

COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION OF ABC Pvt. Ltd.

Table 'A'

1. Regulations contained in Table 'A' in the First Schedule to the Companies Act, 1956 (hereinafter referred to as Table 'A') shall apply to the Company in so far as they are not inconsistent with these Articles.
2. Regulations 36 to 43 and 64 to 66 of Table A shall not apply to the Company.

Definitions

3. The following expressions shall have the meaning assigned to them herein below unless there be something in the subject or context inconsistent therewith:
“ The Act” means the Companies Act, 1956, as amended from time to time.
“ The Agreement” shall mean the Shareholder’s Agreement between **ABC Pvt. Ltd.** and XYZ Private Limited dated..... , 20.....
along with annexures thereto and shall include any modification, alteration, addition
or deletion thereto agreed between the parties in writing after the effective date of this Agreement.

The “..... Group” means Mr. (name) son of Mr. (name), resident of (address), representing himself and certain other companies, individuals and entities specified in Schedule 1 to Shareholders Agreement, all of whom are collectively referred to hereinafter as the

“**ABC Pvt. Ltd.**”

“ Board” means the Board of Directors of the company or the Directors present at a duly convened meeting of the Directors at which quorum is present.

“ Company” means Beta Private Limited.

“ Director(s)” means the Director(s) for the time being of the company including Additional Director(s) and Alternate Director(s) as the case may be, the Directors assembled at a Board, or acting under a Circular Resolution under the Articles.

“ Office” means the Registered Office for the time being of the company.

“ The Register” means the Register of Members to be kept pursuant to the Act.

“ The Chairman” means the Chairman of the Board of Directors for the time being of the Company.

“ Documents” including summons, notice, requisition other legal process and registers, whether issued, sent or kept in pursuance of this or any other Act or otherwise.

“ Members” means the duly registered holders, from time to time of the shares of the Company and includes the subscribers to the Memorandum of the

Company.

“ Month” means the calendar month.

“ The Registrar” means the Registrar of the Companies,.....

“ The Register of Members” means the register of members to be kept pursuant to section 150 of the Act.

“ Shares” means the shares or stocks into which the capital of the Company is divided and interest corresponding with such shares or stocks except where a distinction between stocks and shares is expressed or implied.

“ Year” means the calendar year and “Financial Year” shall have the meaning assigned thereto by section 2(17) of the Act.

Private Company

4. The company is a Private Limited Company, within the meaning of section 3(1)(iii) of the Companies Act, 1956 and accordingly:

(a) The number of members of the Company (exclusive of the persons who are in the employment of the Company and persons or who having been formerly in the employment of the Company, were members of the Company while in that employment and have continued to be members after the employment ceased) is not to exceed fifty. Provided that where two or more persons hold one or more shares in the Company jointly, they shall for the purposes of this clause be treated as a single member;

(b) Any invitation to the public to subscribe for any shares or debentures of 62 Corporate and Commercial Agreements the Company is hereby prohibited; and

(c) The right of transfer of shares shall be restricted as hereinafter provided.

Authorised Capital

5. The Authorised share capital of the company is Rs. (amount in figures and words) divided into (quantity of shares in figures and words) Equity shares of Rs. (amount in figures and words) each payable in the manner as may be determined by the Directors, from time to time, with power to increase, reduce, sub-divide or to repay the same or to divide the same into several classes and to attach thereto any right and to consolidate or sub-divide or re-organise the shares subject to the provisions of the Act, to vary such rights as may be determined in accordance with the regulations of the Company.

6. In regulation 13 of Table ‘A’ the words “provided that no call shall exceed one fourth of the nominal value of the share or be payable at less than one month from the date fixed for the payment of the last proceeding call” shall be omitted.

7. The shares may be issued against consideration other than cash.

8. The calls on any partly paid up shares in the Company and any further

issue of shares shall be made by the Company in accordance with the provisions of Articles and upon taking into account financial requirements of the Company.

