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## **Joint Venture Agreement**

THIS AGREEMENT is made on \_\_\_\_\_,

BETWEEN

....., a Company registered under the Companies Act, 1956 and having its registered office at..... India, hereinafter referred to as “.....” (which expression shall mean and include its successors and assigns) of the first part :

AND

....., a Company organised and existing under the laws of..... and having its offices at....., hereinafter referred to as “.....” (which expression shall mean and include its successors and assigns) of the second part :

AND

..... PRIVATE LIMITED, a Company incorporated under the Companies Act, 1956 and having its registered office at....., India, hereinafter referred to as “the JVC” (which expression shall mean and include its successors and assigns) of the third part :

WITNESSETH

WHEREAS

- A. .... has for many years been engaged in the research and development, manufacture and sale of..... as well as of other complementary products and accessories, hereinafter referred to as the Products and as defined in Article I A of the Technical Collaboration and Licence Agreement (hereinafter known as the Technical Collaboration Agreement) to be signed between..... and the JVC, and is in possession of confidential know-how relating to the manufacture and marketing of the Products and possesses various rights of intellectual property and patents on certain of the Products.
- B. .... has, through the past activities of..... (hereinafter referred to as “.....”), considerable knowledge in the manufacture and marketing of the above type of Products in India and desires firstly to merge this latter company into..... and then to separate the filters activities out from..... into the JVC with..... for the manufacture and sale of the Products in and outside India, upon the terms and conditions set out hereinafter in Clause 7.12.
- C. .... and..... have entered into an Agreement for Non-Disclosure of confidential information dated..... 20....., relating to non-disclosure by..... to..... of certain

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confidential information as a preliminary to the negotiations for the incorporation of the proposed JVC.

- D. By a Memorandum of Understanding between . . . . . and . . . . . dated . . . . . , (hereinafter called "the MOU"), the parties thereto agreed that, subject to the fulfillment of certain conditions precedent therein specified, they would participate in the organisation and promotion of a joint venture company to be called . . . . . (the JVC) on the terms and conditions therein stated;
- E. . . . . and. . . . . have fixed certain additional conditions precedent for the implementation of the object and clauses of this Agreement, namely :
  - 1. that the filters operations of. . . . . , to be separated out for inclusion in the JVC, shall be available at any time to the JVC for the manufacture of PRODUCTS as defined in Clause A of Article I of the Technical Collaboration Agreement.
  - 2. that. . . . . will transfer to the JVC the entire undertaking of the Filters Division as a going concern, including assets for the manufacturing activities of the JVC free and clear of all encumbrances, charges and liens.
  - 3. that the transfer of such Filters Division and activities of the former. . . . . as have been agreed on by . . . . . and . . . . . for the JVC shall be transferred to the JVC by ..... dt. . However, nothing shall prevent the Parties from agreeing, if necessary, to extend the period
- F. . . . . and. . . . . have jointly promoted and organised the JVC;
- G. The JVC was incorporated under the Companies Act, 1956, on the dt..... , with the registered office at . . . . . , India;
- H. . . . . and. . . . . desire to record the following Agreement to regulate their future relationship as shareholders of and joint partners in the JVC.

NOW IT IS HEREBY AGREED BY AND AMONG THE PARTIES AS FOLLOWS :

**1. JOINT VENTURE COMPANY**

- 1.1 \_\_\_\_ and \_\_\_\_ agree to participate as shareholders of and joint venture partners in the JVC, and agree to exercise their respective voting rights at meetings of the members of the JVC and to cause the JVC and the Directors respectively nominated or appointed by them on the Board of Directors of the JVC to vote at Board meetings and otherwise in such manner as duly to perform, effectuate and implement the terms and conditions of this Agreement and to prevent the taking by it or by them or by any third party of any action contrary to, or motivated by an intention to defeat, the terms of this Agreement.
- 1.2 The JVC was incorporated on. . . . . , dt. . . . . , as a Private Limited Company under the Companies Act, 1956, (hereinafter referred to as "the Act") vide Certificate of Incorporation No. . . . . . , issued by the Registrar of Companies,. . . . .

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**2. CORPORATE NAME**

- 2.1 The name with which the JVC has been registered, is . . . . . PRIVATE LIMITED.
- 2.2 It is a basic term of this Agreement that the names or marks ‘. . . . .’ or ‘. . . . .’ or their respective logos, as a part of the corporate name and style of the JVC, or as a part of the corporate logo or letterhead, stationery, packaging or other materials used by . . . . . or . . . . . or any hybrid variation thereof, or any other use thereof, shall cease to be so used if, at any time, . . . . . or . . . . . ceases to have such minimum shareholding in the capital of the JVC as shall be mutually agreed upon. . . . . and . . . . . shall each enter into separate Name Protection Agreements with the JVC containing such terms and conditions as may be mutually agreed. The articles of association of the JVC shall include provisions embodying the principal terms and conditions of the said Name Protection Agreements. . . . . and . . . . . agree to use and exercise their voting rights as members of the JVC to ensure that the JVC shall honour and implement the said name protection Agreements.
- 2.3 . . . . . agrees and undertakes to procure from . . . . . Limited (hereinafter known as “. . . . .”) an Agreement in favour of the JVC providing for the use and benefit of the name and mark . . . . . and for the user of the . . . . . trade mark and trade name in the usual form and on the usual terms on which. . . . . . has granted such permission to the companies of the . . . . . Group. . . . . agrees to permit the JVC the use of the trade name/mark/logo on such terms and conditions as may be mutually agreed upon between . . . . . and . . . . .
- 2.4 For the use of the words ‘. . . . .’ and ‘. . . . .’ in the corporate name of the JVC, the JVC shall pay to . . . . . and . . . . . equally, a lumpsum onetime fee of Rs. . . . . . each and also annual fee for the use of the respective logos as may be mutually decided by . . . . . and . . . . .
- 2.5 The JVC shall also pay to . . . . . and / or . . . . . actual legal expenses for defence and protection of the. . . . . / . . . . . trade name/mark/logo used by the JVC.

**3. REGISTERED OFFICE**

- 3.1 The office of the JVC shall be located at. . . . . , India, in the State of. . . . . Any change in the location of the registered office will be with the mutual agreement of . . . . . and . . . . .

**4. OBJECTS**

- 4.1 The main object of the JVC as stated in its memorandum of association is the development, manufacture and distribution of. . . . . . . . . . as well as of other complementary products and accessories (hereinafter referred to as “the PRODUCTS”) and as defined in the Technical Collaboration Agreement to be signed between. . . . . and the JVC. . . . . and. . . . . agree

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that any change in the said business activity of the JVC will require the written consent of . . . . . and . . . . .

