

(RS. 100/- STAMP PAPER BE PURCHASED FROM NOIDA AND THEN FIRST PAGE OF THIS AGREEMENT BE TYPED)

SHARE PURCHASE AGREEMENT

THIS AGREEMENT is made _____ on this ____ day of _____, 2015 by and between M/s _____ (PAN : _____) a company incorporated under the Indian Companies Act, 1956, under CIN Number : _____, having its Registered Office at _____, represented by Mr. _____, Managing Director (**which expression shall unless repugnant to the context or meaning thereof include his/ their holding company, executors, administrators, legal representatives, beneficiaries, subsidiaries, associates, affiliates and assigns**) (hereinafter referred to as "the First Party" or "the Purchaser") **on the one hand and on the other hand** Mr. _____, S/o Mr. _____ r/o. _____ (PAN No. : _____) **and** Mrs. _____, W/o Mr. _____ r/o. _____ (PAN No. : _____) (which expression shall unless repugnant to the context or meaning thereof include his/ her heirs, executors, administrators, legal representatives, beneficiaries and assigns) (hereinafter jointly referred to as "the Second Party" or **Sellor**) (**both parties are hereinafter referred to jointly as "the Parties" or individually as "a Party"**)

TABLE OF CONTENTS

0. RECITALS
1. SUBJECT MATTER OF THE AGREEMENT
2. PURCHASE PRICE AND PAYMENT CONDITIONS
3. SIGNING/ CLOSING
4. REPRESENTATIONS AND WARRANTIES
5. LIABILITY
6. TAX INDEMNITY
7. NON-COMPETE/ NON-SOLICIT
8. TERMINATION
9. GOVERNING LAW, JURISDICTION

10. NOTICES
11. CONFIDENTIALITY AND PUBLICITY
12. FINAL PROVISIONS

0. Recitals

WHEREAS, this Share Purchase Agreement (hereinafter referred to as "**the Agreement**") is entered into by the Parties on this _____ day of _____ 2015 at _____, in the State of _____ (hereinafter referred to as "**the Signing Date**"). (to be filled out on Signing in handwritten form)

AND WHEREAS, the Second Party **put together are sole and exclusive registered owners** and in possession of _____ (only _____) Equity shares, which are 100% Equity shares (hereinafter referred to as Equity Shares) of _____, a company incorporated under the Indian Companies Act, 1956, under CIN Number : _____, having its Registered Office at _____, (hereinafter referred to as "**the Company**" or as "**_____**"), being _____ (_____ only) Equity Shares are owned, held and possessed by Mr _____ and _____ (_____ only) Equity Shares are owned, held and possessed by Mrs. _____ (**wife of Mr _____**) **and hence wife and husband put together owns and controls solely and exclusively 100% paid share capital of the Company.**

AND WHEREAS, the Company is operating its business in the area of the manufacturing of cleaning machines in India (hereinafter referred to as the "**Business Activity**").

COMMENTS: The above word may remain as it is.

AND WHEREAS, the Second Party confirms that the entire _____ (_____ only) equity shares of the Company (hereinafter collectively referred to as "**said Shares**") are in physical form and not in dematerialised form. **The details of the Share held by Seller are described in Schedule -I forming an integral part of this Agreement.**

AND WHEREAS the Second Party had acquired the said Shares from previous owners by paying due and adequate consideration upon execution of Shares Transfer Deeds and upon handing over of relevant Share Certificates by the previous owner and the previous owners are left with absolutely no claim, dues, outstanding, right, title, interest of any whatsoever over the said Shares and the Sellor presently holds said shares in their own right as a full, sole, exclusive and absolute owner of the said Shares.

AND WHEREAS, the Second Party has approached the First Party expressing intention to sell **Shares of the Company** held by the Seller and agree to execute a Share Purchase Agreement with **the First Party for the purpose of divesting, transferring, alienating and otherwise parting with the possession, management, control directionsof the Company sole and exclusively in the hands of the First Party;**

AND WHEREAS, the Seller wishes to sell and transfer the Share represented by individual shares to the Purchaser under the conditions set out in this Agreement and the Purchaser wishes to purchase and accept the Share from the Seller under the conditions set out in this Agreement (hereinafter referred to as "the Transaction") **for the purpose of securing, possessing and enjoying the management, control and directions of the Company as a 100% owner of the Company**

THE PART IES HAVE AGREED TO BE GOVERNED BY TERMS AND CONDITIONS SET OUT HEREUNDER:-

NOW, THEREFORE, THIS DEED WITNESS AS UNDER:-

1: SUBJECT MATTER OF THE AGREEMENT

1.1: Under the terms defined in this Agreement, the Seller //intends (the word intend to be deleted) **hereby** sell, transfer and assign the Shares to the Purchaser, free and clear of any third-party rights, with all the rights and obligations attaching to Share, and the Purchaser agrees to purchase and acquire Share from Seller on the Closing Date (as defined below).

Suggested 1.1 Clause:

1.1: The Second Seller hereby sell, convey, transfer and assign forever the said Shares to the Purchaser with all the rights, benefits, privileges, enjoyments attached to shares in terms of the provisions of Companies Act, 1956/2013 and/or under the provisions Memorandum and Articles of Association of the Company or under the provisions of this Agreement or under any other Deeds or Instruments as has been executed between the parties .