Issue of Capital

9. If and when the Company desires to increase the paid-up share-capital, whether by a further issue of equity shares or preference shares, the additional shares shall be offered in the first instance to the existing holders of the shares by way of rights issue in proportion to the capital paid-up on the shares (whether equity or preference) held by them at the time so as to maintain the ownership structure within the Company except when issued under Article 13 hereof.

10. The new shares shall be issued upon such terms and conditions and with such rights and privileges annexed thereto as the general meeting resolving upon the creation thereof, shall direct and if no direction shall be given, as the Board shall determine, and in particular such shares may be issued with a preferential or qualified right to dividends, and in the distribution of assets of the Company and with a special or without any voting right.

Additional Contribution

11. The Shareholders shall contribute additional capital to the Company, in proportion to their respective shareholding percentages (each such contribution being referred to as an "Additional Contribution"), as required by the Company to implement its projects envisaged in the Agreement.

12. Each Shareholder shall, unless otherwise specified herein, pay the amount of its pro-rata share of the Additional Contribution, in accordance with the following procedure:

a. The Board of Directors shall issue a notice ('Payment Notice') to the Shareholders setting forth each Shareholder's pro-rata share, based on its shareholding percentage of such contribution and specifying the date on which payment is required to be made.

b. The Shareholders shall, on or before the date specified in the Payment Notice, remit immediately available funds as specified in the Payment Notice to the Company's bank account(s) designated in the Payment Notice.

c. Against the amounts contributed by the Shareholders pursuant to this Article the Board of Directors shall issue to each Shareholder such additional number of Shares, credited as fully paid, as are necessary to

reflect such Shareholder's pro-rata share of the relevant contribution.

13. The Board of Directors may issue the further share to the person(s) who may not be the shareholders of the Company with previous approval of the Shareholders accorded by passing a resolution at a general meeting by consensus vote.

Transfer of Shares

14. The Company shall keep a register of transfers, and therein shall be fairly and distinctly entered particulars of every transfer or transmission of any Share.

15. The instrument of transfer shall be in writing and all the provisions of section 108 and other applicable provisions of the Act shall be duly complied with in respect of all transfers of Shares and registration thereof. The Company shall not charge any fee for registration of transfer of Shares.

16. Except where the transfer is made pursuant to Article 21 hereof the person proposing the transfer of any share (hereinafter called 'the Proposing Transferor') shall give notice in writing (hereinafter called a 'Transfer Notice') to the Company that he desires to transfer the shares. A Transfer Notice shall specify the number of shares proposed to be transferred, the sum the Proposing Transferor fixed as the fair value, and shall constitute the Company his agent for the sale of the share

to any member or person selected by the Board, willing to purchase the share (hereinafter called "the Proposed buyer") at the price so fixed, or at the fair value to be fixed in accordance with Article 19 hereof. The Transfer Notice may include several shares and in such case shall operate as if it were a separate notice in respect of each share. The transfer Notice shall not be revocable without the sanction of the Board.

17. On receipt of the Transfer Notice the Company shall within fifteen (15) days inform all the Shareholders (except the Proposing Transferor).

18. If the Company shall within three months after being served with a Transfer Notice, find a Proposed buyer, shall give notice thereof to the Proposing Transferor.

On receipt of the notice and upon payment of the fair value as fixed in accordance with Article 16 or 19 hereof the Proposing Transferor shall be bound to transfer the share to Proposed buyer.

19. In case any difference arises between the Proposing Transferor and the Proposed buyer as to the fair value of a share, the fair value shall be calculated as the norms given in Article 22 and Auditors of the Company shall on the

application of either party, certify in writing the sum which, in their opinion, is the fair value, as per the norms given in Article 22 hereof and such sum shall be deemed to be the fair value, and in so certifying the Auditors shall be considered to be acting as experts and not as arbitrators, and as such the Arbitration and Conciliation Act shall not apply.