**5. SHARE CAPITAL**

- 5.1 The authorised share capital of the JVC on its incorporation is Indian Rs.. . . . . (Rupees. . . . . only).
- 5.2 As of the date of this Agreement, the issued and paid up share capital of the JVC is Rs.. . . . . (Rupees . . . . . only) divided into . . . . . equity shares of Rs.10 each.
- 5.3 Any increase in the authorised or issued and paid up share capital shall be effected only with the mutual agreement of. . . . . and . . . . . In the event a capital increase becomes necessary to safeguard the desired business growth of the JVC, in particular through investments, the agreement cannot be refused either by. . . . . or . . . . . If no resolution or decision can be passed or taken by the Board of Directors at its meeting in respect of such an increase in capital, the procedure provided in Clause 11 will be applied.
- 5.4 All equity shares shall be of the same class and shall be alike in all respects and the holders thereof shall be entitled to identical rights and privileges, including without limitation, to the rights with respect to dividend, voting and the distribution of assets in the event of voluntary or involuntary liquidation, dissolution or winding up of the JVC.
- 5.5 If and when the JVC shall issue any additional shares, the JVC shall first offer such shares to the existing shareholders in proportion to the equity shares then owned by each of them, subject to compliance with the conditions, if any, imposed by applicable law. In case such offer is not accepted within twelve (12) weeks of the offer, the JVC shall offer such shares to a body(ies) corporate within the . . . . . . . . Group or . . . . . Group, which is acceptable to. . . . . and . . . . ., subject to the condition that. . . . . and . . . . . shall at all times be responsible and liable to discharge all their obligations to the JVC and to each other. The word 'Group' shall mean only the parent, holding, subsidiary, associate or affiliate company of . . . . . or. . . . . as the case may be.
- 5.6 Unless otherwise agreed to in writing,. . . . . and . . . . . agree to participate at all times in the paid up and subscribed equity share capital of the JVC in the following proportion :
  - . . . . . : 50%
  - . . . . . : 50%
  - . . . . . and . . . . . shall exercise their voting rights as members of the JVC in such a way as to ensure that the said proportions shall always be maintained.
- 5.7 . . . . . and . . . . . shall cause the JVC to issue shares to themselves in the amounts and manner provided for in this Agreement.

**6. . . . . 'S CONTRIBUTION**

- 6.1 . . . . . agrees to acquire equity shares in the share capital of the JVC of the value of Rs.. . . . . (Rupees . . . . . only), in partial appropriation of the consideration for the sale of. . . . . 's . . . . .

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- . . Business Undertaking to the JVC at such premium as may be determined by the Board of Directors of the JVC.
- 6.2 . . . . . agrees that it will use its best endeavours to enable the JVC to obtain, if necessary, long term loans from Indian Financial Institutions / Banks in an amount sufficient to finance ongoing operations and planned expansions on terms and conditions to be mutually agreed upon.
- 6.3 . . . . . and. . . . . will use its best endeavours to ensure that the financial resources of the JVC shall be sufficient for the construction and maintenance of the plant and for the working capital necessary for normal operations. In the event that additional financing is required for completion of the plant / project, . . . . . / . . . . . shall use its best endeavours to arrange for sufficient long term loans on terms and conditions mutually acceptable, the interest and / or financial charges shall be paid by the JVC to. . . and / or . . . . . ,
- 6.4 \_\_\_ shall assume responsibility for any past liability / defaults of the former. . . . . and shall indemnify the JVC if costs to the JVC arise from any past actions of the former . . . . . , or for any defaults arising from the merger of . . . . . with . . . . . or separation of the undertaking of the former . . . . . into the JVC.
- 7. . . . . 'S CONTRIBUTION**
- 7.1 . . . . . agrees to acquire equity shares in the share capital of the JVC, of the value of Rs..... (Indian Rupees. . . . . only) for cash at such premium as may be determined by the Board of Directors of the JVC.
- 7.2 . . . . . will enter into with the JVC and execute a separate Technical Collaboration and Licence Agreement (hereinafter known as the "Technical Collaboration Agreement") by which . . . . . will agree to provide to the JVC a licence of the knowhow of its products and processes, and any updates / improvement of the same, developed during the term of the Technical Collaboration Agreement, in respect of . . . . . and containing improvements to the PRODUCTS made during the term of the Technical Collaboration Agreement in respect of the PRODUCTS for a consideration (provided hereinbelow) and payable in the manner approved by the Government of India / RBI in the Letter of Approval. The Technical Collaboration Agreement shall include a provision to the effect that the parties thereto shall be bound by the terms and conditions stipulated by the Government of India / RBI in the Letter of Approval.
- 7.3 . . . . . shall grant the JVC an exclusive non-transferable licence to manufacture the PRODUCTS in India in accordance with. . . . . 's technical knowhow and exclusive licence to sell the products in India as hereinafter provided in clause 7.12 hereof and further in the Technical Collaboration Agreement through the intervention of . . . . . and as per deliberations of the Board of Directors and consultation between . . . . . and the JVC to sell PRODUCTS outside India as provided in Clause 7.12 hereof. The said Technical Collaboration Agreement may not be transferred or assigned by the JVC to any third Party without the written consent of . . . . . '

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- 7.4 The term "Technical Knowhow" shall mean. . . . . 's drawings, designs, plans, trade secrets, formulae and manufacturing procedures and methods and other technical information relating to the assembly, manufacturing, quality control, testing and servicing of the PRODUCTS.
- 7.5 If any of the PRODUCTS is protected by an Indian patent granted to. . . . . which is valid at the commencement of the Technical Collaboration Agreement, or which may be granted during the term thereof, . . . . . shall grant the JVC without further payment, the right for the term of such patent to make, use and sell such PRODUCTS, even if the term of such patent extends beyond the term of the Technical Collaboration Agreement.
- 7.6 . . . . . shall permit a mutually agreed number of qualified employees of the JVC (see Technical Collaboration Agreement, Article IV) to visit and be trained at one or more of. . . . . 's plants to be decided by. . . . . , in order to become familiar with the methods of manufacturing the PRODUCTS. The said visits / training shall be provided for by . . . . . free of charge, but the JVC shall be responsible for the salaries, air fare, living expenses and any and all other costs incurred by such employees.
- 7.7 . . . . . shall assist the JVC in the selection of machinery, equipment and tools for the JVC and for establishing research and development facilities with respect to the PRODUCTS.
- 7.8 So long as . . . . . remains a shareholder of the JVC, . . . . . agrees :
- (a) that the JVC will be the only channel for its future activities in the field of development and production of the PRODUCTS in India and distribution of the PRODUCTS in India subject to clauses 7.14 and 18.6;
  - (b) that it will not associate itself with any other person in India or create any other subsidiary or office in India for any such activity without the prior written permission of . . . . .
  - (c) that after the JVC commences commercial production of any of the PRODUCTS, the JVC will be the only channel for distribution of its product/s sold, but not produced in India, and as appropriate, for any new product/s introduced by . . . . . into India subject to clause 7.14; and
  - (d) to enter into a Distribution and Sales Representative Agreement with the JVC for such product/s as per clause 7.14.
- 7.9 . . . . . agrees to enter into a Trade Marks Registered User Agreement with the JVC in respect of such of its trade marks relating to the PRODUCTS as are registered in India, and to grant to the JVC a separate Common Law Licence to use in India such of its trade marks relating to the PRODUCTS as are not so registered. The Registered User Agreement and the Common Law Licence shall be drawn in the standard form used by . . . . . with such modifications thereto as may be mutually agreed. Both the Agreements shall be granted by . . . . . to the JVC on a royalty free basis.
- 7.10.1 During the subsistence of this Agreement, if any technology developed by the JVC is transferred to . . . . . for use in manufacture of . . . . . , . . . . . agrees to pay to the JVC a technology