1.2: The Shares representing the Share shall be transferred ***in favour Purchaser or their nominee as the Purchaser in its sole and absolute discretion may decide***, on the Closing Date by endorsement made by the Seller in accordance with and by their factual hand-over by the Seller to the Purchaser and the countersignature of (a) the Parties of the Handover Protocol (**Annex 1.2a** (Handover Protocol) and (b) of the Deed of Transfer of Share (**Annex 1.2 b** (Deed of Transfer).

1.3: The transfer of the Share will take effect vis-à-vis the Company upon the notification of the change of the person of the shareholder to the Company and presentation of the endorsed Share to the Company.

SUGGESTED CLAUSE 1.3:

1.3: The Purchaser of the said shares shall be entitled to have said shares transferred or any subsequent transfer of said shares either in their own name or in the name of their nominee as they may decide from time to time. To enable the transfer of said shares, the Sellor hereby confirm and acknowledges that they have handed over Share Transfer Deeds duly executed and the relevant Share Certificates along with all or any permissions or consent or approval, if any, so required for effecting transfer of said shares.

1.4: In the manner and subject to the conditions set out in this Agreement, the Purchaser will pay the Purchase Price (as defined below) for the transfer of the Share in accordance with Clause 2 hereof.

1.5: The Parties jointly acknowledge that the general purpose of this Agreement is the acquisition by the Purchaser of the 100 % shareholding

in the Company and thus neither the Purchaser nor the Seller are interested in a partial performance of this Agreement. If the Seller fails to sell and transfer to the Purchaser the entire Share or will transfer only a part of the Share in accordance with this Agreement, the Purchaser shall not be obliged to purchase and acquire only a part of the Share. If the Purchaser fails to purchase and acquire from the Seller the whole Share or will purchase or acquire only a part of the Share in accordance with this Agreement, the Seller shall not be obliged to transfer and sell only a part of the Share.

1.6: That the Parties agree that the Company shall be sold and transferred to Purchaser without any subsidiary and related liabilities or obligations. The Seller confirms that upon the Signing of this Agreement (as defined below), the Company does not hold shares in any other entity and does not have any liability or obligation towards or otherwise in connection with any subsidiary. Seller will indemnify the Purchaser or the Company, at Purchaser's sole discretion, to the fullest extent from any such liability and obligation and any related damages, losses, costs and expenses.

SUGGESTED CLAUSE 1.6:

1.6 That the parties agree that upon execution and handing over of Share Transfer Deeds and the relevant Share Certificates by the Sello to the Purchaser, the Sello unconditionally, irrevocably, without any demur or protests, fore-over, transfer the said Shares simultaneously with full and absolute right of management, control, direction of entire affairs and operations of the Company to the exclusion of the Purchaser or any other persons or entity save and except as may be specifically agreed to by the Purchaser by way of a separate Deed or written authorisation.

2: PURCHASE PRICE AND PAYMENT CONDITIONS

2.1 On the terms and subject to the conditions set out in this Agreement, the Purchaser agrees to pay to the Seller for the transfer of the Shares under this Agreement the Purchase Price in the total amount of Rs. 14,30,00,000 (Rupees Fourteen Crores Thirty Lacs Only) as a lump sum.).(please edit PPA if considered necessary).

2.2 The Purchase Price shall be due and payable bank to bank via wire transfer upon the Closing Date to the Seller` s accounts as listed in **Annex 2.2** (Seller` s accounts) to this Agreement.

2.3 The Purchaser's obligation to pay the Purchase Price shall be deemed duly fulfilled upon the instruction of the bank transfer of the amount corresponding to the Purchase Price to the Seller's account in accordance with Clause 2.1 of this Agreement. Any bank costs and expenses in relation to the wire transfer of the Purchase Price shall be borne by the Seller.

Comments: In Clause 2.3 we must bear the expenses for transfer of Purchase Price.

2.4 The Seller shall **bear and shall be solely liable and** responsible for and shall pay any and all taxes, **duties and levies payable by** him in connection with the transfer of **said** Shares to the Purchaser under this Agreement.

3.1 This Agreement enters into force and effect upon the complete signature by both Parties (hereinafter referred to as "the **Signing**" or "the **Signing Date**"). The Transaction is to be executed on the same date as, and immediately following, the Signing at a meeting to be held at _____, in the State of _____ at the offices of TBD (hereinafter referred to as "the **Closing**" or "the **Closing Date**").

3.2 This Agreement shall continue to be and remain effective from the date of its signing and shall remain in full force and effect until the Seller is fully relieved of its respective obligations as agreed to in this Agreement. This Agreement shall remain unaffected and continue to be in full force and effect in the event there is change in the constitution of Company or First Party and the Second Party shall continue to be under obligation to the entity who assumes legal title in such events.

3.3 The Parties agree to use their respective best efforts to ensure that the individual steps of the Closing of the Transaction as described in Articles 3.5 below are taken immediately one after the other on the Closing Date.

3.4 The Parties agree to use their respective best efforts to ensure that the individual steps of the Closing of the Transaction are taken immediately one after another on the Closing Date.

