

SCHEME OF ARRANGEMENT  
BETWEEN

THE GREAT EASTERN SHIPPING COMPANY LIMITED ..Demerged Company  
GREAT OFFSHORE LIMITED ..Resulting Company

AND  
THEIR RESPECTIVE MEMBERS AND CREDITORS

**WHEREAS**

- (A) The Demerged Company is engaged in the business of shipping and offshore services. The shipping business comprises of owning and operating dry bulk, liquid and other vessels. The offshore services business comprises of owning and operating assets such as offshore support vessels, tugs, construction barges and drilling rigs.
- (B) This Scheme of Arrangement (hereinafter referred to as the “Scheme”) which is a demerger provides for the transfer of the offshore services division of the Demerged Company to the Resulting Company, and in consideration thereof issue of equity shares by the Resulting Company to the members of the Demerged Company on a proportionate basis, pursuant to Section 394 and other relevant provisions of the Act.
- (C) The Scheme also makes provisions for various other matters consequential or related thereto and otherwise integrally connected therewith including reduction of capital of the Demerged Company.

**SCHEME**

**PART I – GENERAL**

**1. Definitions**

In this Scheme, unless repugnant to the meaning or context thereof, the following expressions shall have the following meaning:

- (a) “**Act**” means the Companies Act, 1956 or any statutory modification or re-enactment thereof;
- (b) “**Appointed Date**” means , April 1, 2005;
- (c) “**Demerged Company**” means The Great Eastern Shipping Company Limited, a company registered under the Act and having its registered office at Ocean House, 134 A, Dr. A. B. Road, Worli, Mumbai 400 018;

- (d) **“Demerged Undertaking”** means the offshore services business carried on by the Demerged Company on a going concern basis and consisting inter alia of the assets and liabilities of the said business including immovable properties relating to or necessary for the carrying on of the offshore services business along with other assets and mean and include (without limitation):
- (a) all assets wherever situate, whether movable or immovable, tangible or intangible, including any plant and machinery, buildings, offices, furnitures, fixtures, office equipment, appliances, accessories together with all present and future liabilities (including contingent liabilities) appertaining to or relatable thereto;
  - (b) all permits, quotas, rights, entitlements, including customs duty exemption certificates, essentiality certificates, industrial and other licenses, approvals, consents, municipal permissions, tenancies in relation to office and/or residential properties for the employees, offices, goodwill, intellectual property, benefit of track record and past experience for the purposes of eligibility criteria, investments, cash balances, the benefit of any deposits, financial assets, funds belonging to or proposed to be utilized for the offshore services business, bank balances, bank accounts, privileges, all other rights and benefits, industrial, intellectual property and other licences, power and facilities of every kind, nature and description whatsoever, right to use and avail of telephones, facsimile connections and installations, utilities, electricity and other services, provisions, funds, benefits of all agreements, contracts and arrangements and all other interests in connection with or relating thereto;
  - (c) all earnest moneys and/or security deposits paid or received by the Demerged Company in connection with or relating thereto; and
  - (d) all necessary records, files, papers, engineering and process information, computer programmes, drawings, manuals, data, catalogues, quotations, sales and advertising materials, lists of present and former customers and suppliers, customer credit information, customer pricing information, and other records in connection with or relating to thereto;
- (e) **“Effective Date”** means the last date on which all the conditions and matters referred to in Clause 35 hereof have been fulfilled and all approvals and consents referred to therein have been obtained. References in this Scheme to the date of “coming into effect of this Scheme” or “effectiveness of this Scheme” shall mean the Effective Date;

- (f) “**GDRs**” means global depository receipts issued or to be issued pursuant to the Issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993 and other applicable law, and where appropriate shall include the underlying equity shares relating thereto;
- (g) “**IPR**” means Intellectual Property Rights including trademarks, trade names, service marks, patents, designs, colour schemes, logo, copyright or otherwise howsoever.
- (h) “**Record Date**” means the date to be fixed by the Board of Directors or a committee thereof of the Demerged Company for purpose of determining the members of the Demerged Company to whom equity shares of the Resulting Company will be allotted pursuant to this Scheme;
- (i) “**Relatives**” means Relatives as defined under the Act;
- (j) “**Remaining Business**” means all the business and the divisions of the Demerged Company other than the Demerged Undertaking;
- (k) “**Resulting Company**” means Great Offshore Limited, a company incorporated under the Act and having its registered office at Energy House, 81, D. N. Road, Mumbai 400 001;