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- transfer fee which shall be mutually negotiated by and between . . . . . and the JVC.
- 7.10.2 If in the case of any of the Licenced Products covered by the Technical Collaboration Agreement to be entered into between . . . . . and the JVC, any technology shall be developed by the JVC, whether by improvement of the PRODUCTS or otherwise, no technology transfer fee will be payable by . . . . . to the JVC for such transfer.
- 7.11 All royalty payments herein shall be made by the JVC to . . . . . in half yearly instalments within 30 days from the close of each period of six months in any financial year of the JVC.
- 7.12 EXPORT
- 7.12.1 . . . . . and . . . . . shall consult to plan production and investment programme to enable the JVC to attain quality and price levels, which will not only allow it to gain a substantial share of the Indian market, the first priority, but will also enable it to be used by . . . . . 's worldwide marketing network as a significant sourcing operation for export sales out of India. The position and the strategy to be adopted shall be reviewed and decided by the Board of Directors of the JVC.
- 7.12.2 The JVC shall have an exclusive right to market the PRODUCTS as defined in Article I A of the Technical Collaboration Agreement in . . . . . As regards other countries, any business strategy of the JVC will be submitted to the Board of Directors of the JVC who will decide according to the procedures mentioned in Clause 10 of this Agreement whether this strategy is to be followed up, by which party and on what conditions. The parties to this Agreement recognise that there must be no infringement of existing contractual commitments of . . . . . in other countries. The Board shall also decide questions of branding and packaging in such cases. However, package will carry name of the JVC and country of origin, i.e. India. Decisions on export of PRODUCTS by the JVC must be decided by a majority of three (3) out of four (4) directors or any similar proportion as may result from a change in the number of directors. Questions referring to export of PRODUCTS by the JVC will be decided exclusively by the JVC and Clause 11, i.e. the Deadlock Clause shall not apply.
- 7.13 So long as . . . . . remains a shareholder in the JVC, . . . . . agrees to give to the JVC a licence of any new technology or know-how which . . . . . may develop in respect of the PRODUCTS, on terms and conditions to be mutually agreed.
- 7.14 . . . . . hereby agrees to appoint the JVC its Distributor for its other products in India for a period of 2 (two) years from the incorporation of the JVC upon terms to be agreed upon between . . . . . and the JVC for which purpose. . . . . and the JVC shall enter into a Distribution Agreement. Should the results be considered insufficient, . . . . . shall be free to terminate the Distribution Agreement after the initial period of 2 (two) years and seek other means of distribution of its products in India, barring those manufactured by the JVC.

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- 7.15 JVC shall possess its own sales force for marketing its PRODUCTS to customers for Original Equipment and Original Equipment Spares sales and PRODUCTS for industry. After-market sales for the automotive products shall be carried out by the sales organisation of . . . . . and the PRODUCTS will be sold to . . . . . for it to sell the same in the after-market, and for this purpose the JVC will enter into a Distribution Agreement with. . . . . which will be valid for a term of four (4) years initially and will be renewable by mutual consent at the end of the term.
- 7.16 The JVC shall upon its incorporation, ratify, consent to and agree to be bound by the Agreements mentioned in clauses 7.14 and 7.15.

**8. TRANSFER AND SALE OF SHARES**

- 8.1 Neither Party shall mortgage, pledge or charge the shares, except as collateral security to secure temporary loans obtained in the ordinary course of business, without the prior written authorisation from the other Party.
- 8.2 . . . . . and. . . . . agree that there will be a restriction on the transfer of shares to the extent that neither of them will be entitled to transfer its shareholding wholly or in part to any other person or party, save and except to the extent as follows:
- 8.2.1 The transfer of shares within the. . . . . Group and within the . . . . . Group shall be permitted with the prior written consent of the other party, which consent shall not be unreasonably withheld and subject to the condition that. . . . . and . . . . . shall at all times be responsible and liable to discharge all their obligations to the JVC and to each other. The word "Group" shall mean only the parent, holding, subsidiary, associate or affiliate company of. . . . . or. . . . . as the case may be.
- 8.2.2 Except as provided in clause. . . . ., . . . . . shall not sell or otherwise transfer to any third party all or any part of the shares owned by it in the JVC unless the said shares have first been offered to . . . . . at the fair market value as determined on the basis of the relevant audited financial statements of the JVC and certified in writing by the auditors of the JVC who in so doing, shall act as valuers and not as arbitrators or such value as is determined or permitted by applicable law. . . . . shall have twelve weeks after the receipt of the notice to accept such offer and, subject to its obtaining all necessary corporate, Government and other approvals, to pay in cash the full purchase price of the shares offered for sale within four weeks of receiving such approvals. If. . . . . shall decline to accept such offer, then in that event . . . . . will be entitled to offer the said shares to any third party (herein called "the Permitted Transferee"), PROVIDED however, that if . . . . . is unable to acquire any shares so offered by . . . . . because of restrictions imposed by the Indian Government, . . . . . shall, in that event, have a right to require. . . . . to sell the shares so offered to persons designated or approved by . . . . . who are legally capable of acquiring the said shares. PROVIDED further that, offer of shares for sale by. . . . . to a third party as aforesaid

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shall not be at a price lower than that which had been offered by . . . . . to . . . . . for a period of six (6) months from the date of such offer. After the expiry of the period of six (6) months, the offer shall expire.

