prudent that suitable provision be made in the Scheme clarifying that the said shares will not stand cancelled upon the Scheme coming into effect and the right of the Transferee Company to dispose of the said shares later on through some Trusts will not be affected in any way by anything contained in the Scheme.
- (b) Accordingly, it is provided that nothing contained in this Scheme shall be construed to restrict the right of the Transferee Company to sell or otherwise dispose of any of the shares held by it in the Transferor Companies before the Effective Date. Instead of making direct sale in the market, the Transferee Company may, if thought fit, transfer the said shares or any part thereof, before the Effective Date, in favour of one or more Trusts, to be created for that purpose and this power of the Transferee Company shall not be deemed to have been fettered or otherwise affected by anything contained in this Scheme. Upon

such transfer of shares whether by direct sale in the market or by transfer in favour of the Trustees before the Effective Date, the Transferee Company shall cease to be member in respect of such shares and the names of such transferees [including the Trustees] shall be entered in the Register of Members of the Transferor Companies concerned or in the records of the Depositories, as the case may be, in place of the Transferee Company. The transferees [including the Trustees], as members in respect of the shares so transferred in their names, shall be entitled to allotment of shares in the Transferee Company in terms of Clause 5.01 of this Scheme. It is, however, made clear that the Trusts so created will be for a specified period not exceeding 5 years and shall be for the sole benefit of the Transferee Company. The Trust Deed shall also provide for appointment of independent trustees unrelated to the promoters of the Transferee Company. The Trusts shall be governed by the Indian Trusts Act, 1882. If the Transferee Company decides not to sell or transfer the aforesaid shares or any part thereof before the Effective Date, then the shares not sold/transferred shall stand cancelled upon the Scheme coming into effect and no allotment of shares in lieu thereof shall be made under Clause 5.01 of this Scheme.

PART V CONSIDERATION AND ISSUE AND ALLOTMENT OF SHARES

- 5.01 (i) In consideration of transfer and vesting of the entire undertakings of the Transferor Companies as going concerns in the Transferee Company in terms of this Scheme, the Transferee Company shall, without any applications, issue and allot its Equity Shares to the equity shareholders of the Transferor Companies, as per details given below,
- (a) 1 (One) Equity Shares of Rs. 10 each in the Transferee Company credited as fully paid up shall be allotted for every 5 (Five) Equity shares of Rs. 10 each fully paid held in the Transferor Company No. 1 ;
 - (b) 2 (Two) Equity Shares of Rs. 10 each in the Transferee Company credited as fully paid up shall be allotted for every 13 (Thirteen) Equity shares of Rs. 10 each fully paid held in the Transferor Company No. 2.
- (ii) The allotment of above shares shall be made to those shareholders whose names are recorded in the Register of Members of the Transferor Companies or whose names appear as the beneficial owners of the equity shares of the said Companies in the records of the Depositories as on the Record Date to be fixed by the Board of Directors of the Transferee Company.
- 5.02 The equity shares issued and allotted by the Transferee Company in terms of the Scheme, shall be subject to the provisions of the Memorandum and Articles of Association of the Transferee Company and shall rank pari passu with the existing shares of the Transferee Company and shall be eligible for dividend, as may be declared by the Transferee Company for the financial year 2010-11 onwards.
- 5.03 The equity shareholders of the Transferor Companies becoming eligible for equity shares in the Transferee Company in terms of this Scheme, may exercise their option by notice in writing sent to the Transferee Company within such period as may be notified by the Board of Directors of the Transferee Company, to receive the shares in the Transferee Company either in physical form or in electronic form. In the absence of such notice, the Transferee Company shall issue the shares to such members in physical form.