## 2. Share Capital

- (a) As on April 1, 2005, the share capital structure of the Demerged Company is as follows:

|   | Rs. in crores |
|---|---------------|
| <b>AUTHORISED</b>                                     |               |
| 300,000,000 Equity Shares of Rs.10 each               | 300.00        |
| 200,000,000 Preference Shares of Rs. 10 each          | 200.00        |
|   | -----         |
|   | 500.00        |
|   | =====         |
| <b>ISSUED*#</b>                                       |               |
| 190,873,056 Equity Shares of Rs.10 each fully paid-up | 190.87        |
| <b>SUBSCRIBED*</b>                                    |               |
| 190,343,123 Equity Shares of Rs.10 each fully paid-up | 190.34        |
| <b>PAID-UP*</b>                                       |               |
| 190,339,975 Equity Shares of Rs.10 each fully paid-up |               |
| Less: Calls in arrears .....                          | Rs. 40, 799/- |
| Add: Forfeited Shares .....                           | Rs. 30,358/-  |
|   | 190.34        |

1. \* Includes 11,97,494 equity shares represented by GDRs issued in 1994.
  2. # Includes 4,17,792 equity shares of the Demerged Company which are held in abeyance under the provisions of Section 206A of the Act or otherwise.
- (b) Presently, the share capital structure of the Resulting Company is as follows:

|                                    |              |
|------------------------------------|--------------|
| <b>AUTHORISED</b>                  | Rs. in lakhs |
| 50,000 Equity Shares of Rs.10 each | 5.00         |

|  |      |
|--|------|
| <b>ISSUED, SUBSCRIBED AND PAID UP</b>              |      |
| 50,000 Equity Shares of Rs.10/- each fully paid up | 5.00 |

## **PART II – DEMERGED UNDERTAKING**

3. (a) With effect from the Appointed Date, all the estate, assets, right, title and interest including any benefit, claim or amount which is received by the Demerged Company after the Appointed Date or at any time thereafter but which relates to the activities and operations of the Demerged Undertaking shall, subject to the provisions of this Clause in relation to the mode of vesting, and pursuant to Section 394(2) of the Act, be transferred to and vested in, at their book values as on the Appointed Date, the Resulting Company as a going concern so as to become as and from the Appointed Date, the estate, assets, right, title and interest of the Resulting Company.
- (b) In respect of such of the assets of the Demerged Undertaking, including cash and bank balances, as are movable in nature or are otherwise capable of transfer by manual delivery, payment or by endorsement and delivery, the same shall be so transferred by the Demerged Company, and shall become the property of the Resulting Company as an integral part of the Demerged Undertaking.
- (c) In respect of such of the assets belonging to the Demerged Undertaking other than those referred to in sub-clause (b) above, the same shall, without any further act, instrument or deed, be transferred to and vested in and/or be deemed to be transferred to and vested in the Resulting Company on the Appointed Date, pursuant to the provisions of Section 394 of the Act.
- (d) All assets acquired by the Demerged Company after the Appointed Date and prior to the Effective Date for operations of the Demerged

Undertaking shall also stand transferred to and vested in the Resulting Company, upon the coming into effect of the Scheme.

- (e) In so far as the assets comprised in the Demerged Undertaking are concerned, the security or charge over such assets relating to any loans, debentures or borrowings of the Demerged Company shall without any further act or deed be released and discharged from the same and shall no longer be available as security in relation to the liabilities of the Demerged Company.
- (f) It is clarified, for the removal of doubt, that, on and from the Effective Date, for the purposes of determining any eligibility criteria or for qualifying to bid for any project or contract or work relating to the Demerged Undertaking, only the Resulting Company shall have the benefit of the experience and track record of the Demerged Undertaking and the Demerged Company shall not be entitled to directly or indirectly claim or rely upon any such track record or past experience.
- (g) It is clarified, for the removal of doubt, that the transfer of any goods imported by the Demerged Company and transferred to the Resulting Company as per the Scheme shall not be deemed to have breached any condition of the import licences or the applicable clauses of the Import Policy or notifications under the relevant customs and/or any other applicable laws.
- (h) The Demerged Company has been granted Duty Free Credit Entitlement Certificates to enable duty free imports. The Demerged Company has been availing the benefit of such licenses from time to time. As on April 1, 2005, the Demerged Company has a total outstanding duty credit certificates of Rs. 94,10,72,155/- on account of such licenses. The Demerged Company has applied for a license under the "Served from India Scheme" to avail duty credit of Rs.137,86,50,000/- for the foreign exchange earned by the Demerged Company in the year 2004-05. The relevant authorities are directed to transfer 20% of the duty credit presently available and the duty credit that will be granted to the Demerged Company for its foreign exchange earnings for the year 2004-05 to the Resulting Company by issuing a separate license, or in any other appropriate manner.
- (i) On and from the Appointed Date, if any certificate for tax deducted at source or any other tax credit certificate relating to the Demerged Undertaking is received in the name of the Demerged Company, it shall be deemed to have been received by the Resulting Company which alone shall be entitled to claim credit for such tax deducted or paid and the relevant tax authorities are hereby directed to permit the Resulting Company to claim the benefit of such tax credit even though such tax