- 8.2.3 . . . . . shall not sell or otherwise transfer to any third party all or any part of the shares owned by it in the JVC, unless the said shares have first been offered to . . . . . at the fair market value as determined on the basis of the relevant audited financial statements of the JVC and certified in writing by the auditors of the JVC who in so doing, shall act as valuers and not as arbitrators. . . . . . shall have twelve weeks after the receipt of the notice to accept such offer and, subject to its obtaining all necessary corporate, Government and other approvals, to pay in cash the full purchase price of the shares offered for sale within four weeks of receiving such approvals. If . . . . . shall decline to accept such offer, then in that event. . . . . will be entitled to offer the said shares to any third party (herein called "the Permitted Transferee"), PROVIDED however, that if . . . . . is unable to acquire any shares so offered by . . . . . because of restrictions imposed by the Indian Government, . . . . . shall, in that event, have a right to require . . . . . to sell the shares so offered to persons designated or approved by . . . . . who are legally capable of acquiring the said shares. PROVIDED further that, offer of shares for sale by . . . . . to a third party as aforesaid shall not be at a price lower than that which had been offered by . . . . . to . . . . . for a period of six (6) months from the date of such offer.
- 8.2.4 In any case, the party acquiring the said shares shall be required to sign an undertaking addressed to the non-selling party and to the JVC undertaking to observe and perform all the terms and conditions of this Agreement as if it had been a party thereto.
- 8.2.5 It is agreed that no shares in the JVC shall be transferred except in accordance with this Agreement or in such other manner as . . . . . and . . . . . shall agree in writing.
- 8.2.6 Nothing herein contained shall prevent . . . . . or . . . . . , subject to all necessary approvals, from selling, transferring or assigning any or all of its or their shares to a wholly owned subsidiary or any such corporation wholly owned by the holding company of . . . . . or . . . . . , PROVIDED that if either . . . . . or . . . . . or if the holding company or either of them disposes of its shareholding in such subsidiary or corporation, it shall offer such subsidiary's or corporation's entire shareholding in the JVC to the other of them.
- 8.2.7 If there is an agreed transfer of the shareholding of . . . . . in the JVC, . . . . . agrees that, in that case to ensure that . . . . . will continue to render or ensure the rendering of its full technological support to the JVC as provided in the Technical Collaboration Agreement between . . . . . and the JVC.
- 8.2.8 Notwithstanding anything contained hereinabove, if . . . . . or its . . . . . division shall be acquired or taken over by any other person, entity, company, or a body corporate which has either by itself or through an affiliate or subsidiary, made a material financial

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investment in, or granted manufacturing rights concerning any products similar to the Licenced Products to an Indian Company or body corporate, which is in direct or indirect competition with the JVC, or if . . . . . becomes a subsidiary or affiliate of any such company or body corporate,. . . . . shall have a right to terminate this Agreement under clause 24.3 hereof by giving or delivering a ninety days written notice to. . . . . Upon such termination, . . . . . shall sell its entire shareholding in the JVC to. . . . . , the purchase price being decided upon in terms of clause 8.2.2 hereof. The technology transferred by. . . . . to the JVC shall be continued to be utilised by the JVC and the Technical Collaboration Agreement entered into between. . . . . and the JVC shall be terminated.

8.2.9 Notwithstanding anything contained hereinabove, if . . . . . or any other. . . . . Group Company which has made a material financial investment in the JVC is acquired or taken over by any other person, entity, company, or a body corporate which has either by itself or through an affiliate or subsidiary made a material financial investment in, or granted manufacturing rights concerning any Products similar to the Licenced Products to an Indian Company or body corporate, which is in direct or indirect competition with the JVC, or if . . . . . or such. . . . . Group Company becomes a subsidiary or affiliate of any such company or body corporate,. . . . . shall have a right to terminate this Agreement under clause 24.3 hereof by giving or delivering a ninety days written notice to. . . . . Upon such termination, . . . . . shall sell its entire shareholding in the JVC to . . . . . , the purchase price being decided upon in terms of clause 8.2.3 hereof.

### **9. BOARD OF DIRECTORS**

9.1 The Board of Directors of the JVC shall consist of four (4) Directors or such other even number, as may be mutually agreed.

9.2 So long as. . . . . or other Group Companies shall own between forty (40%) per cent and fifty (50%) per cent of the total equity share capital of the JVC, . . . . . shall have the right to appoint two (2) Directors (or other number as per clause 9.1); if . . . . . and or other Group Companies' shareholding falls below forty per cent (40%) but not below twenty five per cent (25%),. . . . . shall have the right to appoint one (1) Director; under twenty five per cent (25%) will not appoint any director; these shall not be liable to retire by rotation.. . . . shall have the right to remove any such Director or Directors and to appoint another or others in his or their place and fill any vacancy in the office of such Director or Directors. If. . . . . 's equity stake falls below twenty five per cent (25%), . . . . . may nonetheless invite . . . . . to appoint a director to the Board for consultative purpose. Such a director will, however, no longer possess the powers as per Clause 10.

9.3 Similarly, so long as . . . . . or other Group Companies shall own between forty (40%) per cent and fifty (50%) per cent of the total equity share capital of the JVC, . . . . . shall have the right to appoint two (2) Directors (or other number as per clause 9.1); if.

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- . . . . . and or other Group Companies' shareholding falls below forty per cent (40%) but not below twenty five per cent (25%),. . . . . shall have the right to appoint one (1) Director; under twenty five per cent (25%) will not appoint any director; these shall not be liable to retire by rotation.. . . . shall have the right to remove any such Director or Directors and to appoint another or others in his or their place and fill any vacancy in the office of such Director or Directors. If. . . . . 's equity stake falls below twenty five per cent (25%),. . . . . may nonetheless invite . . . . . to appoint a director to the Board for consultative purpose. Such a director will, however, no longer possess the powers as per Clause 10.
- 9.4 In the event. . . . . 's and / or its other Group Companies' or . . . . . 's and / or its other Group Companies' shareholding increases beyond 60% it shall have the right to appoint three (3) Directors or such other number as will be in the proportion of two-third and one-third of the total number of Directors.
- 9.5 In the event that the Directors of the JVC are liable to retirement by rotation under the Act, the retirement and reappointment of the Directors shall take place in accordance with the provisions of the Act.
- 9.6 . . . . . and . . . . . agree to use their voting rights to effectuate the said system of appointment and election of Directors elaborated herein.
- 9.7 Neither. . . . . nor. . . . . shall be entitled to remove the Director or Directors nominated or appointed by the other.
- 9.8 Not less than thirty (30) days notice, excluding public holidays, (as defined in the Act or any reenactment thereof), shall be given of meetings of the JVC's Board of Directors to all Directors whether in India or outside India, by registered airmail and facsimile (called FAX) and. . . . . 's written confirmation of receipt of this FAX. An emergency meeting of the Board may be held on giving fourteen (14) days notice by FAX. However, in either case, a copy of the notice shall be sent by FAX to the Directors who will be for the time being outside India. No Board Meeting shall be held without a quorum comprising at least one (1) director appointed by . . . . . and . . . . .
- 9.9 The Board of Directors shall, at the request of any Director who is absent from the State of Maharashtra for a period of not less than three months, appoint a person of the choice of . . . . . or. . . . . , as the case may be, as alternate Director on the Board.
- 9.10 Any vacancy on the Board of Directors may be filled by the party which had nominated or appointed the Director whose place on the Board has become vacant.
- 9.11 One of the Directors appointed by . . . . . shall be appointed as Chairman of the JVC's Board for the first two years of the operations of the JVC from the date of incorporation of the JVC. The Chairman shall be liable for re-election. Should the party of which the Chairman is a nominee Director disengage itself from the JVC, the Chairman shall automatically tender his resignation from the post.

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- 9.12 The JVC shall also have a Vice Chairman who shall preside at meetings of the Board of Directors or of the shareholders in the absence of the Chairman. The Vice Chairman shall be a Director selected mutually by . . . . . and. . . . .
- 9.13 In the event of an equality of votes at any meeting of the shareholders or of the Board of Directors, the Chairman shall not have a second or casting vote.