3.5 The Parties agree to take the following legal and factual actions on the Closing Date:(i) The Seller presents, **duly certified by the Statutory Auditor of the Company,** the Purchaser with the following documents:

- (a) Up to date extract from commercial/statutory register of Company, **as prescribed under the Companies Act, 1956/2014:**
- (b) Up to date shareholder list
- (c) Up to date articles of association and bylaws of Company
- (d) Originals or verified copies of share purchase agreements of all respective legal predecessors
- (e) The Second Party has executed a so-titled "Deed of Indemnity" agreeing to indemnify the First Party and _____ (both jointly and severally) in the event of any undisclosed losses, claims, expenses etc. suffered by the First Party and _____ arising out of Equity Shares sold by the Second Party to the First Party.
- (f) The Second Party has executed a so-titled "Declaration" from the former shareholders and founders of Company namely Mr. _____ **S/o** _____ **R/o.** _____ a former Shareholder and Managing Director of _____
- (g) The Second Party has executed a so-titled "Declaration Cum Indemnity" or "Indemnity Bond" executed by the current managing directors of Company (both jointly and severally).

Comments: Why the words Managing Directors has been used – Is there more than one Managing Director ????

- (h) The Second Party has drawn up an updated Audited Balance Sheet and Profit & Loss Account of the Company for the year ended 31.03.2015 and Provisional Balance Sheet and Profit and Loss account for the period from 01.04.2015 to _____ **which the Sellor represents and warrants that it contains true and correct affairs of the Company.** to the satisfaction of the First Party.

Comment: How can we say that provisional Balance Sheet is to the satisfaction of the Purchaser and, therefore, the word " to the satisfaction of the First Party" be deleted.

- (i) The Second Party and the Company have disclosed to the First Party a written list of business transactions between the period from 28.02.2015 (the date of Due Diligence Review) up to the Closing Date and have executed an Indemnity Bond for the items which in the opinion of First Party are non-compliances and can attract claims/ legal/statutory actions/ demands/ penalties or any other action from any statutory authority or any person.

(j) All documents listed within the aforementioned Deed of Indemnity, Declaration Cum Indemnity and Declaration shall be delivered by the Seller in original version or verified copy and in legally accurate form to the Purchaser.

(k) The Second Party has signed an Undertaking and Declaration binding itself (jointly and severally) for a period of five years from the date of signing this Share Purchase Agreement to not engage itself whether directly or indirectly into similar line of business as that of Company and shall not solicit the customers of Company hire or retain employees of the Company, refrain from disclosing business information of Company and inform Company and/ or the First Party of any information that comes to its knowledge which has an impact on the working of the Company, to the First Party. The Second Party shall compensate Company and/or First Party of losses (including all expenses) suffered by them in case of breach or non-observance of this undertaking and declaration by the Second Party. (we should discuss whether we should include this non-compete/non-solicit clause within the SPA, see proposal in article 7 below).

(The above clause can be part of SPA)

(l) TBD Other documents such as list of material contracts, order income or order pipeline, documents on real estate, insurance, etc.

(m)The Sellor has signed and executed a Declaration that the warranties are true, correct, complete and accurate in all respects and the contents of the documents and disclosures presented or made by them are true, correct, complete, accurate in all respects, and fully, clearly and accurately disclose every matter to which they relate and do not omit, conceal or withhold to state any fact necessary to make them not misleading in any respect and that true, complete and correct copies of all documents and instruments identified in the Due Diligence have been provided to the Purchaser. (this should be part of the reps and warranties of the SPA and not be listed here)

(The above clause can be part of SPA)

(n) That both the Directors of _____ namely Mr. _____ and _____ have submitted their directors' resignations from their respective positions as Director / Managing Director/ Fulltime Director of _____ with effect from the date of signing this Agreement and have signed, executed and accepted the full & final

settlement of their account with _____ and confirm that no amount is due from _____ to them on any account whatsoever.

- (o) Mr. _____, one of the constituent of the Second Party has signed an employment agreement with _____ on the terms and conditions agreed to by the Parties as contained in the said employment agreement.
- (p) If CoC-clauses are applicable, to the extent reasonably possible, all required consents and approvals of contractual partners to the change of control of the Company from Seller to Buyer

The above clause has been covered and, therefore, may be deleted.

- (q) Board Resolution of the reassignments of _____ Mrs. _____ as Managing Director of Company effective upon Closing.
- (r) Board Resolution of the assignment of Mr. _____ as sole Managing Director of the Company upon the Closing Date
- (s) Please list more documents if needed to be delivered in original or verified copy upon Signing, e.g. documents listed in the "Schedule of Compliance of observations DDR"

IN MY VIEW, Mr _____ and _____ should be politely asked to resign and on the next date, both can join on the same position and the same terms and conditions because of wholly new arrangements. This will true reflect that there was a complete change of management. The following Clause is suggested.

(Q): That Sellor i.e. Mr. _____ and Mrs. _____ shall resign as a Directors of the Company and consequently, both shall cease to be Managing Director of the Company as well and their resignations shall be effective from_____. Mr. _____ shall, however, be appointed w.e.f. _____ (next date) as the Managing Director of the Company on the same terms and conditions for a period of _____.