deducted at source or tax credit certificate stands in the name of the Demerged Company.

- (j) The Resultant Company shall be entitled to the benefits of the Tonnage Tax Scheme under Chapter XII G of the Income Tax Act, 1961 in respect of its qualifying ships from the Appointed Date.
  - (k) Notwithstanding anything contained herein the IPR in the design logo and service mark of colour scheme of the flag bearing the word “AHB” shall continue to remain exclusively vested in the Demerged Company at all times. The Demerged Company alone shall have the right to use the word/mark “AHB”, “JAG” and the colour scheme of the flag on its vessels, flags, stationery or otherwise howsoever. The Resulting Company alone shall have the right to use the name “MALAVIYA” on its vessels or otherwise howsoever. “Colour Scheme” shall not mean the use of the colours which are not juxtaposed in the same or deceptively similar manner.
4. (a) Upon the coming into effect of the Scheme, the following liabilities and obligations of the Demerged Company as on the Appointed Date, shall be deemed to have been transferred to the Resulting Company and to the extent they are outstanding on the Effective Date shall, without any further act or deed be and stand transferred to the Resulting Company and shall become the liabilities and obligations of the Resulting Company which shall undertake to meet, discharge and satisfy the same:
- (i) the liabilities which directly or indirectly arose out of, or in relation to, the activities or operation of the Demerged Undertaking including but not restricted to any liability, contingent or otherwise, which becomes known or arises in the Demerged Company after the Appointed Date and/or the Effective Date;
  - (ii) such of the general or multipurpose borrowings of the Demerged Company as identified by the Board of Directors of the Demerged Company and which in the aggregate stand in the same proportion of which the value of the assets transferred to the Resulting Company bear to the total assets of the Demerged Company on the Appointed Date.
- (b) Where any of the liabilities and obligations of the Demerged Company as on the Appointed Date deemed to be transferred to the Resulting Company have been discharged by the Demerged Company after the Appointed Date and prior to the Effective Date, such discharge shall be deemed to have been for and on account of the Resulting Company and all loans raised and used and all liabilities and obligations incurred by the Demerged Company for the operations of the Demerged Undertaking after

the Appointed Date and prior to the Effective Date shall be deemed to have been raised, used or incurred for and on behalf of the Resulting Company and to the extent they are outstanding on the Effective Date, shall also without any further act or deed be and stand transferred to the Resulting Company and shall become the liabilities and obligations of the Resulting Company which shall undertake to meet discharge and satisfy the same.

- (c) The transfer of the general or multipurpose borrowings in terms of sub-clause (a) (ii) above shall be without prejudice to any agreements or arrangements including in respect of security entered into between the Demerged Company and the lenders existing on the Appointed Date which shall continue in full force notwithstanding that the liability for repayment of the principal amount and payments of interest is taken over by the Resulting Company. The Demerged Company shall make repayments of such principal amounts and payments of interest thereon on behalf of the Resulting Company, and the Resulting Company shall be under an obligation to place with the Demerged Company funds at the relevant time so as to enable the Demerged Company to make payments to the lenders on or before their respective due dates.
  - (d) In respect of any liability mentioned hereinabove, if the Demerged Company is required to make payment to satisfy such liability, the Resulting Company shall be obliged to forthwith reimburse to the Demerged Company any such payment made.
5. All the assets and liabilities of the Demerged Undertaking shall be transferred at the values appearing in the books of accounts of the Demerged Company as at Appointed Date, which are set forth in the balance sheet relating to the Demerged Undertaking as at Appointed Date attached hereto in Schedule 1.
6. (a) Upon the coming into effect of this Scheme and subject to the provisions of this Scheme, all contracts, deeds, guarantees (financial and other), bonds, agreements, schemes, arrangements and other instruments of whatsoever nature in relation to the Demerged Undertaking to which the Demerged Company is a party or to the benefit of which the Demerged Company may be eligible, and which are subsisting or having effect immediately before the Effective Date, shall be in full force and effect on or against or in favour, as the case may be, of the Resulting Company and may be enforced as fully and effectually as if, instead of the Demerged Company, the Resulting Company had been a party or beneficiary or obligee thereto.
- (b) The Resulting Company shall immediately, after the coming into effect of this Scheme in accordance with the provisions hereof, whether or not required under any law or otherwise, execute deeds, confirmations,