**10. POWERS OF THE BOARD**

Neither the JVC itself, nor the JVC's Board of Directors, nor a committee thereof, (whether at a Board meeting or at a committee meeting or by circular resolution or otherwise) nor its Managing Director / Chief Executive Officer nor any other Director or Officer shall take any action in respect of any of the matters specified below, except upon the affirmative vote of a majority of the Directors, which majority shall include at least one (1) of the permanent non-retiring Directors respectively appointed or nominated by. . . . . and . . . . . under clauses 9.2 and 9.3 hereof;

- 10.1 Employment or removal of the Chief Executive Officer or Managing Director / Whole-time Director of the JVC, or the Heads of -  
(a) Marketing, or  
(b) Finance, or  
(c) Production.
- 10.2 Negotiating for or taking long term loans (for a term exceeding 24 months) or an amount exceeding Rs. . . . . (rupees. . . . . . . . . . .) or altering any material term or condition of any such loan.
- 10.3 Creating any mortgage, charge or other encumbrance on or in respect of any of the JVC's properties or assets.
- 10.4 Increasing or reorganising the authorised or subscribed share capital of the JVC.
- 10.5 The issue of further shares from the authorised, but unissued share capital.
- 10.6 The issue of preference shares or debentures, whether convertible, non-convertible or partly convertible.
- 10.7 Short term borrowings (term not exceeding twenty-four [24] months), in excess of ten per cent [10%] of the amount of the gross sales turnover of the JVC as disclosed in its latest audited Profit and Loss Account for the last preceding financial year of the JVC, (hereinafter referred to as 'the Turnover').
- 10.8 Recommending a dividend or paying an interim dividend.
- 10.9 Filling vacancies on the Board of Directors other than those Directors nominated or appointed by . . . . . or. . . . .
- 10.10 Entering into contracts with. . . . . or . . . . . or companies, firms or other persons affiliated or interested with or related to either of them.
- 10.11 Entering into any contract, the term of which exceeds two (2) years and the value of which exceeds five per cent [5%] of the Turnover other than normal contracts entered into in the ordinary course of business.
- 10.12 Purchasing, leasing or otherwise acquiring machinery, equipment or other assets having a value, in any single transaction, of more than five per cent [5%] of the Turnover.

## JOINT VENTURE AGREEMENT

- 10.13 Purchasing, leasing or otherwise acquiring or selling or otherwise transferring any immovable property, or any interest in such immovable property owned by the JVC, of any value.
- 10.14. Providing loans to third parties or guaranteeing the obligations of third parties, other than loans to, or guarantees concerning employees of the JVC, in either case of an amount exceeding Rs. . . . . . (rupees. . . . . ) per transaction.
- 10.15 Supplying goods or services on credit or generating accounts receivable or advances to suppliers and/or ancillaries of an amount exceeding five per cent [5%] of the Turnover in any single transaction, within a ceiling of ten per cent [10%] of the Turnover in any fiscal year of the JVC.
- 10.16 Formulating or approving long term management plans, annual financing, operating, production and sales plans and capital budgets, manpower and personnel compensation plans and counter measures against labour disputes, formulating of R&D plans and working programmes, and any material modifications thereto.
- 10.17 Selling, exchanging or otherwise transferring any machinery, equipment or other assets of the JVC having a value, in any transaction, of more than five percent of the Turnover.
- 10.18 Undertaking any new business or substantially expanding the business contemplated hereunder.
- 10.19 Recommending to the members a firm of Chartered Accountants to be appointed as auditors of the JVC.
- 10.20 Negotiating for or acquiring any licence or right from third parties in respect of manufacturing technology, patents, trademarks or other intellectual property.
- 10.21 Granting any sub-licence in respect of technical knowhow, trade secrets, patents, copyright or other intellectual property obtained by the JVC from . . . . . or any third party.
- 10.22 Instituting, except in the case of an emergency, abandoning or compromising any action, suit or other legal proceedings, except in the case of routine debt collection matters.
- 10.23 Negotiation for or forming a subsidiary of the JVC or subscribing to the equity shares of any other company.
- 10.24 Negotiating for the merger or amalgamation of, or merging or amalgamating the JVC, with any other company, or negotiating for the sale of, or selling its undertaking or undertakings to any third party.
- 10.25 Adopting or modifying trade marks for use on the PRODUCTS manufactured by the JVC.
- 10.26 Changing or relocating the registered office or principal place of business of the JVC.
- 10.27 Considering or approving any matter concerning the winding-up of the JVC or the notification of its financial status to any statutory authority.
- 10.28 Calling, convening or adjourning any annual or extraordinary general meeting of the members of the JVC, and the approval of the draft notice convening such meetings, and the approval of the Balance Sheet and Profit and Loss Account to be submitted to the shareholders at such meetings.

## JOINT VENTURE AGREEMENT

- 10.29 Altering the objects clause in the Memorandum of Association of the JVC.
- 10.30 Lending or advancing any money to Directors or their relatives.
- 10.31 Changing in any way the Articles of Association.
- 10.32 Decisions concerning the marketing and sales strategy of the JVC, except as provided in Clause 7.12.2.
- 10.33 Decisions concerning the voluntary liquidation of the JVC.
- 10.34 Decisions concerning the remuneration of Directors, subject to the provisions of the Act or any re-enactment thereof.
- 10.35 Any other important policy matters to be agreed upon in writing by . . . . . and . . . . .

### **11. DEADLOCK**

If no resolution or decision can be passed or taken by the Board at its meeting in respect of any of the matters listed in Clause 10 or clause 5.3 of this Agreement, as the case may be, giving rise to a deadlock or an impasse between. . . . . and . . . . ., the Parties shall convene another Board meeting within a period of 20 days from the date on which such deadlock or impasse arose, and shall use their best efforts to resolve such deadlock or impasse to their mutual satisfaction through negotiations conducted in good faith. If at such Board meeting, the above deadlock or impasse continues to remain unresolved, then and in such event, within sixty (60) days of such deadlock or impasse continuing, the Parties shall hold a special meeting of the Chairman of. . . . . and the Managing Director of . . . . . to resolve the deadlock or impasse. Any decision taken at such special meeting shall be final and binding on the Parties. In the event such deadlock or impasse is not resolved at such special meeting, then the deadlock or impasses shall be referred to arbitration in accordance with the provisions of Clause 37 of this Agreement.

### **12. APPROVAL OF SHAREHOLDERS**

In case any of the matters specified in sub-clauses 10.1 to 10.35 requires to be approved by the shareholders of the JVC, the said approval shall be accorded by a special resolution passed at a general meeting.