- 5.04 No certificate(s) shall be issued by the Transferee Company in respect of fractional entitlements, to which the shareholders of the Transferor Companies may become entitled to on issue and allotment of equity shares of the Transferee Company in terms of the Scheme. The Board of Directors of the Transferee Company shall, instead consolidate all such fractional entitlements into/up to round numbers and thereupon issue and allot equity shares in lieu thereof to custodian(s), to be nominated by the Board of Directors of the Transferee Company. Such custodian(s) shall hold the shares in trust for the beneficiaries entitled to fractional entitlements with the express understanding that such custodian(s) shall sell the said shares in the market at such times and at such prices and to such persons as he/they deem fit, and pay to the Transferee Company, the net sale proceeds thereof. The Transferee Company shall, thereafter, distribute such net sale proceeds to the beneficiaries in proportion to their respective fractional entitlements.
- 5.05 The approval of the Scheme shall be deemed to be the approval of the shareholders of the Transferee Company under Section 81(1A) and other applicable provisions of the Act and no further approval of the shareholders will be required for the increase in the share capital of the Transferee Company consequent upon the issue and allotment of shares in terms of the Scheme.
- 5.06 Upon the Scheme coming into effect and with effect from the Record Date, all the existing shares/share certificates pertaining to the shares of the Transferor Companies, both in physical form and in electronic form, shall be deemed to have been automatically cancelled and will become invalid and shall cease to be tradeable thereafter. The Board of Directors of the Transferee Company may not require the shareholders of the Transferor Companies to surrender their share certificates before issuing the new share certificates for the shares allotted in terms of the Scheme.
- 5.07 The Equity Shares issued and allotted by the Transferee Company in terms of Clause 5.01 above shall be listed and/or admitted to trading by the Bombay Stock Exchange and the National Stock Exchange, where the Equity Shares of the Transferee Company are already listed.
- 5.08 After the issue and allotment of shares pursuant to the Scheme, the Transferee Company shall use its best endeavors to increase the public shareholdings in the Company to such minimum level within such period as may be stipulated by or under the Listing Agreement or under other applicable regulatory provisions.

PART VI ACCOUNTING TREATMENT

- 6.01 Upon the Scheme becoming effective, the Transferee Company shall account for the assets and liabilities of the Transferor Companies vested in it in terms of the Scheme and all other transactions in accordance with the provisions made under Accounting Standard No. 14 or other applicable Accounting Standards, if any, issued by the Institute of Chartered Accountants of India.
- 6.02 If and to the extent the same is not in conflict with the accounting treatment prescribed in the applicable Accounting Standards,
- (i) The Transferee Company shall account for the assets and liabilities of the Transferor Companies vested in it in terms of the Scheme at their respective book values as appearing in the books of the Transferor Companies;
 - (ii) The Transferee Company shall record in its books of accounts, all the transactions of the Transferor Companies pertaining to the period from the Appointed Date till the Effective Date, in respect of assets, liabilities, income, expenses, receipts and payments, etc. at their book values.
 - (iii) The inter-company balances, if any, shall stand cancelled.

- (iv) The identity of statutory reserves of the Transferor Companies, if any, shall be preserved and they shall appear in the financial statements of the Transferee Company in the same form and manner in which they appeared in the financial statements of the Transferor Companies, prior to this Scheme becoming effective.
- (v) The balances in the Profit & Loss Account and the Free Reserves Accounts, if any, of the Transferor Companies shall be carried as the balances in the respective accounts of the Transferee Company.
- (vi) The difference between the book value of such assets and liabilities over the balance of Profit & Loss Account and the amount of Free Reserves referred to in (v) above shall be ascertained. The excess of such ascertained amount over the paid up value of shares allotted under Clause 5.01, shall be credited to the Amalgamation Reserve. The Amalgamation Reserve shall be utilized, to the extent possible, to write off goodwill existing in the books of the Transferee Company. If the amount so ascertained is less than the paid up value of shares allotted under Clause 5.01, then such shortfall shall be transferred to Goodwill Account which shall be written off over a period not exceeding ten years against Securities Premium Account and/or Capital Reserves and/or General Reserves and/or balance standing to the credit of Profit & Loss account, as may be decided from time to time by the Board of Directors of the Transferee Company.