financial arrangements, or other writings or tripartite arrangements with any party to any contract or arrangement to which the Demerged Company is a party or any writings as may be necessary to be executed in order to give formal effect to the above provisions. The Demerged Company may, if necessary, also be a party to the above.

7. (a) The Resulting Company undertakes to engage, on and from the Effective Date, all employees of the Demerged Company who are working exclusively for the Demerged Undertaking and such other employees of the Demerged Company who are transferred to the Resulting Company, and which employees are in the employment of the Demerged Company as on the Effective Date ("**Transferred Employees**"), on the same terms and conditions on which they are engaged by the Demerged Company, without any interruption of service as a result of the demerger. The Resulting Company undertakes to continue to abide by any agreement or settlement entered into by the Demerged Company in respect of the Demerged Undertaking with any union/employee of the Demerged Company being the Transferred Employees. The Resulting Company agrees that for the purpose of payment of any compensation, gratuity and other terminal benefits, the past services of the Transferred Employees with the Demerged Company shall also be taken into account, and agrees and undertakes to pay the same as and when payable.
- (b) In so far as the existing provident fund trusts, gratuity fund and pension and/or superannuation fund trusts created by the Demerged Company for its Employees (including the Transferred Employees) are concerned, the part of the funds referable to the Transferred Employees shall be continued for the benefit of the Transferred Employees pursuant to this Scheme in the manner provided hereinafter. The Resulting Company shall have the obligation to take all necessary steps to set up its own funds as soon as practicable but not later than the expiry of six months from the Effective Date. In the event that the Resulting Company has set up its own funds in respect of any of the funds of the Demerged Company referred to above, the amounts in such funds in respect of contributions pertaining to the Transferred Employees of the Demerged Undertaking shall, subject to the necessary approvals and permissions, if any, be transferred to the relevant funds of the Resulting Company. Until such time that the Resulting Company creates its own fund, the Resulting Company may, subject to necessary approvals and permissions, if any, continue to contribute in respect of the Transferred Employees to the relevant funds of the Demerged Company and at the time that the Resulting Company creates its own fund, the contributions pertaining to the Transferred Employees shall be transferred to the funds created by the Resulting Company.

8.
  - (a) Upon the coming into effect of the Scheme, all legal or any other proceedings (including arbitrations) by or against the Demerged Company, and as agreed between the Demerged Company and the Resulting Company, whether pending on the Appointed Date or which may be instituted in future (whether before or after the Effective Date) in respect of any matter arising before the Effective Date and relating to the Demerged Undertaking shall be continued and enforced by or against the Resulting Company after the Effective Date.
  - (b) If proceedings are taken against the Demerged Company in respect of the matters referred to in sub-clause (a) above, it shall defend the same in accordance with the advice of the Resulting Company and at the cost and risk of the Resulting Company, and the latter shall reimburse and indemnify the Demerged Company against all liabilities and obligations incurred by the Demerged Company in respect thereof. In respect of such defense, Resulting Company shall extend full and timely cooperation, including providing requisite information, personnel and the like, so as to enable Demerged Company to defend the same.
  - (c) The Resulting Company undertakes to have all legal or other proceedings (including arbitrations) initiated by or against the Demerged Company referred to in sub-clause (a) above transferred into its name and to have the same continued, prosecuted and enforced by or against the Resulting Company to the exclusion of the Demerged Company.
9. With effect from the Appointed Date and up to and including the Effective Date, the Demerged Company:
  - (a) shall be deemed to have been carrying on and to be carrying on all business activities relating to the Demerged Undertaking and stand possessed of all the estate, assets, rights, title and interest of the Demerged Undertaking for and on account of, and in trust for, the Resulting Company;
  - (b) all profits accruing to the Demerged Company, or losses arising or incurred by it (including the effect of taxes if any thereon), relating to the Demerged Undertaking shall for all purposes, be treated as the profits or losses, as the case may be, of the Resulting Company.
10. The Demerged Company hereby undertakes that it will from the date on which the Scheme is filed in the High Court up to and including the Effective Date preserve and carry on the business of the Demerged Undertaking with diligence, prudence and agrees that it will not, without the prior written consent of the Resulting Company, alienate, charge or otherwise deal with or dispose of the Demerged Undertaking or any part thereof or recruit new employees (in each case except in the ordinary course of business) or conclude settlements with any,

employees union or employees or undertake substantial expansion of the Demerged Undertaking, other than expansions which have already been commenced as on the Appointed Date.