### **13. MANAGEMENT OF THE JVC**

- 13.1 The JVC shall have its own professional management. The JVC shall have a Managing Director / Chief Executive Officer who will be responsible for the management of the JVC.
- 13.2 The appointment, reappointment or removal and the terms and conditions of service of the Managing Director / Chief Executive Officer shall be determined by the Board of the JVC.
- 13.3 The Managing Director / Chief Executive Officer shall function subject to the supervision, direction and control of the Board of Directors and on such terms and conditions as are approved by the Board of Directors of the JVC, and, if required by law, by the shareholders or the Government of India. The Managing Director / Chief Executive Officer shall be entrusted with such substantial powers of management as the Board may decide from time to time

## JOINT VENTURE AGREEMENT

and be in charge of and responsible to the JVC for the conduct of the business of the JVC and shall be responsible to ensure full and due compliance with all the statutory laws, rules and regulations required to be complied with by the JVC and/or by the Board of Directors of the JVC.

13.4 The JVC shall have a Company Secretary, who will be responsible for the compliance with, and ensure that there should be no default, non-compliance, failure, refusal or contravention of any of the statutory provisions and in particular the provisions of the Companies Act, 1956, or any other laws, rules, regulations or directions which the JVC or its Directors is or are required to observe, perform or implement.

13.5 Qualified and experienced managerial, technical, marketing and other officials shall be appointed for the operation and conduct of the business of the JVC after mutual consultation between. . . . . and . . . . .

### **14. AUDITORS AND LEGAL ADVISERS**

14.1 The annual audit of the books of account of the JVC shall be made each year immediately following the close of the financial year, by a chartered accountant appointed after having been selected jointly by . . . . . and . . . . .

14.2 The legal advisers and solicitors of the JVC shall be appointed by the Board of the JVC after having been selected jointly by . . . . . and . . . . .

### **15 BOOKS OF ACCOUNT**

15.1 The JVC shall maintain its books of account in the English Language. They shall be open for inspection by the authorised representatives of . . . . . and . . . . . A regular monthly reporting system will be established by and for the Board of Directors.

15.2 The financial year of the JVC shall be a period of twelve months, April to March. The accounting year of the JVC for Indian tax purposes shall be the fiscal year prescribed by the Income tax Act, 1961, which at present is a period of twelve months from April 1 to March 31.

### **16 DIVIDEND POLICY**

The Board of Directors of the JVC shall have the authority to determine, subject to any requirements of the Indian laws, the amount and timing for the declaration and payment of any dividend or the making of any other distribution of its profits by the JVC. . . . . and . . . . . agree that, subject to the provisions of the Act and other applicable laws, the JVC shall declare and pay at least 33% (thirty-three per cent) of after tax profits subject to the exigencies of business and unless otherwise decided by the shareholders and repatriate the dividend to. . . . . within 42 days (forty two) days of its declaration by bank transfer to . . . . . as per the latter's instructions. The JVC shall strive to declare a dividend corresponding to at least 20 (twenty) percent return on investment by the Parties subject to available / surplus profits.

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### **17 REGULATION OF ACQUISITION OF EQUITY INTERESTS**

Neither . . . . . nor . . . . . shall at any time, either directly or indirectly, acquire or attempt to acquire the whole or any part of the equity interest in the capital of each other, whether by themselves or by their holding, subsidiary, affiliate or associate company.

### **18. NON COMPETITION**

- 18.1 . . . . . covenants that during any period in which . . . . . holds shares in the JVC or the JVC is continuing in the business of the manufacture and sale of the Products in accordance with the Technical Collaboration Agreement, . . . . . will not control or engage directly or indirectly in accordance with the Technical Collaboration Agreement either as owner, partner, shareholder or otherwise, save as a nominal shareholder for information purposes, in any business carried on in India competing with the Products. . . . . . will ensure that this applies also to other companies belonging to the same group as \_\_\_\_\_ and its subsidiary companies.
- 18.2 \_\_\_\_\_ covenants that as long as it holds shares in JVC it will arrange to supply components and machinery to the JVC against written orders and on payment at prices mutually agreed from time to time.
- 18.3 \_\_\_\_\_ covenants that so long as \_\_\_\_\_ holds shares in the JVC or the JVC is continuing in the business of the manufacture and sale of the Products in accordance with the Technical Collaboration Agreement with \_\_\_\_\_, or subsequent agreements with \_\_\_\_\_ of similar nature \_\_\_\_\_ shall not either directly or indirectly enter into any agreement or arrangement with any party to manufacture and / or to sell any similar or competing Products. \_\_\_\_\_ will ensure that this applies also to its subsidiary companies.
- 18.4 \_\_\_\_\_ covenants that as long as it holds shares in the JVC it will arrange to supply components and machinery to the JVC against written orders and on payment at prices mutually agreed from time to time.
- 18.5 \_\_\_\_\_ and \_\_\_\_\_ covenant that they will similarly not enter directly into or allow the JVC to enter into any agreement or arrangement with any party that could be prejudicial to the interests of either Party.
- 18.6 \_\_\_\_\_ further agrees that it shall not license or transfer any technical knowhow in respect of any of the PRODUCTS for the manufacture of the same in India by any third party as long as \_\_\_\_\_ or any other company in the \_\_\_\_\_ group has an equity interest in the JVC unless for imperative commercial reasons and then only with the prior written approval of the JVC, which consent shall not be unreasonably withheld.

### **19 TECHNICAL COLLABORATION AGREEMENT**

- 19.1 \_\_\_\_\_ and \_\_\_\_\_ shall cause the JVC to execute the Technical Collaboration Agreement and, upon grant to the JVC of necessary permissions from the Government Authorities of India, cause the JVC to commence the establishment and operation of the factory to manufacture and market the PRODUCTS.

- 19.2 If in process of reviewing the Technical Collaboration Agreement lodged with it for filing, the RBI requires any modification thereof, \_\_\_ and \_\_\_ shall consult with each other and with RBI and shall endeavour to comply with such requirements.

**20 PRE-FORMATION COSTS**

\_\_\_ and \_\_\_ will bear their own costs, in relation to the formation of the JVC contemplated by this Agreement, except the expenses incurred for the formation and incorporation of the JVC which will be borne and paid for by the \_\_\_ and reimbursed by the JVC after its incorporation.

**21. MEMORANDUM AND ARTICLES OF ASSOCIATION**

21.1 \_\_\_ and \_\_\_ agree that no resolution for the amendment of the Memorandum or of the Articles of Association of the JVC shall be passed in any meeting of the JVC or its Board, unless mutually agreed to in advance in writing.

21.2 It is expressly agreed that whether or not the Memorandum and/or the Articles of Association of the JVC fully incorporate the provisions of this Agreement or any of them, \_\_\_'s and \_\_\_'s rights and obligations shall be governed by this Agreement which shall prevail in the event of any ambiguity or inconsistency between the two.

21.3 \_\_\_ and \_\_\_ agree to ensure that the JVC will duly adopt, ratify and confirm this Agreement and that it shall, if so required and agreed, be made a part of its Articles of Association by an alteration of the Articles of Association of the JVC.