20. If the Proposing Transferor, after having become bound as aforesaid, makes default in transferring the share, the Company may receive the purchase money and the Proposing Transferor shall be deemed to have appointed any one Director or the secretary of the Company as his agent to execute the Transfer Deeds or any other documents as may be necessary to transfer the shares in favour of the Proposed buyer, and upon the execution of such Transfer Deed the Company shall hold the purchase money in trust for the Proposing Transferor.

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receipt of the purchase money by the Company shall be a good discharge to the Proposed buyer, and after his name has been entered in the register of members in purported exercise of the aforesaid power, the validity of the proceedings shall not be questioned by any person.

21. If the Company is unable to find, within a period of three months after being served with a Transfer Notice, a Proposed buyer, the company shall give notice to the Proposing Transferor. On receipt of such notice the Proposing Transferor shall at any time within three months of this notice, be at liberty, to sell and transfer the share(s) to any person and at any price not below the price mentioned in the Transfer Notice.

Transfer Price

22. The transfer price shall be calculated as follows:

The Transfer price shall be greater of:

(a) The book value determined according to the method of the evaluation used in the balance sheet of the previous year.

22.1 The price of the proposed sale of Shares to BLS and or its nominee shall be the fair value of such Shares determined on the basis of a valuation report by Delta or one of the other firms of Chartered Accountants of similar international repute. If so requested by DGO, such valuation report shall take into account the price offered by the potential buyer. Provided that if the approval of the Reserve Bank of India is required. Such shares shall be valued in accordance with the method/s acceptable to the Reserve Bank of India for the purpose of granting approval for the said transfer. BLS may convey, in writing, its acceptance to the offer to DGO within a reasonable period, which shall be not later than sixty (60) days from the date of receipt of offer from DGO along with the valuation report of the firm of chartered accountants.

23. Refusal to register transfer of shares

1. Subject as aforesaid, the Board may at any time in their absolute and uncontrolled discretion decline to register any proposed transfer of shares. This clause shall apply to a case where the proposed transferee is also a member of the Company.
2. The Board may also decline to register any transfer of shares on which the Company has a lien. The Board may also suspend the registration of transfers during the fourteen days immediately preceding the annual general meeting in each year.
3. The Board may also decline to recognise any instrument of transfer unless the instrument of transfer is accompanied by the certificate of the shares to which it relates and such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer.

Directors

24. Unless otherwise determined by a general meeting, the number of Directors shall not be less than and not more than
25. The First Directors of the Company shall be.....
26. A Director shall not be required to hold any qualification shares nor required to retire by rotation. Once appointed they shall continue in office until they are removed by the general meeting or die or resign or become permanently incapacitated. The Directors are entitled to notice of general meetings and to attend and speak thereat.
27. Subject to the provisions of the Companies Act, 1956:
 - (a) The remuneration of every Director for his services shall be such sum as the Board may from time to time determine for each meeting of the Board or a meeting of any committee attended by him.
 - (b) If any Director, being willing, shall be called upon to perform extra services (which expression shall include work done by the Director as a member of any committee formed by the Directors) or to make any special exertions for any of the purposes of the Company or to give special attention to the business and affairs of the Company, the Board may remunerate such Director either by paying a fixed sum or a percentage of profits or both or any other manner, and may allow to such Director at the cost and expense of the Company such facilities or amenities as the Board may determine from time to time.
28. If the office of the Director is vacated due to death, resignation or otherwise, the resulting vacancy shall be filled in by the Board at a duly convened meeting of the Board.

29. Subject to the provision of section 313 of the Companies Act, the Board may appoint an alternate Director to act for one or more Directors (hereinafter called the 'Original Director') during his/their absence for a period of not less than three months from the state in which the meetings of the Board are usually held and such appointment shall have effect and such appointee, whilst he holds office

as an alternate Director, shall be entitled to notice of meetings of the Board and attend and vote on behalf of the Original Director he is representing. If the alternate

Director is himself a director, he shall be entitled to exercise in addition to his vote,

a vote on behalf of the Original Director to whom he is alternate. An alternate director appointed under this clause shall be a person nominated by the party who

nominated the Original Director.