3.6: The Purchaser presents the Seller with the following documents such as:

- (a) draft version of the handover protocol ready for countersignature by the Parties on the Closing date;
- (b) the Deed of transfer of Share document

- (c) the Closing Certificate ready for countersignature by the Parties on the Closing
- (d) Physically verified the fixed assets, and intangibles as per the physical verification report provided by the second party and verified and valued the Current Assets and Current Liabilities (including Contingent liabilities of _____). To the extent applicable, approvals of statutory authorities for the downstream foreign investment to purchase the Share

3.7: Upon the Closing Date, the Seller make an endorsement on individual shares constituting the Share and deliver to the Purchaser and sign the handover protocol prepared by the Purchaser. The Seller provides the Purchaser with the shareholder resolution of the Company removing the members of the board of directors of the Company and all members of the supervisory board from their offices as of the day preceding the Closing Date.

SUGGESTED CLAUSE:3.7:

Upon the closing date, the Seller make an endorsement on individual shares constituting the3 Share and deliver to the Purchaser and sign the handover protocol prepared by the Purchaser. The Sellor provides the Letters of Resignation of Mr. _____ and Mrs. _____ as a Director of the Company. Further, the Seller shall also provide Letter of Resignations of Mr _____ and Mr _____ as _____.

3.8: Upon the Closing Date, the Purchaser accepts from the Seller the endorsed shares constituting the Share and signs the hand over protocol on acceptance of the shares

The Clause 3.8 has already been covered and may be deleted.

3.8: The Purchaser ensures registration of a change in the list of shareholders so that it notifies the Company of the change of the Company's shareholder and presents to the Company for review the individual shares constituting the Share.

3.9: Without undue delay after the completion of the steps set out before, the Parties shall sign a closing certificate confirming in particular the closing steps have been carried out in accordance with the provisions set out in this section.

WARRANTIES

4.1 The Seller hereby represents and warrants to the Purchaser that as at the Closing Date, all of the representations and warranties contained in **Annex 4.1** and in this Clause are true, correct, and complete (the "**Seller's Representations**"). The Seller acknowledges that the Purchaser enters into the transaction contemplated by this Agreement in reliance on the Seller's Representations. The properties of the Share, or of the asset values represented by the Share, as described in the applicable Seller's Representations, are (i) the properties specifically required by the Purchaser for the purpose of the Signing, and (ii) the properties that the Share, or the asset values represented by the Share, should have pursuant to the Agreement, and any breach thereof (including any of the Seller's Representations being false, incorrect, or incomplete) is a defect of the Share.

4.2 The Purchaser hereby represents and warrants to the Seller that as at the Closing Date, all of the representations and warranties contained in **Annex 4.2** and in this Clause are true, correct, and complete (the "**Purchaser's Representations**"). The Purchaser acknowledges that the Seller enters into the transaction contemplated by this Agreement in reliance on the Purchaser's Representations.

COMMENTS: IN MY VIEW, THERE NEED NOT BE ANY PURCHASERS' REPRESENTATION:

4.3 In any event of conflict or inconsistency between the representations and warranties given by the Parties under this clause or in the attached Annexes 4.1 and 4.2 and the representations and warranties given in the attached documents mentioned in clause 3.5 (e)-(g), the meaning of the representations and warranties of this clause 4 shall prevail and apply exclusively.

4.4 The Purchaser warrants and represents to the Seller, *inter alia*, the following:

The Purchaser is not in any way connected as issuers, insider, affiliate or associate of the Seller and the Company, as defined or recognised under the applicable Securities Laws and regulations.

(b) The Purchaser is not bound by any agreement that would prevent or have an effect on any transaction connected with this agreement.

(c) The Purchaser is *bona fide* buyers/ acquirers of the Shares of the Company subject to the compliance of the terms of this Agreement

4.5: The Seller has warranted the following to the Purchaser:

(a) That the Seller has severally paid/ settled the entire agreed consideration to each of the respective transferor(s) at the time of acquisition of these Equity shares by the Seller and have paid all monies to the Company at the time of additional allotment of these shares in the share capital of the Company to the Seller, and no amount is pending or outstanding towards any person (s) as on the date of this agreement.

(b) That the Seller have not been restrained from any Court or any other authority to sell these Equity Shares to any person and they are entitled to sell these Equity Shares and the **said shares are not subject matter of litigation pending before any court of law.** The Seller confirms that they have obtained all permissions / approvals required for selling the said equity shares to the Purchaser **and there are absolutely no impediments, restrictions, prohibitions, restraint order against the said Shares.**

(c) That the Equity Shares are free from all and any kind of encumbrance (s), lien, pledge, hypothecation, security interest, charge(s), adverse claim (s) or mortgage (s) and are also not a subject matter of any pending litigation before any **Company Law Board,** Court of Law, or any other statutory or quasi-judicial authority, that would prevent the transfer of clear title of Equity Shares in favour of the Purchaser.

(d) That the Seller is not a party to any agreement (s) for the sale of the Equity Shares and have also not received any advance (s) (whether in Cash or Kind) from any person (s) that create rights or obligations in the subject Equity Shares of Company including voting rights or stockholders agreements of any other person (s). Further that in case there were any discussions of the second party in the past to sell, dispose of, transfer or alienate the subject equity shares of _____, the said discussions (including any interim agreement) have been closed and terminated and are not effective any more.

(e) That with the Signing of this Agreement of sale of Equity Shares to the Purchaser, the Seller relinquishes all their rights (including accruals)

in the 1,50,000 (One Lac Fifty Thousand only) Equity Shares in the Company in favour of the first party.