PART VII GENERAL TERMS AND CONDITIONS

- 7.01 The amalgamation of the Transferor Companies with the Transferee Company in terms of this Scheme is contemplated in accordance with the provisions of Section 2(1B) of the Income Tax Act, 1961. If at any stage any terms or provisions of the Scheme are found or interpreted to be inconsistent with the said provisions of the Income Tax Act as they exist now or as may be amended subsequently, then the provisions of this Scheme shall be read down to avoid such inconsistency and, if necessary, it will be open to the Board of Directors of the Transferor Companies and the Transferee Company to seek amendment of the Scheme in accordance with law. No further approval of the shareholders or the creditors will be necessary for giving effect to the provisions contained in this clause.
- 7.02 The Scheme provides for the amalgamation of the Transferor Companies with the Transferee Company and transfer and vesting of their Undertakings as a whole on a going concern basis to the Transferee Company with effect from the Appointed Date, pursuant to Sections 391 to 394 of the Act, and nothing contained in any of the clauses of this Scheme shall be construed to imply transfer of individual assets and liabilities or any combination thereof or with effect from a date other than the Appointed Date.
- 7.03 As provided in Clause 4.01(i) above, the transfer and vesting of the Undertakings of the Transferor Companies in the Transferee Company shall be deemed to have taken place with effect from the Appointed Date immediately upon the Scheme becoming effective. It is clarified that nothing contained in the Scheme shall be construed to imply that such transfer and vesting shall remain or deemed to have remained suspended or in abeyance till the process of issue and allotment of shares in terms of Clause 5.01 is completed.
- 7.04 If any part of this Scheme is found invalid, ruled illegal by any Court or authority of competent jurisdiction or found unenforceable under the present or future laws, then it is the intention of the Transferor Companies and