11. The transfer and vesting of the assets, liabilities and obligations of the Demerged Undertaking under Clause 3 & 4 and the continuance of the proceedings by or against the Resulting Company under Clause 8 hereof shall not affect any transactions or proceedings already completed by the Demerged Company on and after the Appointed Date to the end and intent that, subject to Clause 10, the Resulting Company accepts all acts, deeds and things done and executed by and/or on behalf of the Demerged Company as acts, deeds and things done and executed by and on behalf of the Resulting Company.

### **PART III -REMAINING BUSINESS**

12. The Remaining Business and all the assets, liabilities and obligations pertaining thereto shall continue to belong to and be vested in and be managed by the Demerged Company.
13. All legal or other proceedings (including arbitrations) by or against the Demerged Company under any statute, whether pending on the Appointed Date or which may be instituted in future (whether or not in respect of any matter arising before the Effective Date) and relating to the Remaining Business (including those relating to any property, right, power, liability, obligation or duties of the Demerged Company in respect of the Remaining Business) shall be continued and enforced by or against the Demerged Company.
14. With effect from the Appointed Date and up to and including the Effective Date, the Demerged Company:
  - (a) shall be deemed to have been carrying on and to be carrying on all business activities relating to the Remaining Business for and on its own behalf;
  - (b) all profits accruing to the Demerged Company thereon or losses arising or incurred by it (including the effect of taxes and advance taxes paid, if any, thereon) relating to the Remaining Business shall, for all purposes, be treated as the profits, taxes or losses, as the case may be, of the Demerged Company.

### **PART-IV -REORGANISATION OF CAPITAL**

The provisions of this Part shall operate notwithstanding anything to the contrary in this Scheme or in any other instrument, deed or writing.

15. In view of the demerger, and as an integral part of this Scheme, the share capital of the Demerged Company and Resulting Company shall be restructured and reorganised in the manner set out below.
16. (a) Upon the coming into effect of the Scheme and in consideration for the demerger of the Demerged Undertaking, including the transfer and vesting thereof in the Resulting Company pursuant to Part II of the Scheme, the Resulting Company shall, without any further act or deed and without any further payment, issue and allot on proportionate basis to each member of the Demerged Company whose name is recorded in the Register of Members of the Demerged Company on the Record Date, in the ratio (the "Entitlement Ratio") of 1 Equity Share in the Resulting Company of Rs. 10/- credited as fully paid-up in cash for every 5 Equity Shares of Rs. 10/- each held by such member in the Demerged Company.
- (b) (i) Equity Shares to be issued by the Resulting Company pursuant to Clause 16(a) in respect of 4,17,792 equity shares of the Demerged Company which are held in abeyance under the provisions of Section 206A of the Act or pursuant to any Court order or otherwise, shall pending allotment, also be kept in abeyance.
- (ii) Equity Shares to be issued by the Resulting Company in respect of shares of the Demerged Company where calls are in arrears, shall be kept in abeyance by the Resulting Company, pending full payment by the member to the Demerged Company.
- (iii) In respect of forfeited shares and the issued but unsubscribed shares of the Demerged Company, no shares shall be issued by the Resulting Company.
- (c) As a result of the demerger and the resultant transfer of the Demerged Undertakings to the Resulting Company, the issued, subscribed and paid-up share capital of the Demerged Company will no longer be represented by assets which have been transferred to the Resulting Company and therefore shall stand accordingly reduced by Rs.381,746,110/-, Rs.380,686,250/- and Rs.380,671,790/- respectively and that such reduction shall be effected by reducing the paid up equity share capital of the Demerged Company by Rs.2 per equity share of Rs.10/- each which have been issued and are outstanding prior to allotment of shares to the members of the Demerged Company, in terms of clause 16(a) of this Scheme. Simultaneously with the reduction of share capital of the Demerged Company 5 equity shares so reduced shall be consolidated into 4 equity shares of Rs.10/- each.
- (d) Notwithstanding the reduction of the share capital of the Demerged Company, in the manner aforesaid, the Demerged Company shall not be

required to add "And Reduced" as suffix to its name and the Demerged Company shall continue in its old name.