- (f) That the names and particulars of the Seller are recorded in the Register of Members of _____ and also in the Annual Returns submitted by the Company to the Registrar of Companies under the Companies Act, 1956/2013 and certified true copy of the extracts of the Register of Members and latest Annual Return for Annual General Meeting held on _____ of ----- has been provided by the Seller to the Purchaser simultaneously with the execution of these presents.
- (g) That the Seller have undisputed, unrestricted and unfettered rights to sell, alienate, deal with or dispose-off the Equity Shares held by them in the Company to any person (s).
- (h) That the Seller are not acting as a nominee or trustee and that no other rights of any third party (ies) exist in connection with these Equity Shares.
- (i) That the Seller do not hold any other Share (s) of the Company other than the 1,50,000 (One Lac Fifty Thousand) Equity Shares now being sold to the Purchaser - such Equity Shares are the only Shares held and owned by the Seller.
- (j) That Mr. _____ and Mrs. _____ are the only two Directors on the board of Directors of the Company;
- (k) That the Equity Shares which are being sold by the Seller to the Purchaser are fully paid up and no monies are due/outstanding towards the company on these Equity Shares, and there is no demand from the Company which is pending as on date on these Equity Shares.
- (l) That proper procedure laid down in the Articles of Association of the Company has been complied with in respect of sale/ transfer of Equity Shares as covered under this Agreement, and all necessary documents in connection therewith have been handed over to the Purchaser;
- (m) That the Seller have obtained approval from Bankers / Lenders of the Company regarding their stipulation of no material change in the shareholding pattern which has an effect of a possible change in the management control of the Company without their prior approval.
- (n) That the Seller confirms that Brand name of the Company as well as other intellectual property as well as drawings, design, customer details &

contracts, lease, rights & arrangements and all other assets of the Company shall be available to the Company on the date of the transfer of the Equity Shares from the Seller to the Purchaser. The Seller has confirmed that to the best of their knowledge all intellectual properties that are owned by, used by or validly licensed by the Company shall continue to belong to, used by the Company and not to any former owner (s) or any former Director or Manager. If required, after the transfer of the Equity Shares from the Seller to the Purchaser, the Seller shall render all reasonable assistance that may be requested by the Purchaser to make the intellectual property available to the Purchaser/Company.

- (o) That the Seller has agreed to execute an Indemnity Bond in favour of the Purchaser agreeing to indemnify them of all costs, claims, expenses being paid / suffered by the Purchaser in case any person (s) or any authority claim title or any interest in the Equity Shares and /or any intellectual property and other intangibles of Company mentioned in Clause 14 above, being sold under this Agreement.
- (p) That Mr _____, shall enter into an employment agreement with the Company for a period of ____years, on the terms and conditions as contained in the employment agreement thereto.

5: **LIABILITY**

5.1: The Parties acknowledge and agree that any breach of the Seller's Representations, in particular if any of the Seller's Representations is found to be false, incorrect or incomplete (hereinafter referred to as "the **Breach of the Seller's Representations**"), or any breach of the covenant or other agreement by the Seller under this Agreement constitutes a defect in the performance of this Agreement and gives rise to the Purchaser's right to claim for direct and indirect damages, reimbursement, indemnification and payment in an amount equivalent to the property loss or damage sustained by the Purchaser or the Company as a result of such a Breach of the Seller's Representations or such other breach

6: **TAX INDEMNITY**

6.1 The Seller agrees to indemnify the Purchaser and, at the Purchaser's sole discretion, the Company from any tax liability **and all costs, charges, expenses, damage or loss suffered or caused to be suffered** related thereto to the extent:

- (a) such taxes were due prior to and not paid by the Closing Date
- (b) In connection with any operation (act or omissions) prior to the Closing not within the ordinary course of business.

6.2 The Seller acknowledges that the Purchaser enters into the Transaction in reliance on the promise of indemnity made by the Seller in this clause 7. The Purchaser shall notify the Seller in writing of receipt of tax assessment that triggers a claim of Purchaser under this clause as soon as reasonably practicable. The Seller and Purchaser shall cooperate in Tax matters in a reasonable scope and manner. Any claims of Purchaser under this clause shall be due and payable within fifteen (15) days from a delivery of Purchaser's notification to the Seller.

7: NON-COMPETE/ NON-SOLICIT

7.1 Neither the Seller nor its Affiliates shall:

- (a) at any time during the period of two years commencing on the Closing Date, in (i) India or (ii) any other geographic areas in which the Business Activity (or any part of it) is carried out at the Closing Date, carry out or be engaged, concerned or interested in, or in any way assist, any business which is or would be in competition with any part of the Business Activity, as the Business Activity was carried out at the Closing Date (the "**Restricted Business**"); or
- (b) at any time during the period of 24 months commencing on the Closing Date:
 - (i) canvass, solicit, or otherwise seek the custom of any person who is at the Closing Date, or who has been at any time during the period of 24 months immediately preceding the Closing Date, a client or customer of, or in the habit of dealing with, the Company ("**Restricted Customer**") or a person who is at the Closing Date, or has been at any time during the period of 24 months immediately preceding the Closing Date, in discussions with the Company with a view to becoming a client or customer of the Company ("**Prospective Customer**") with a view to providing goods or services to that Restricted Customer or Prospective Customer in competition with the Business Activity (or any part of it) as it was carried on at the Closing Date; or
 - (ii) induce or attempt to induce a Restricted Customer or Prospective Customer to cease or refrain from conducting business with, or to reduce the amount of business conducted with or to vary adversely the terms upon which it conducts business with the Company, or do any other thing which is reasonably likely to have such an effect; or