- the Transferee Company that such part shall be severable from the remainder of the Scheme and the Scheme shall not be affected thereby, unless the deletion of such part shall cause this Scheme to become materially adverse to either Company, in which case the Board of Directors of the Transferor Companies and the Transferee Company shall attempt to bring about a modification in the Scheme, as will best preserve for the Companies, the benefits and obligations of this Scheme, including but not limited to such part. It is made clear that no further approval of the shareholders or creditors shall be necessary for giving effect to the provisions contained in this clause.
- 7.05 The approval of the Scheme by the shareholders of the Transferor Companies and the Transferee Company, whether at their respective meetings convened by the Court under section 391/394 of the Act or by their consent letters/ affidavits, shall be deemed to be their approval of the Scheme as a whole under all the applicable provisions of the Act and under the respective Memorandum and Articles of Association of the Companies and under all other contracts, arrangements and understandings, as may be applicable, as well as under all other applicable laws, rules and regulations and it will not be necessary to specify or obtain separate or specific approval under each applicable provision.
- 7.06 The respective Board of Directors of the Transferor Companies and the Transferee Company may assent to any alterations or modifications in the Scheme which the Court and/or any other competent authority may deem fit to approve or impose or which may otherwise become necessary. No further approval of the shareholders or the creditors shall be necessary for giving effect to the provisions contained in this clause.
- 7.07 The Board of Directors of the any of the Transferor Companies as well as the Board of Directors of the Transferee Company shall be at liberty to withdraw from the Scheme at any time before the Scheme is sanctioned by the Court. They shall also be entitled to withdraw from this Scheme in case any condition or alteration imposed by the Court or any other authority is not acceptable to either of them. If either of them withdraws from the Scheme as above, the Scheme shall become null and void. No further approval of the shareholders or the creditors shall be necessary for giving effect to the provisions contained in this clause.
- 7.08 This Scheme is conditional upon and subject to its approval by the requisite majority of the shareholders and the creditors of the Transferor Companies and the Transferee Company as may be required under the Act and/or the orders of the Court ; sanction of the Court under Sections 391 to 394 of the Act ; and filing of the certified copy of the order of the Court with the Registrar of Companies, Punjab, Himachal Pradesh and Chandigarh.
- 7.09 The Scheme shall become effective with effect from the date the certified copy of the order of the Court sanctioning the Scheme is filed with the Registrar of Companies, Punjab, Himachal Pradesh and Chandigarh. The said date shall be the 'Effective Date'. The Scheme, though operative with effect from the 'Appointed Date' shall take effect from the Effective Date.
- 7.10 In the event of the Scheme failing to take effect by 10-08-2011 or by such later date as may be mutually agreed by the Board of Directors of the Transferor Companies and the Transferee Company, the Scheme shall become null and void. No further approval of the shareholders or the creditors shall be necessary for giving effect to the provisions contained in this clause.
- 7.11 No party claiming to have acted in anticipation of this Scheme taking effect, shall get any cause of action against the Transferor Companies or the Transferee Company or any of their directors or officers, if the Scheme becomes null and void or does not take effect for any reason whatsoever, or is withdrawn, amended or modified.
- 7.12 The Board of Directors of the Transferee Company may give such directions, as they may consider necessary, to settle any question or difficulty arising in regard to the implementation of the Scheme or in any matter connected therewith (including any question or difficulty arising in connection with any deceased or insolvent shareholder) such that the same shall be binding on all parties, in the same manner as if the same were specifically incorporated in the Scheme.
- 7.13 In the event of any inconsistency between any of the terms and conditions of any earlier arrangement or agreement between the Transferor Companies and the Transferee Company and their respective shareholders and/or creditors, and the terms and conditions of this Scheme, the latter shall prevail.
- 7.14 If any inconsistency or conflict between the different clauses of this Scheme is observed at any time, then the Board of Directors of the Transferee Company shall resolve such inconsistency or conflict and their decision in the matter shall be final and binding on all parties.
- 7.15 The respective Board of Directors of the Transferor Companies and the Transferee Company may empower any committee of directors or officers or any individual director, officer or other person to discharge all or any of the powers and functions, which the said Board of Directors are entitled to exercise and perform under this Scheme and may empower such committee or officer(s) to sub-delegate the authority so delegated.
- 7.16 On the Scheme becoming effective, the Transferor Companies shall stand dissolved without winding up.
- 7.17 The Transferor Companies and the Transferee Company shall, with all reasonable dispatch, make all applications/ petitions under Section 391 and 394 and other applicable provisions of the Act to the Court for directions to convene and/or dispense with all or any of the meetings and for the sanctioning of the Scheme and to other authorities and bodies for obtaining their approvals, no objections, consents etc., as may be required, under any law, agreement or otherwise.
- 7.18 Save and except as provided elsewhere in the Scheme, all costs, charges taxes, levies and other expenses including registration fee of any deed, in relation to or in connection with negotiations leading upto the Scheme and of carrying out and implementing the terms and provisions of this Scheme and incidental to the completion of the Scheme shall be borne and paid by the Transferee Company.
- 7.19 If this Scheme is rendered null and void under any of the clauses of this Scheme, then the Transferor Companies and Transferee Company shall bear their own costs and expenses.
- The detailed and complete terms of the proposed amalgamation are given in the annexed Scheme of Amalgamation.
8. The Transferee Company has plans/commitments of making investments in various Projects implemented/being implemented by it directly or through its subsidiary/ Joint Venture companies besides its obligations in respect of its own loans and other liabilities incurred in connection with various projects as detailed in para 3 (v) above. The Transferee Company intends to raise funds to make such investments/service the said liabilities by sale of shares held by it in the two Transferor Companies at the appropriate time. Since, presently the projects undertaken by the two Transferor Companies are under implementation, it is felt by the Transferee Company that sale of the said shares immediately or in short term may not fetch reasonable price and hence it would be desirable to sell the shares at a later stage when projects become operative so as to have access to the true price potential. With that object, it is considered prudent that suitable provision be made in the Scheme clarifying that the said shares will not stand cancelled upon the Scheme coming into effect and the right of the

Transferee Company to dispose off the said shares later on through some Trust will not be affected in any way by anything contained in the Scheme. Accordingly, suitable provisions have been made in Clause 4.17 of the Scheme.