30. The Company may have other Directors, i.e. Directors, not representing either or provided this is agreed in writing by both and such Directors shall be in addition to the number of Directors mentioned in Article 24 provided, however, that

shall be entitled to nominate for each such new Director one additional Director to

ensure its casting vote under Article 46.

31. The Board may appoint and, at their discretion, remove or suspend such/ officers by whatever designation called, managers, secretaries, engineers, experts, legal advisers, solicitors, clerks, agents, salesmen, workmen and other servants or professionals for permanent, temporary or special service, as the Board may, from time to time, think fit and determine their duties, fix their remuneration, salaries or emoluments, and delegate to or confer upon them such powers, including the power to sub-delegate, authorities and discretion as the Board may think fit.

32. The Board may authorise or empower any Director or Directors or the Secretary of the Company either by name or by virtue of office or otherwise, or any other person or persons, either singly or jointly, to exercise such powers, functions and authorities subject to such restrictions, limitations and conditions, if any, and either generally or in specific cases, as the Board may think fit.

Managing Director

33. Subject to the necessary approvals, there shall be two Managing Directors of the Company, each nominated by the Board and the day to day management of the Company shall be entrusted by the Board of Directors to the Managing Directors, who shall manage the affairs of the Company under the supervision and

control of the Board. The Board shall if deems fit and proper, define duties and responsibilities of the Managing Directors.

34. The Managing Directors shall be appointed for such term and with such powers and at such remuneration whether by way of salary or commission or participation in profits or partly in one way and partly in another, as the Board may think fit.

35. Subject to the control, direction and supervision of the Board, the Managing Directors shall be delegated with maximum operational responsibilities.

Provided the decisions on the matters as set out hereunder shall be subject to the approval of the Board of Directors:

- (a) annual planning, budget and long term corporate planning (as well as substantial changes of and deviations from the plans approved);
- (b) selection of auditors, tax advisors, attorneys and management consultants for the Joint Venture Company;
- (c) fundamental issues of business policy and organisation including significant changes of the organisation;
- (d) increase or reduction in the authorised share capital of the Joint Venture Company, transfer of shares;
- (e) any one time borrowing or guarantee of loans exceeding the limits fixed by the Board of Directors and/or borrowings, which exceed the paid-up share capital and free reserves of the Joint Venture Company;
- (f) the annual accounts and distribution of profits;
- (g) measures and activities concerning the company's management including any increase or reduction in the number of Directors;
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- (h) formulation of the product range policy of the Joint Venture Company including the discontinuation or significant changes of an existing line of business or product range;
- (i) any amendment or alteration of the Joint Venture Company's Memorandum and Articles of Association;
- (j) merger or amalgamation with another company as well as reorganisation or reconstruction and winding-up of the Joint Venture Company;
- (k) purchase, sale and encumbrance of real estate and real estate rights;
- (l) contracts regarding intellectual property (patents, licenses, etc.);
- (m) other matters of particular significance like particularly important, risky, a typical or exceptional business transactions, contract measures or activities.

36. In case the Managing Directors fail to take decisions on any matter by consensus, the matter shall be delegated to the Board of Directors and the

Meeting of the Board may be convened for that purpose by any Managing Director by giving at least seven business days notice to other directors.

37. The Company shall have Auditors (belonging to an International Chartered Accountant firm such as , Delta, etc.) to be agreed and appointed at the first meeting of the Board of Directors.

Borrowing Power

38. 1. The Board may from time to time at their discretion raise or borrow money or secure payment of any sum or sums of money for the purposes of the Company.