- (c) at any time during the period of 24 months commencing on the Closing Date, have any business dealings with a Restricted Customer or Prospective Customer in connection with the provision of goods or services to that Restricted Customer or Prospective Customer in competition with the Business Activity (or any part of it) as it was carried out at the Closing Date; or
- (d) at any time during the period of 24 months commencing on the Closing Date, have any business dealings with, solicit, entice or attempt to entice away any person who is at the Closing Date, or has been at any time during the period of 24 months immediately preceding the Closing Date, a supplier of goods or services to the Company, if such dealings, solicitation or enticement causes or is reasonably likely to cause such supplier to cease supplying, or reduce its supply of goods or services to the Company, or to vary adversely the terms upon which it conducts business with the Company; or
- (e) at any time during the period of 24 months commencing on the Closing Date:
 - (i) offer employment to, enter into a contract for the services of, or otherwise entice or attempt to entice away from the Company, any person who is at the Closing Date or who has been at any time during the period of 24 months immediately preceding the Closing Date, employed or directly or indirectly engaged by the Company in an executive, managerial, sales, or technical role ("**Restricted Person**"); and
 - (ii) procure or facilitate the making of any such offer or attempt by any other person in relation to a Restricted Person; or
- (f) at any time after the Closing Date, use in the course of any business:
 - (i) any trade or service mark, business or domain name, design or logo which, at the Closing Date, was or had been used by the Company, in connection with the Business Activity; or
 - (ii) anything which is, in the reasonable opinion of the Purchaser, capable of confusion with such words, mark, name, design or logo; or
- (g) at any time after the Closing Date, present itself or permit itself to be presented as connected in any capacity with the Company; or
- (h) at any time after the Closing Date, do or say anything which may be harmful to the reputation of the Company.

7.2 The covenants in this clause 7 are intended for the benefit of, and are enforceable by, the Purchaser and the Company and apply to actions carried out by the Seller in any capacity (including as shareholder, partner, director, principal, consultant, officer, agent, or otherwise) and whether directly or indirectly, on its own behalf or on behalf of, or jointly with, any other person.

7.3 Should the Seller fail to meet its obligations under Clause 7.1 the Purchaser may request that the Seller who failed to meet its obligations pay:

- (a) a one-off contractual penalty of EUR 250.000; and at the same time
- (b) a contractual penalty of EUR 5.000 for each day of such default.

SUGGESTED CLAUSE 7.3:

In case of any failure, neglect or breach of any of the obligations as set out under this Agreement, the parties have agreed and understood that the Seller shall be liable to pay to the Purchase contractual damages of EUR 5,000 per day for each day of default but, however, such damages shall not exceed EUR 250,000. The damages to the tune of EUR 5,000 per day have been understood by the parties fair, equitable and justifiable pre-estimate of damages which the Purchaser shall suffer and which the Seller shall be bound to pay.

7.4 Exercising the right to payment of the contractual penalty under Clause 7.3 will not prejudice the Purchaser's right to claim compensation for the full amount of any loss or damage resulting from a breach by the Seller of their obligations in full.

8. TERMINATION/ RESCISSION

8.1 Should the provisions of the Article 3 fail to be fulfilled on the Closing Date in any respect material to a Party, this Party will not be obliged to fulfill the complete transaction and may by a written notice with immediate effect:

- (a) Repeat the completion of transaction within seven (7) business days of the Closing Date in accordance with the aforementioned clause adjusted as appropriate or necessary, and
- (b) should the Transaction fail to be completed at the next meeting adjourned in accordance with clause (a), by reason of a breach of the obligations specified in the aforementioned clause by the Seller (without such a breach being caused by the Purchaser) the Purchaser may rescind this Agreement
- (c) should the Transaction fail to be completed at the next meeting adjourned in accordance with clause (a), by reason of a breach of the obligations specified in the aforementioned clause by the Purchaser

(without such a breach being caused by the Seller) the Seller may rescind this Agreement.

8.2 Rescission of this Agreement or any other unilateral termination of this Agreement is permissible only for the reasons stated in this Agreement or mandatory granted by law.

8.3 Rescission of this Agreement must be made in writing and will enter into effect on the date of its delivery to the other Party.

8.4 As of the effective date of the rescission, any and all rights and obligations of the Parties under this Agreement will cease to exist. However the rights and obligations of the Parties resulting from confidentiality will remain effective and the right of any Party to be compensated for damages incurred by a breach of the obligations of the other Party under this Agreement will be unaffected. **At the same time, any duties or obligations so incurred prior to the recession of this Agreement shall survive the termination of the Agreement.**

9. GOVERNING LAWS AND JURISDICTION; DISPUTE RESOLUTION

9.1 This Agreement shall be governed, construed, interpreted and given effect according to the laws of India.

9.2 In the event any dispute or differences arising out of, or in connection with the interpretation or implementation of this Agreement as specified above, the Parties shall attempt in the first instance to resolve such dispute through mutual consultations.)