9. The ratio in which shares in the Transferee Company shall be allotted to the shareholders of the Transferor Companies, has been fixed on the basis of valuation made by M/s Banshi S. Mehta & Co., Chartered Accountants, Mumbai vide their Valuation Report dated 10th February, 2011 upon which Sobhagya Capital Options Limited (SCOL), a SEBI Registered Merchant Banking Company have given 'Fairness Opinion Reports' in terms of clause 24 (h) of the Listing Agreement, vide their reports dated 12th February, 2011, in respect of the Valuation/Share Exchange Ratio of unlisted companies, i.e., Transferor Company No. 1 & 2. SCOL have, based on the independent valuation done by them for all the Companies, opined that **the Share Exchange Ratio of 5:1, i.e. every Shareholder holding 5 shares of JKHCL would get 1 Share in JPVL and 13:2 i.e every Shareholder holding 13 shares of BPSCL would get 2 Shares in JPVL and as determined by the Valuer M/s Banshi S. Mehta & Co., Chartered Accountants is fair and reasonable and may be adopted for share exchange with regard to the proposed amalgamation of the Applicant Companies. The Valuation Report and Fairness Opinion Reports had been accepted and approved by the concerned Board of Directors of the Applicant Companies.**
10. The circumstances that have necessitated the Scheme and the objects sought to be achieved are explained in para no. 2.04 of the Scheme, as under –
 “All the three Companies are engaged in power generation business. Both the Transferor Companies are subsidiaries of the Transferee Company. The consolidation of the business of hydro, thermal, and other power projects in one entity will enable the Companies to harness and optimize the synergies of their business operations and gain increased competitive advantage. The amalgamation will result in achievement of economies of scale and management efficiency, reduction in administrative cost, optimization of resources, enhanced flexibility in funding of expansion plans, expansion of asset base, improving profitability and stronger balance sheet of the merged company, etc. As a result, the merged entity is likely to achieve higher long-term financial returns than could be achieved by the companies individually. The Scheme is thus in the interest of all the three companies and their shareholders and creditors”.
11. The directors of the Applicant Companies have no material interest in the Scheme of Amalgamation. The shareholdings of present directors of the Applicant Companies as on 31st December, 2010 have been as under :

A: SHAREHOLDINGS OF PRESENT DIRECTORS OF JAIPRAKASH POWER VENTURES LIMITED - TRANSFEREE COMPANY

S. No	Name of Director	No. of Shares held in		
		JKHCL	BPSCL	JPVL
1	Shri Manoj Gaur	100*	100**	41400
2	Shri Sunil Kumar Sharma	100*	100**	700
3	Shri Suren Jain		100**	11700
4	Shri Sarat Kumar Jain	100*	-	25925 400*
5	Shri Bal Krishna Taparua	-	-	5000
6	Shri B.B. Tandon	-	-	-
7	Shri A.K. Goswami	-	-	-
8	Shri Raj Narain Bhardwaj	-	-	-
9	Shri Subhash Chandra Bhargava	-	-	-
10	Dr. Ramesh C Vaish	-	-	-
11	Shri Balkrishan Batra	-	-	-
12.	Shri D.G. Kade	-	-	57100
13.	Dr. E.R.C. Shekar	-	-	-
14	Shri R.L. Gupta	-	-	12850
15	Shri Praveen Kumar Singh	-	-	200000
16	Shri Raj Kumar Narang	-	-	4850
17	Shri Gyan Prakash Gaur	-	-	25000
18	Shri Suresh Chandra	-	-	4850
19	Shri S.S. Gupta	-	-	-

* held jointly with Jaiprakash Associates Ltd. (JAL), the beneficial interest of which is with JAL.