**22. CONFIDENTIALITY AND EXCLUSIVITY**

22.1 Neither \_\_\_ nor \_\_\_ will discuss or negotiate with any other corporation, firm or other person, or entertain or consider any inquiries or proposals relating to the manufacture in India of the PRODUCTS save with prior written agreement of the other Party.

22.2 \_\_\_ and \_\_\_ agree not to discuss, negotiate or enter into any similar arrangement for the manufacture, marketing or sale in India of the PRODUCTS without the prior written agreement of the other Party.

22.3 All proprietary or confidential information shall be transmitted in writing with a marking on such transmittals of the term 'confidential' or words to that effect. In the event proprietary or confidential information is transmitted verbally, the transmitting party shall within thirty days after such verbal transmission, advise the receiving party, in writing of the fact that such information is proprietary and confidential. Proprietary and confidential information shall not include information which has been disclosed to third parties, is previously known to the receiving party, or which the third party learns of through a third party who legitimately possesses such information, or which is independently developed by the receiving party. In order to further the joint venture contemplated herein, it may be necessary for \_\_\_ and \_\_\_ to reveal to each other certain information concerning operations or technical knowhow

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which is of a proprietary or confidential nature. Both \_\_\_\_ and \_\_\_\_\_ agree to keep confidential all proprietary and confidential information disclosed by each to the other and not to disclose any such information for their own purposes. At each other's request, both \_\_\_\_ and \_\_\_\_\_ will promptly return any drawings, plans, specifications, equipment, lists or other documents that may have been supplied by one to the other.

### **23. TERM**

This Agreement shall commence upon the effective date hereof, and subject to the provisions hereof, shall thereafter continue in full force and effect until terminated in accordance with the provisions contained herein.

### **24. TERMINATION**

This Agreement may be terminated :

- 24.1 By the mutual consent of \_\_\_\_ and \_\_\_\_\_.
- 24.2 This agreement shall be terminated in the following events:
  - 24.2.1 If either \_\_\_\_ or \_\_\_\_\_ goes into liquidation, whether voluntary or compulsory, or becomes insolvent, or makes a composition with its creditor, or if any law for the relief of financially sick companies becomes applicable to it or if a receiver is appointed to take possession of its undertaking, property or assets.
  - 24.2.2 In the event there is a substantial change in the ownership or management of the other Party.
  - 24.2.3 In the event the Technical Collaboration Agreement shall be prematurely terminated for whatever reason in accordance with the provisions thereof.
  - 24.2.4 In the event the JVC becomes insolvent or goes into liquidation or has a receiver appointed to take possession of its undertaking or makes a composition with its creditors or ceases to carry on business.
- 24.3 In respect of clauses 24.2.1 to 24.2.4 hereinabove, the Agreement shall be terminated by either party by giving the other party which is affected by any of the said events, not less than ninety (90) days written notice on the expiry of which notice, this Agreement shall stand terminated.
- 24.4 If either \_\_\_\_ or \_\_\_\_\_ shall have committed or knowingly permitted a breach of any of the covenants, conditions or agreements hereinbefore contained and on its part to be performed or observed, the party not in default may serve on the party in default a notice specifying the breach in writing, and requiring it within ninety days to make good the same in the case of a breach capable of being made good, or to pay the party or parties that has / have served such notice adequate compensation in the case of a breach not capable of being made good, and if the party served with such notice shall not within the period of ninety (90) days aforesaid comply with the said notice, then the party that served such notice may serve on the other, thirty days (30) notice in writing to terminate this Agreement and on the expiry of the said notice, this Agreement shall stand absolutely terminated. No right or remedy contained in this Agreement is intended to be exclusive of any other right

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or remedy, and each and every right or remedy given hereunder shall be cumulative and in addition to any other right or remedy now or hereafter existing in law, or in equity or by statute.

- 24.5 In the event that the laws or regulations of the Republic of India or ..... Country shall at any time be or become such that this Agreement cannot continue to be enforced or performed according to its terms, including without limitation, the ability of \_\_\_ or \_\_\_\_\_ if they so desire to retain their respective ownership and voting interests in the JVC in accordance with this Agreement, then \_\_\_ and \_\_\_\_\_ shall endeavour to make appropriate changes in this Agreement or in the Articles of Association of the JVC for the satisfactory continuation of this joint venture. In case such endeavour does not succeed, either party shall have the right to terminate this Agreement by serving upon the other a written notice of not less than ninety (90) days.
- 24.6 In case the termination arises through a default by either \_\_\_ or \_\_\_\_\_ as hereinbefore mentioned, the one not in default shall at its option, subject to all necessary approvals and applicable laws, have the right to purchase and/or to name a purchaser or purchasers of the shares and other financial interest of the defaulting party in the JVC at the fair market value thereof to be certified by the Auditors of the company and such option shall be exercised by a notice in writing served on the defaulting party by the one not in default within ninety days from the termination of this Agreement. In case the termination arises by virtue of Article 24.5 hereinabove, the party other than the one whose country's laws or regulations make the continuation of this Agreement impossible, and the endeavour to make appropriate changes in the Agreement or articles of association does not succeed, shall at its option, subject to all necessary approvals and applicable laws, have the right to purchase and/or to name a purchaser or purchasers of the shares and other financial interest of the other party in the JVC at the fair market value thereof to be certified by the Auditors of the company and such option shall be exercised by a notice in writing served on the other party within ninety (90) days of the termination of this Agreement.
- 24.7 The termination of this Agreement shall be without prejudice to any claim or rights of action previously secured to it by one Party against the other Party. The JVC shall on either Party selling its / his shares in the JVC continue its activities as the Venture of the Party except that the JVC will not use the name of \_\_\_\_\_ in any manner and for any purpose whatsoever unless \_\_\_\_\_ is not a selling but a surviving Party.
- 24.8 In the event that either \_\_\_ or \_\_\_\_\_ is not a selling but a surviving Party, the JVC shall change its name so as to delete therefrom the word '\_\_\_\_\_' or '\_\_\_\_\_' as the case may be and in the event of termination of this Agreement, the JVC shall change the name of the company so as to include no longer the name of the terminating Party, within a period of three (3) months from the date of such termination. Similarly, if \_\_\_\_\_ is the selling Party, no Products sold later than six (6) months after the date of such

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termination shall bear the name of \_\_\_\_\_ and all written reference to \_\_\_\_\_ by \_\_\_\_ or the JVC shall be stopped.

- 24.9 \_\_\_\_\_ and \_\_\_\_\_ shall use their best efforts to obtain from the appropriate agencies of the Government of India, all consents, approvals, licences, permissions, validations or authorisations in form and substance satisfactory to both parties that may be required and necessary for the execution, delivery, performance and observance of all the provisions of this Agreement by the JVC.
- 24.10 In the event that such necessary approvals, licences or validations are not obtained within 180 (one hundred and eighty) days from the date of signature of this Agreement by the Parties and unless extension of the said period is agreed upon in writing by \_\_\_\_ and \_\_\_\_\_, either Party shall have the right to declare this Agreement null and void.