9.3 If such dispute is not resolved through mutual consultations within thirty (30) days after commencement of discussions or such longer period as the Parties agree to in writing, then the same shall be referred to the Sole Arbitration of an independent person as may be nominated by the Managing Director of the Purchaser. The place of arbitration proceedings shall be at New Delhi and the court at New Delhi alone shall have jurisdiction

10. NOTICES

10.1: Irrespective of whether this is expressly specified in each individual case, all communications, which are necessary or permitted with regard to this Agreement, are to be effected in writing, i.e. via letter or e-mail. These communications are to be forwarded to the following addresses:

FIRST PARTY:

ADDRESS

E-Mail :

SECOND PARTY:

a.) _____
ADDRESS

EMAIL

b.) _____
ADDRESS

E-Mail:

Also at

10.2: Any Party hereto shall give immediate notice to the other party, regarding change of its address at which any communication/notice shall be addressed to it.

10.3: All communications and notices to be given hereunder shall be deemed to have been validly given if reduced in writing signed by the party giving the same, enclosed in envelope and mailed by registered post, postage pre-paid, addressed to the party for which such

notice/communication is intended at the respective registered address of such Party. The Parties also agree that all communications sent on the e-mail as mentioned above shall constitute sufficient compliance under this Article.

11. CONFIDENTIALITY AND PUBLICITY

11.1 :The Seller agrees with the Purchaser and the Company that he will:

- (a) keep confidential the terms of this Agreement and all confidential information or trade secrets in their possession concerning the business, affairs, customers, clients or suppliers of the Company, or any Affiliate of the Purchaser (the "**Purchaser's Confidential Information**");
- (b) not disclose the Purchaser's Confidential Information in whole or in part to any third party, except as expressly permitted by this Clause 0; and
- (c) not make any use of any of the Purchaser's Confidential Information, other than to the extent necessary for the purpose of exercising or performing their rights and obligations under this Agreement.

11.2 : The Purchaser agrees with the Seller that it will:

- (a) keep confidential the terms of this Agreement and all confidential information or trade secrets in its possession concerning the business, affairs, customers, clients, or suppliers of any of the Seller (the "**Seller's Confidential Information**");
- (b) not disclose any of the Seller's Confidential Information in whole or in part to any third party, except as expressly permitted by this Clause 0; and
- (c) not make any use of any of the Seller's Confidential Information, other than to the extent necessary for the purpose of exercising or performing its rights and obligations under this Agreement.

11.3 : Nothing in this Agreement is to be construed as imposing on the Purchaser an obligation to keep confidential, or restrict its use after the Closing Date, any information relating to the Company except for the content of this Agreement including the Purchase Price.

11.4 : Notwithstanding any other provision of this Agreement, no Party is obliged to keep confidential or to restrict its use of any information that:

- (a) is or becomes generally available to the public other than as a result

of a breach of this Agreement; or

- (b) was, is, or becomes available to the receiving party on a non-confidential basis from a person who, to the receiving party's knowledge, is not bound by a confidentiality agreement with the disclosing party or otherwise prohibited from disclosing the information to the receiving party.

11.5 : Any Party may disclose any information that it is otherwise required to keep confidential under this Clause 11:

- (a) to its employees, officers, consultants, representatives or advisers (or those of any Affiliate) who need to know such information to enable them to advise on this Agreement, or to facilitate the Transaction, provided that the Party making the disclosure informs the recipient of the confidential nature of the information before disclosure and procures that each recipient, in relation to any such information disclosed to it, complies with the obligations set out in this Clause 11 as if they were that Party. The Party making a disclosure under this will, at all times, be liable for the failure of its recipients to comply with the obligations set out in this Clause 11; or
- (b) in the case of the Purchaser only, to a proposed transferee of the Share for the purpose of enabling the proposed transferee to evaluate the proposed transfer; or
- (c) in the case of the Purchaser only, to its funders, potential investors, and their respective advisers, employees, officers, representatives, or consultants in connection with the financing of the Transaction; or
- (d) if such information relates to one Party only, with the prior written consent of that Party; or
- (e) to confirm that the Transaction has taken place, or the date of the Transaction (but without otherwise revealing any other terms of the Transaction or making any other announcement); or
- (f) to the extent that the disclosure is required:
 - (i) by the laws of any jurisdiction to which that Party is subject; or
 - (ii) by an order of any court of competent jurisdiction, or any regulatory, judicial, governmental or similar body, or any taxation authority, or securities exchange of competent jurisdiction; or
 - (iii) to make any filing with, or obtain any authorisation from, a regulatory, governmental or similar body, or any taxation authority or securities exchange of competent jurisdiction; or
 - (iv) to protect that Party's interest in any legal proceedings,provided that in each case (and to the extent it is legally permitted to do so) the Party making the disclosure gives the other parties as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause, it takes into

account the reasonable requests of the other parties in relation to the content of such disclosure.

11.6 : Each Party supplies any other Party with such information about itself, its Affiliates or this Agreement as the other Party may reasonably require for the purposes of satisfying the requirements of any law or any judicial, governmental, regulatory, or similar body or any securities exchange of competent jurisdiction to which that other party is subject.

11.7 : Subject to Clause 11.8 and Clause 11.9, no Party may make, or permit any person to make, any public announcement, communication, or circular concerning this Agreement or the Transaction without the prior written consent of the other Party (such consent not to be unreasonably withheld or delayed).