** held jointly with Jaiprakash Power Ventures Ltd. (JPVL), the holding Company of BPSCL, the beneficial interest of which is with JPVL.

B: SHAREHOLDINGS OF DIRECTORS OF JAYPEE KARCHAM HYDRO CORPORATION LIMITED - TRANSFEROR COMPANY NO. 1

S.No.	Name of Directors	No. of Shares held in		
		JKHCL	BPSCL	JPVL
1	Shri Sunil Kumar Sharma	*100	**100	700
2.	Shri D.P. Goyal	-	-	2850
3.	Shri Praveen Kumar Singh	-	-	200000
4.	Shri Ravindra Mohan Chadha	-	-	2850
5.	Shri G.P. Singh	-	-	-
6.	Shri Suren Jain	-	**100	11700
7.	Dr. B. Samal	-	-	-
8.	Shri Rakesh Sharma	-	-	-
9.	Sh. B.M. Agarwal	-	-	3850
10.	Shri Narendra Singh	-	-	20000
11.	Shri M.A. Siddiqi	-	-	3850

* held jointly with Jaiprakash Associates Ltd. (JAL), the beneficial interest of which is with JAL.

** held jointly with Jaiprakash Power Ventures Ltd. (JPVL), the holding Company of BPSCL, the beneficial interest of which is with JPVL.

C: SHAREHOLDINGS OF DIRECTORS OF BINA POWER SUPPLY COMPANY LIMITED - TRANSFEROR COMPANY NO. 2

S.No.	Name of Directors	No. of Shares held in		
		JKHCL	BPSCL	JPVL
1	Shri Sunny Gaur	-	**100	20000
2	Shri Suren Jain	-	**100	11700
3	Shri Harish K. Vaid	*100	-	3850 400*
4	Shri Alok Gaur	-	-	-
5	Shri P.K. Jain	-	-	32000
6	Shri V.K. Sriwastava	-	-	-

* held jointly with Jaiprakash Associates Ltd. (JAL), the beneficial interest of which is with JAL.

** held jointly with Jaiprakash Power Ventures Ltd. (JPVL), the holding Company of BPSCL, the beneficial interest of which is with JPVL.

12. The Pre-amalgamation (as on 14th February, 2011) and expected Post-amalgamation Shareholding Pattern of the Transferee Company is shown below :

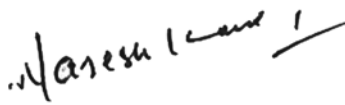
S. No.	Category of share-holder	PRE MERGER			POST MERGER		
		Number of shareholders	Total number of shares	%age of total number of shares	Number of shareholders	Total number of shares	%age of total number of shares
(A)	Promoter and Promoter Group	2	1,823,162,292	87.00	2	2,008,162,292	75.73
(B)	Public Shareholding						
(1)	Institutions	54	113,345,744	5.40	54	113,345,744	4.27
(2)	Non-institutions (including cross-holdings to be held through Trust)	333,157	159,172,164	7.60	333,159	530,249,087	20.00
	Sub-Total B (1)+(2)	333,211	272,517,908	13.00	333,213	643,594,831	24.27
	Total (A) + (B)	333,213	2095,680,200	100.00	333,215	2,651,757,123	100.00