2. The payment or repayment of such money may be secured in such manner and upon such terms and conditions as the Board of Directors may think fit, and in particular by the issue of bonds, perpetual or redeemable debentures of the Company charged upon all or any part of the property of the Company, both present and future, include its uncalled capital for the time being, and the debentures and other securities may be made assignable free from any equities between the Company and the person to whom the same may be issued.

3. The working capital requirements shall be financed by a debt/equity ratio of 1.5 : 1. If a debt/equity ratio of 1.5 : 1 is not sufficient to enable the company to borrow the remaining necessary funds without providing further securities or guarantees, then the debt/equity ratio has to be improved to a sufficient level whereby the contribution shall be made by Bravo and Delta in the ratio of 49 : 51.

Meetings of the Board of Directors

39. The Managing Director or Secretary of the Company may convene meetings of the board. A written notice of every meeting of the board shall be given to every Director at least seven (7) days in advance thereof. In case of a Director residing outside India, notice of meetings of the board shall be given to such Director by cable, telex or fax at least twenty one (21) days in advance of the meeting.

40. Every notice convening a meeting of the Board shall set out the agenda of the business to be transacted thereat in full and sufficient detail.

41. The quorum for a meeting of the Board of Directors shall be one- third of the total strength of the Board or two Directors whichever is higher. Quorum shall not be complete unless one director each nominated by (name) and (name) is present at the meeting.

42. Resolutions to be passed at the meeting of the Board shall be passed by a majority of votes.

43. No resolution shall be deemed to have been duly passed by the Board by circulation, through facsimile transmission or otherwise, unless the resolution has been circulated in draft together with necessary papers, if any, to all the Directors or their alternates or to all members of the committee as are entitled to vote on the resolution.

Chairman

44. After he has been nominated by the Board as the Director of the Company, shall be the Chairman for all Board and General meetings. In the absence of the Chairman, the Board shall from among their members elect a Chairman of the Board or the General meeting.

45. The Chairman of the Board or General meeting shall not have a casting vote.

46. When there is a tie of votes cast in favour and against any resolution at the Board or General meeting, the Managing Director nominated by the Board shall have a casting vote. If the such Managing Director is not present at any meeting, any other director nominated by the Board and present at the meeting shall have a casting vote.

General Meetings

47. The quorum for general meetings shall be the presence of two shareholders.

Common Seal

48. The Board of directors shall provide for a common seal for the purpose of the Company, and shall have power from time to time to destroy the same and substitute a new seal in lieu thereof and the Board shall provide for the safe custody of the Seal and the Seal shall not be used except by the authority of a resolution of the Board of Directors, previously given. Every deed or instrument to which the Seal of the Company is required to be affixed shall unless the same is executed by a duly constituted attorney for the Company be signed by one Director and the Seal shall be affixed thereto in his presence, subject, however to Rule 6 of the Companies (Issue of Share Certificates) Rules, 1960.

Indemnity

49. Subject to section 201 of the Companies Act, 1956, every officer or agent for the time being of the Company shall be indemnified out of the assets of the Company against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application under section 633 of the Companies Act, 1956 in which relief is granted to him by the Court.

50. Subject to section 201 of the Companies Act, 1956, no Director or other officer of the Company shall be liable for the acts, receipts, neglects or defaults of any other Director or officer of the Company for joining in any receipt or other act for conformity or for any loss or expense happening to the Company through the insufficiency of title to any property acquired by order of the directors for or on behalf of the Company or for the insufficiency or deficiency of any security in or upon which any of the moneys of the Company shall be invested or for any loss or damage arising from the bankruptcy, insolvency, or tortious act of any person with whom any moneys, securities or effects shall be deposited or for any loss occasioned by any error of judgement or oversight on his part or for any other loss, damage whatever, which shall happen in the execution of the duties of his office or in relation thereto.

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Name, description occupation and address of subscribers

.....
Signature of Subscriber, Signature of Witness with address and occupation

Place.....

Date....., 20...