11.8 : Nothing in this Clause 11 may prevent any Party from making any announcement required by law or any governmental or regulatory authority (including, without limitation, any relevant securities exchange), or by any court or other authority of competent jurisdiction provided that the Party required to make the announcement consults with the other parties and takes into account the reasonable requests of the other parties in relation to the content of such announcement before it is made.

11.9 : The Purchaser may at any time after the Closing Date announce its acquisition of the Share to any employees, clients, customers, or suppliers of the Company or any other member of the Purchaser's Affiliates.

12. FINAL PROVISIONS

12.1 : COSTS/OUT OF POCKET EXPENSES

12.1.1 Unless expressly stated otherwise, each Party bears its own costs incurred in connection with or as a result of the performance of its obligations ensuing from or relating to this Agreement.

12.1.2 All actual out of pocket expenses of each Party including all legal expenses by way of appraisal costs, due diligence costs,

documentation, legal expenses, stamp charges and the actual out of pocket expenses of executive on account of travel and communication have been fully borne by the each Party themselves respectively. Neither of the Party shall have any claim on the other in respect of expenses incurred by them in carrying the transaction. Provided however that all stamp duty and registration costs and expenses with regard to transfer of the Equity Shares and this Agreement and any subsequent agreement in the matter shall be borne by the Purchaser.

13: ENTIRE AGREEMENT

13.1: This Agreement (including the Annexures and Schedules and the other agreements or instruments executed in connection with the consummation of the transaction under this Agreement) constitutes the entire understanding among the Parties with respect to the transaction contemplated under this Agreement, and supersedes all prior agreements, written or oral, relating to the subject matter hereof.

14: WRITTEN FORM

14.1: This Agreement will be executed in writing. Furthermore, the Parties expressly agree that this Agreement may be amended or cancelled only in writing and no changes will be effective unless made **in writing** in the form of numbered amendments.

15: WAIVER

15.1: Any delay in exercising or omission to exercise any right, power or remedy accruing to any Party upon any default under this Agreement, or any other agreement or document shall not impair any such right, power or remedy nor shall be construed to be a waiver thereof or any acquiescence in such default, nor shall the action or inaction of any Party in respect of any default or any acquiescence by them in any default, affect or impair any right, power or remedy of any such Party in respect of any other default.

15.2: If at any time any Party shall waive its rights accruing to it, due to breach of any of the provisions of this Agreement, such waiver shall not be construed as constituting waiver of other breaches of the

same kind or other provisions of this Agreement. None of the terms of this Agreement shall be deemed to have been waived or altered, unless such waiver or alteration is in writing and is signed by all the Parties.

16: **COOPERATION**

16.1: Both Parties agree to co-operate with each other in future so as to provide and extend all possible assistance, whenever called upon by the Parties or by any Statutory Authority with any information, records, documents, so that all issues, matters concerning any past working of the Company is legally settled:

16.2: The Seller agrees to make itself available before any Statutory Authority or any person to explain, clarify and submit information and document regarding any past working of the Company.

17: **BINDING EFFECT**

17:1 All covenants, agreements, representations, warranties and undertakings contained in this Agreement by and on behalf of any of the Parties shall be binding.

18: **NON-ASSIGNMENT**

This Agreement shall not be assigned by the Seller without the prior written consent of the Purchaser.

19: **CURRENCY EXCHANGE RATE**

19.1: Unless this Agreement expressly stipulates otherwise, in the event that any amount in one currency is to be converted into another currency to enable a Party to duly perform its obligations under this Agreement, the Parties agree to use an exchange rate announced by the **Reserve Bank of India/State Bank of India** as at the first day of the calendar month in which such conversion occurs

20: **SEVERABILITY CLAUSE**

20.1: If any provision of this Agreement is found by any competent court or other authority to be invalid, ineffective, or unenforceable, such provision is deemed to be deleted from this Agreement and the remaining provisions of this Agreement will remain in full force and effect, if it may be assumed that the Parties would enter into this Agreement even without such provision, had they recognised its apparent, invalid, or unenforceable nature in time (severability provision). In such an event, the Parties execute without undue delay amendments to this Agreement necessary in order to achieve the same effect or, if not possible, the closest possible effect to that of the invalid, ineffective, or unenforceable provision

21 **ANNEXURES**

21.1: All Annexures referred to in this Agreement, a list of which is enclosed hereto, shall form an integral part of this Agreement.

Annex 1.2a (Handover Protocol)

Annex 1.2b (Deed of Transfer)

Annex 2.2 (Seller's bank accounts)

Annex 4.1 Seller's Representations

Annex 4.2 Purchaser's Representations

IN WITNESS WHEREOF, the Parties hereto have set and subscribed their respective hands and seals hereto.

Mr. Manish Khanna, Managing Director of SCHENCK RoTec India Limited has been hereunto affixed pursuant to the Resolution passed by the Board of Directors of the Company at their meeting held on _____ in the presence of Mr. Hemant Singhal, Chief Financial Officer of SCHENCK RoTec India Limited being the person authorized in this behalf, who have signed the same in token thereof.

Witnessed in the presence of Mr. _____, _____ of

Signed and Delivered by the within named Persons of Second Party
namely Mr. C. Badrinarayan and Mrs. BhuvanaBadrinarayan

Mr. _____

Mrs. _____

Witnessed in the presence of Mr. _____, _____ of