13. As on 31st March, 2010, the Transferee Company had outstanding Redeemable Non-convertible Secured Debentures aggregating Rs.1164.88 Crores and Unsecured Foreign Currency Convertible Bonds (FCCBs) aggregating USD 200 Million. Further, as on 31st December, 2010, the Transferee Company had outstanding Secured Non-convertible Debentures aggregating Rs.1982.57 Crores and Unsecured Foreign Currency Convertible Bonds (FCCBs) aggregating USD 200 Million. There are no defaults in repayment of principal or payment of interest on the aforesaid Debentures/ Bonds both by the Transferee and the Transferor Companies. None of the Transferor Companies have issued any Debentures/ Bonds.
14. The Scheme will not prejudicially affect the interest of any creditors [including secured debenture-holders, other secured creditors and unsecured creditors] as the Scheme does not contemplate distribution of any part of the assets of the applicant companies. In terms of the Scheme, the Transferor Company No. 1 & 2 with all its assets and liabilities will stand merged with the Transferee Company. The assets of the Transferee Company and of the Transferor Company No. 1 & 2 are sufficient to meet all their liabilities. The Scheme also provides that the security available to the secured creditors will remain unaffected. In-principle approval relating to merger of Jaypee Karcham Hydro Corporation Limited and Bina Power Supply Company Limited with Jaiprakash Power Ventures Limited from the Lead Lenders had already been received.
15. The shares of Transferee Company are listed on National Stock Exchange of India Limited and Bombay Stock Exchange Limited. The shares of Transferor Company No. 1 & 2 are not listed on any Stock Exchanges.
16. In terms of Clause 24 (f) of the Listing Agreements, the Transferee Company, being the Company whose shares are listed on various Stock Exchanges as mentioned above, has served copies of the proposed Scheme of Amalgamation on the respective Stock Exchanges before moving the Company Application and has received 'No Objection' letters from the respective Stock Exchanges on which its shares are listed, viz., from Bombay Stock Exchange Ltd. and National Stock Exchange of India Ltd. Thus Transferee Company has not received any objection from any Stock Exchange.
17. No investigation proceedings under Sections 235 to 251 and the like are pending against the Transferee Company, the Transferor Company No. 1 or/and Transferor Company No. 2.
18. The following documents will be available for inspection between 10 A.M. to 2.00 P.M at the Registered Office of the Applicant Companies on all working days till the date of the meetings:-
- Copy of the Order dated March 14, 2011 passed by the Hon'ble High Court of Himachal Pradesh at Shimla in Company Petition No. 2 of 2011.
 - Complete set of the Company Petition No.2 of 2011 filed by the Applicant Companies in the High Court, including the following enclosures :
 - Copies of published Audited Accounts of the Applicant Companies for the financial year ended on 31st March, 2010 and Audited provisional Accounts as at 31st December, 2010.
 - Memorandum & Articles of Association of the Applicant Companies.

- c. Valuation Report submitted by M/s Bansi S. Mehta & Co., Chartered Accountants, Mumbai.
 - d. Fairness Opinion Reports of Sobhagya Capital Options Limited, in respect of Valuation/share exchange ratio of unlisted companies, i.e., Transferor Company no. 1 & 2.
 - e. Copies of resolutions dated 14th February, 2011 passed by the Board of Directors of the Applicant Companies approving the Scheme of Amalgamation and other matters incidental thereto.
 - f. No Objection letters received from Stock Exchanges.
 - g. No Objection letters received from Lead Lenders.
 - h. Copy of Scheme of Amalgamation.
- (iii) Details of important pending legal cases by or against the Applicant Companies.
 - (iv) List of shareholders of the Applicant Companies.
 - (v) List of Creditors of the Applicant Companies.

The above records will also be available for inspection at the venue of the meetings on the date fixed for the meetings during 10.00 AM to 2.00 PM.

In addition to above, all statutory records which are required to be kept open for inspection at the general meetings of shareholders under law, will be available for inspection at the venue of the meetings on the date of the meetings.