- (e) Since the demerger does not involve either diminution of liability in respect of unpaid share capital or payment to any member of any paid up share capital, the reduction of share capital pursuant to the Scheme shall be deemed to be effected and sanctioned as an integral part of this Scheme itself and to that extent the approval granted by the members to the Scheme shall be deemed to include the approval under section 100 of the Act
17. (a) In case any member's holding in the Demerged Company is such that the member becomes entitled to a fraction of an equity share of the Resulting Company, the Resulting Company shall not issue fractional share certificates to such member but shall consolidate such fractions and issue consolidated equity shares to a trustee nominated by the Resulting Company in that behalf, who shall sell such shares and distribute the net sale proceeds (after deduction of the expenses incurred) to the members respectively entitled to the same in proportion to their fractional entitlements.
- (b) Due to the reduction in capital of the Demerged Company, if a member becomes entitled to a fraction of an equity share of the Demerged Company, the Demerged Company shall not issue fractional share certificates to such member but shall consolidate such fractions and issue consolidated equity shares to a trustee nominated by the Demerged Company in that behalf, who shall sell such shares and distribute the net sale proceeds (after deduction of the expenses incurred) to the members respectively entitled to the same in proportion to their fractional entitlement.
18. Such equity shares to be issued and allotted by the Resulting Company in terms of Clause 16(a) above shall rank pari passu in all respects with the existing equity shares of the Resulting Company.
19. Equity shares of the Resulting Company issued in terms of Clause 16(a) above, shall, subject to the execution of the listing agreement and payment of the appropriate fee, be listed on the relevant stock exchanges where the existing equity shares of the Demerged Company are listed as soon as is practicable but no later than the expiry of twelve months from the Effective Date.
20. Unless otherwise determined by the Board of Directors or any committee thereof of the Demerged Company and the Board of Directors of the Resulting Company, allotment of shares in terms of Clause 16(a) of this Part shall be done within 30 (thirty) days from the Effective Date.

21. Upon the coming into effect of this Scheme, and the issue of shares in the Entitlement Ratio by the Resulting Company pursuant to the provisions of Clause 16(a), and subject to such governmental or regulatory approvals as may be necessary, the Resulting Company shall issue to the Depository appointed by the Resulting Company appropriate number of underlying shares as per the Entitlement Ratio and procure that the Depository shall issue GDRs of the Resulting Company to the existing non US GDR holders of the Demerged Company in an appropriate manner within 6 (six) months from the Effective Date. The Resulting Company and the Depository, and the Demerged Company and the Depository, in respect of the existing GDRs of the Demerged Company shall enter into such further documents as may be necessary and appropriate in this behalf.
22. GDRs issued pursuant to Clause 21 shall not be listed unless required by any regulations, law or permits, in which event the same may be listed on the Luxembourg Stock Exchange or the London Stock Exchange, as appropriate, within 6 (six) months of the Effective Date and the Resulting Company shall take such additional steps and do all such acts, deeds and things as may be necessary in this behalf.
23. The Resulting Company shall procure the Depository to sell appropriate number of underlying shares of the Resulting Company listed on Indian Stock Exchanges or GDR's of the Resulting Company issued by the Depository being the entitlement of the US holders, to non-US investors and shall procure that the Depository, within 6 (six) months of the Effective Date, distribute to the existing US GDR holders of the Demerged Company their proportionate share of the net proceeds (after deducting expenses and taxes, if applicable), in lieu of issuing GDR's of the Resulting Company to such US holders. The Resulting Company and the Depository and the Demerged Company and the Depository in respect of the existing GDR's of the Demerged Company shall enter into such further documents as may be necessary and appropriate in this behalf.
24. Pursuant to and as an integral part of the Scheme, on or before the expiry of 15 (fifteen) months from the Effective Date, the KMS Group (which comprises of Mr. K. M. Sheth, and such of his Relatives and entities owned and/or controlled by any or all of them as notified by Mr. K. M. Sheth in writing to the Demerged Company) shall transfer all shares of the Resulting Company allotted to them in respect of the shares of the Demerged Company held by them as at 30<sup>th</sup> June 2005 in favour of the VKS Group (which comprises of Mr. Vijay. K. Sheth, and such of his Relatives and entities owned and/or controlled by any or all of them as notified by Mr. Vijay K. Sheth in writing to the Demerged Company). Similarly the VKS Group shall transfer all shares held by the VKS Group in the Demerged Company as at 30<sup>th</sup> June 2005 after giving effect to the provisions of Clause 16(c), in favour of the KMS Group. Such transfer shall be effected in a mode and manner to be agreed between the two Groups.