**25. NON-WAIVER**

Non-admission or delay on the part of any party hereto in requiring the due and punctual fulfillment by any other party or parties hereto of the obligations of such other party hereunder shall not be deemed to constitute a waiver by the omitting or delaying party of any of its rights to require such due and actual fulfillment.

**26. CONSTRUCTION**

- 26.1 This Agreement sets forth the entire Agreement and understanding among the parties with respect to the subject matter hereof and merges all discussions and negotiations among them, and none of the parties shall be bound by any conditions, warranties, understandings or representations with respect to such subject matter other than those expressly provided herein or duly set forth on or subsequent to the date hereof in writing and signed by a proper and duly authorised officer of the party to be bound thereby.
- 26.2 The Articles, paragraph and other headings contained in this Agreement are for general reference and guidance and shall not be conclusive as to the meaning or interpretation of this Agreement.
- 26.3 The words and expressions not expressly defined in this Agreement shall, as far as permissible, bear the same meaning as understood in the Act, or any statutory modification thereof in force at the time of entering into this Agreement.
- 26.4 If any provision of this Agreement is invalid or unenforceable or prohibited by the Law of the Country where it is to be performed, this Agreement shall be considered divisible as to such provision and such provision shall be inoperative and shall not be part of the consideration moving from either Party to the other and the remainder of this Agreement shall be valid and binding and of like effect as though such provision was not included herein.
- 26.5 All remedies of either Party under this Agreement whether provided herein or conferred by statute, civil law, common law custom or trade usages, are cumulative and not alternative and may be enforced successfully or concurrently.
- 26.6 Nothing contained in this Agreement shall be deemed to constitute a Party as the agent of the Party for any reason or purpose whatsoever.

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### **27 COUNTERPARTS**

This Agreement shall be executed simultaneously in three (3) or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one (1) instrument.

### **28 AMENDMENTS**

This Agreement shall not be amended, altered or modified except by an instrument in writing expressly referring to this Agreement and signed by \_\_\_ and \_\_\_\_\_ and approved where necessary by the Government of India / RBI.

### **29 NON-ASSIGNMENT**

\_\_\_ and / or \_\_\_\_\_ shall not transfer or assign its rights, obligations or liabilities under this Agreement to any third party (other than subsidiaries or associates or affiliates, that is companies under its management and control) and such rights shall not inure to the benefit of any other person or company including any trustee in bankruptcy, receiver or other successor of either \_\_\_ or \_\_\_\_\_, whether by operation of law, sub-licence, transfer of the business or assets, merger, liquidation or otherwise without prior written consent of the other and any such actual or purported assignment or transfer without the consent of \_\_\_ or \_\_\_\_\_ as the case may be, shall be null and void. This Agreement shall be binding upon the parties hereto and their respective successors and assigns, without prejudice to the aforesaid.

### **30 ADDITIONAL DOCUMENTS**

Each party hereto shall promptly execute and deliver such additional documents as are reasonably required by any other party hereto for the purpose of implementing this Agreement, provided that no such document shall be inconsistent with the provisions hereof.

### **31 INDEPENDENT PARTIES**

\_\_\_ and \_\_\_ shall act in all matters pertaining to this Agreement as independent parties and nothing contained herein shall constitute either of them the agent or the partner of the other.

### **32 REPRESENTATIONS AND AUTHORITY**

32.1 Each party represents and warrants that it is permitted by its respective corporate charter and incorporating documents to enter into this Agreement, and is not restrained, prevented or inhibited by any contract or arrangement to which it is a party from entering into this Agreement or undertaking the obligations herein contained.

32.2 Each signatory to this Agreement represents and warrants that he is duly authorised by the party for and on whose behalf he is signing this Agreement to execute the same in a manner binding upon the said party and that all corporate approvals and procedures necessary for vesting such authority in him have been duly obtained and complied with.

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**33 ACKNOWLEDGMENT BY JVC**

The JVC hereby acknowledges, adopts and ratifies this Agreement, and pledges itself to faithfully observe each provision of this Agreement in so far as it is applicable to or binding on the JVC.

**34 INDEMNITY**

All warranties and representations made in this Agreement and in the Assignment of Business between \_\_\_\_ and the JVC (the 'Assignment') may be enforced against \_\_\_\_ either by the JVC or by \_\_\_\_\_. All indemnities on the part of \_\_\_\_ expressed or implied in this Agreement, and in the Assignment shall apply to and be enforceable not only by the JVC, but (subject to applicable Government approvals) by \_\_\_\_\_.

**35 FORCE MAJEURE**

Notwithstanding anything to the contrary in this Agreement, a party hereto shall not be liable to the other party or parties for any loss, injury, delay, damages or other injury suffered or incurred by such other party due to strikes, lockouts, riots, storms, fire, explosions, act of God, war, whether declared or not, Government or Police action or any other cause which is beyond the reasonable control of such party, nor shall any failure or delay by either party hereto in the performance of any of its obligations under this Agreement due to one or more of such causes be construed as a breach of this Agreement or any of the Agreements as the case may be for the purpose of it being considered as a default under the termination clause or for any other purpose.

In case the Force Majeure clause comes into force, the party which invokes this clause shall intimate to the other party and shall make all possible efforts for early removal of such condition of Force Majeure.

**36 GOVERNING LAW**

This Agreement (except the arbitration clause 37) shall be governed by and construed in accordance with the laws of India.

**37 ARBITRATION**

Any dispute or difference arising under or in connection with this Agreement or any breach thereof, which cannot be settled by friendly negotiation and Agreement among the parties, shall be finally settled by arbitration in accordance with the Rules of the ..... Chamber of Commerce, ....., India. The arbitration proceedings shall be held in ....., India. The arbitration Agreement and the arbitration proceedings shall be governed by the laws of India. The award of the Arbitration Court of Chamber shall be final and binding upon the parties hereto.

**38 NOTICES**

All notices and other communications in respect of this Agreement shall be given in writing in English by registered airmail, postage prepaid, or by telex or facsimile to the party entitled thereto at its

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address set forth below, or such other address as it shall hereafter designate for this purpose :

\_\_\_\_\_  
\_\_\_\_\_

Place ..... Country.....  
Attn. : Company Secretary

Fax : \_\_\_\_\_  
Telex : \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Fax : \_\_\_\_\_  
Telex : \_\_\_\_\_

JVC \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Fax : \_\_\_\_\_  
Telex : \_\_\_\_\_

SIGNED AND DELIVERED for and on behalf of the  
within named .....  
by Shri .....

Title : Vice Chairman and Managing  
Director, in the presence of

SIGNED AND DELIVERED for and on  
behalf of the within named  
..... by  
Shri. .... ;  
Title Member of the Board of Management  
Development & Sales, in the presence of

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JOINT VENTURE AGREEMENT

SIGNED AND DELIVERED for and on  
behalf of the within named \_\_\_\_\_  
PRIVATE LIMITED by, Shri \_\_\_\_\_,  
Title : Director, in the presence of

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\_\_\_\_\_