[N.K. SOOD]
ADVOCATE
Chairman appointed for the Meeting
of Equity Shareholders of
Jaiprakash Power Ventures Limited



[R.K. GAUTAM]
SENIOR ADVOCATE
Chairman appointed for the Meeting
of Creditors of
Jaiprakash Power Ventures Limited



[TARLOK CHAUHAN]
ADVOCATE
Chairman appointed for the Meeting
of Creditors of Jaypee Karcham
Hydro Corporation Limited



[VINAY KUTHIALA]
ADVOCATE
Chairman appointed for the Meeting
of Creditors of Bina Power Supply
Company Limited



[ANAND SHARMA]
ADVOCATE
Counsel for the Applicant Companies

Dated : March 21, 2011

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA
COMPANY PETITION No. 2 of 2011
(UNDER SECTION 391/394 OF THE COMPANIES ACT, 1956)
IN THE MATTER OF COMPANIES ACT, 1956
AND

IN THE MATTER OF AMALGAMATION OF :

- JAIPRAKASH POWER VENTURES LIMITED Transferee Company
AND
JAYPEE KARCHAM HYDRO CORPORATION LIMITED. Transferor Company No. 1
AND
BINA POWER SUPPLY COMPANY LIMITED Transferor Company No. 2
1. JAIPRAKASH POWER VENTURES LIMITED
having its registered office at
JUIT Complex, Wagnaghat,
P.O. Dumehar Bani, Kandaghat – 173 215,
Distt. Solan (H.P.).
[Also referred to hereinafter as “JPVL”] Transferee Company
 2. JAYPEE KARCHAM HYDRO CORPORATION LIMITED
having its registered office at
JUIT Complex, Wagnaghat,
P.O. Dumehar Bani, Kandaghat – 173 215,
Distt. Solan (H.P.).
[Also referred to hereinafter as “JKHCL”] Transferor Company No. 1
 3. BINA POWER SUPPLY COMPANY LIMITED
having its registered office at
JUIT Complex, Wagnaghat,
P.O. Dumehar Bani, Kandaghat – 173 215,
Distt. Solan (H.P.).
[Also referred to hereinafter as “BPSCCL”] Transferor Company No. 2

..... **APPLICANTS/PETITIONERS**

FORM OF PROXY

I/We _____, the undersigned, Shareholder(s) of Jaiprakash Power Ventures Limited, the Applicant Company above named, hereby appoint Mr./Ms. _____ of _____ failing him/her, Mr./Ms. _____ of _____ as my/our proxy to act for me/us at the meeting of the Shareholders of the Applicant Company to be held at the premises of JUIT Complex, Wagnaghat, P.O. Dumehar Bani, Kandaghat – 173 215, Distt. Solan (H.P.) on **Saturday, the 30th April, 2011 at 10.30 AM**, for the purpose of considering and, if thought fit, approving, with or without modification (s), the Scheme of Amalgamation between the Transferee Company and the Transferor Company No. 1 and Transferor Company No. 2, and at such meeting and any adjournment thereof, to vote for me/us and in my/our name/s _____ (here, if “for”, insert “for” and if “against”, insert “against”), the said Scheme of Amalgamation, either with or without modification (s) as my/our proxy may approve. (strike out what is not necessary).

Dated this _____ day of _____ 2011

Signature
Name & address
Folio No./Client ID No.

Revenue
Stamp
of Re.1.00

Note : The Proxy must be returned so as to reach the Registered Office of the Company not less than 48 (Forty Eight) hours before the time fixed for holding of the meeting.

JAIPRAKASH POWER VENTURES LIMITED

Attendance Slip (Entrance Pass)

I hereby record my presence at the meeting of the Shareholders of Jaiprakash Power Ventures Limited held at the premises of JUIT Complex, Wagnaghat, P.O. Dumehar Bani, Kandaghat – 173 215, Distt. Solan (H.P.) on **Saturday, the 30th April, 2011 at 10.30 A.M.**

Full Name _____ Signature _____

(Only Shareholders or their Proxies are allowed to attend)

BOOK POST

If undelivered please return to:

JAIPRAKASH POWER VENTURES LIMITED

Sector 128, Noida-201304 (UP)