**PART V**  
**GENERAL TERMS & CONDITIONS**

25. (a) Demerged Company  
Upon the coming into effect of this Scheme, an amount representing the excess of the amount representing the surplus of the assets over the liabilities of the Demerged Undertaking being transferred to the Resulting Company as reduced by the amount representing the reduction in share capital described in Clause 16(c) of this Scheme, shall be debited in the books of Demerged Company as follows:
1. an amount of Rs. 32,00,00,000/- to the Share Premium Account;
  2. an amount of Rs. 69,00,00,000/- to the Profit and Loss Account;  
and
  3. the balance amount, if any, to the General Reserve.
- (b) Resulting Company  
Upon the coming into effect of this Scheme, an amount representing the excess of (i) the amount representing the surplus of (A) assets over (B) the liabilities of the Demerged Undertaking of the Demerged Company in its books of account, over (ii) the aggregate face value of the share capital issued by the Resulting Company to the members of the Demerged Company, shall be credited by the Resulting Company to the accounts specified below:
1. an amount of Rs. 32,00,00,000/- to the Share Premium Account;
  2. an amount of Rs.69,00,00,000/- to the Profit and Loss Account;  
and
  3. the balance amount, if any, to the General Reserve.
26. (a) The Demerged Company shall be entitled to declare and pay dividends, whether interim or final, to its members in respect of the accounting period prior to the Effective Date. The equity shares of the Resulting Company to be issued and allotted to the equity members of the Demerged Company as provided in Clause 16(a) hereof shall be entitled to dividends, if any declared by the Resulting Company, for the accounting period from the Appointed Date.
- (b) Out of the total dividend amount and distribution tax paid by the Demerged Company to its members, such proportion of the dividend amount and distribution tax shall be deemed to have been distributed on behalf and on account of the Resultant Company as is equal to the proportion that the Profit After Tax (“PAT”) of the Demerged Undertaking bears to the total PAT of the Demerged Company.

- (c) It is clarified that the aforesaid provisions in respect of declaration of dividends are enabling provisions only and shall not be deemed to confer any right on any member of the Demerged Company and/or the Resulting Company to demand or claim any dividends which, subject to the provisions of the said Act, shall be entirely at the discretion of the respective Boards of Directors of the Demerged Company and the Resulting Company.
27. The issue and allotment of the shares and GDRs under the provisions of this Scheme to the non-resident members will be made subject to the approval of the Reserve Bank of India under the Foreign Exchange Management Act, 1999 or other relevant authority and on such terms and in such manner as such authorities may impose, provided that the approval of the Ministry of Finance, if required, has been received for the issue of the GDRs.
28. The Demerged Company and the Resulting Company shall make necessary applications before the High Court at Mumbai for the sanction of this Scheme under Sections 391 to 394 (read with Section 100) of the Act. The Demerged Company may in due course apply for one or more orders under Section 394 of the Act for vesting of the Demerged Undertaking under this Scheme.
29. In the event of there being any pending share transfers, whether lodged or outstanding, of any shareholder of the Demerged Company, the Board of Directors or any committee thereof of the Demerged Company at its sole discretion shall be empowered in appropriate cases, even subsequent to the Record Date or the Effective Date as the case may be, to effectuate such a transfer in the Demerged Company as if such changes in registered holder were operative as on the Record Date, in order to remove any difficulties arising to the transferor of the share in the Resulting Company and in relation to the new shares after the Scheme becomes effective. The Board of Directors of the Demerged Company shall be empowered to remove such difficulties as may arise in the course of implementation of the Scheme and registration of new members in the Resulting Company on account of difficulties faced in the transaction period.
30. On and from the Effective Date, and pursuant to Section 269 and other relevant provisions of the Act, the appointment of Mr. Vijay K. Sheth as managing director, shall without further act or deed be continued in the Resulting Company on the same remuneration and on the same terms and conditions for the residual period of his appointment, including terminal benefits on the basis of continuity in service without any hiatus; consequent upon which he shall cease to be a managing director of the Demerged Company.
31. (a) The Demerged Company (by its Board of Directors) and the Resulting Company (by its Board of Directors), either by themselves or through a committee appointed by them in this behalf, may, in their full and absolute discretion, make and/or assent to any alteration or modification to this

Scheme, including but not limited to those which the Court and/or any other authority may deem fit to approve or impose.

- (b) The Demerged Company (by its Board of Directors) and the Resulting Company (by its Board of Directors), either by themselves or through a committee appointed by them in this behalf, may give such directions as they may consider necessary to settle any question or difficulty arising under the Scheme or implementation thereof or in any matter whatsoever connected therewith (including any question or difficulty arising in connection with any deceased or insolvent members, depositors or debenture-holders of the respective companies), or to review the position relating to the satisfaction of various conditions to the Scheme and if necessary, to waive any of those (to the extent permissible under law).
- 32. Upon the VKS Group completing the transfer of the shares held by them in the Demerged Company as contemplated in Clause 24, the VKS group shall cease to be promoters of the Demerged Company from such date. Similarly, upon the KMS Group completing the transfer of the shares held by them in the Resulting Company, the KMS Group shall cease to be promoters of the Resulting Company from such date. Accordingly, the relevant authorities shall record such change in the promoters.
- 33. In the event of non-fulfillment of any or all obligations under the Scheme by any Company towards the other Company, inter se or to third parties and non-performance of which will put the other Company under any obligation, then such Company will indemnify all costs/interest, etc. to the other Company.
- 34. All past, present and future costs, charges, levies, duties (including any stamp duty) and expenses in relation to or in connection with or incidental to this Scheme or the implementation thereof (including in relation to the incorporation of the Resulting Company, issue of shares by the Resulting Company and all matters related thereto and also including in relation to the transfer of the Demerged Undertaking) shall be borne and paid for by the Demerged Company and the Resulting Company in the ratio of 80 :20.
- 35. The Scheme is conditional upon and subject to:
  - (a) the Scheme being agreed to by the respective requisite majorities of the various classes of members and creditors (where applicable) of the Demerged Company and the Resulting Company as required under the Act and the requisite orders of the High Court of Mumbai referred to in Clause 27 hereof being obtained;
  - (b) the approval of the Ministry of Finance and/or the Reserve Bank of India under the Foreign Exchange Management Act, 1999 being obtained in

relation to certain matters referred to in terms of this Scheme for which such approval is necessary;

- (c) such other sanctions and approvals including sanction of any Governmental authority, as may be required by law or any contracting counterparty under a material contract in respect of the Scheme being obtained; and
- (d) the certified copies of the court orders referred to in this Scheme in respect of the Demerged Company and the Resulting Company being filed with the Registrar of Companies, Maharashtra.

Provided however, if all such approvals under (a), (b) and (c) above are not obtained on or before the expiry of 6 months from the date on which the Mumbai High Court has passed orders sanctioning this Scheme, this Scheme and demerger shall automatically lapse.

**SCHEDULE - 1**  
**BALANCE SHEET OF DEMERGED UNDERTAKING**  
**AS ON APRIL 1, 2005**

|   | <b>Rs. in lakhs</b> |
|---|---------------------|
| <b>APPLICATION OF FUNDS :</b>                         |                     |
| Gross Block   | 72,060              |
| Less : Depreciation                                   | 29,224              |
| Net Block   | 42,836              |
| Ships under construction/<br>Capital work-in-progress | 17,074              |
| Total Fixed Assets :                                  | 59,910              |
| Investments   | 128                 |
| Current Assets:                                       |                     |
| - Inventories   | 377                 |
| - Sundry Debtors                                      | 5,895               |
| - Cash & Bank Balances                                | 5,313               |
| - Other current assets                                | 107                 |
| - Loans & advances                                    | 3,078               |
| Total Current Assets:                                 | 14,770              |
| Current Liabilities and provisions                    |                     |
| - Current liabilities                                 | 7,250               |
| - Provisions  | 273                 |
| Total Current Liabilities:                            | 7,523               |
| Net Current Assets:                                   | 7,247               |
| Miscellaneous Expd. (to the extent not written off)   | 46                  |
| <b>TOTAL ASSETS</b>                                   | <b>67,331</b>       |
| <b>SOURCES OF FUNDS:</b>                              |                     |
| Shareholders' Funds:                                  |                     |
| Capital   | 3,807               |
| Reserves & Surplus                                    | 40,851              |
|   | 44,658              |
| Loan Funds:   |                     |
| Secured Loans   | 22,673              |
|   | 22,673              |
| <b>TOTAL LIABILITIES</b>                              | <b>67,331</b>       |