



महाराष्ट्र MAHARASHTRA

2020

AW 405205

प्रधान मुद्रांक कार्यालय, मुंबई  
प.मु.नि.क्र. ६००००९९  
13 MAR 2020  
सक्षम अधिकारी

श्री. सी. टी. आंबेकर

Annexure-II

१. मुद्रांक विक्री नोंद वही अनु. क्रमांक-/दिनांक 035895 23 MAR 2020
२. दस्ताचा प्रकार
३. दस्त-नोंदणी करणार आहेत का? Agreement
४. मिळकतीचे धोड्यात वर्णन- Sponsors Retail Hd
५. मुद्रांक विकत घेणाऱ्याचे नांव व सही
६. हस्त असल्यास त्यांचे नांव, पत्ता व सही 79220
७. दुसऱ्या पक्षकाराचे नांव
८. मुद्रांक शुल्क रक्कम TCF of Security Hd

परवाना क्रमांक ~~...~~ ठिकाण / पत्ता

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परवाना क्रमांक २०११  
मुद्रांक विक्री करणारा हर्षद बांगळे  
शॉप नं. १९, ... मुंबई-४०००५  
(शासन अखत्यारीत) ... कारणासाठी ज  
मुद्रांक खरेदी करणारा ... खरेदी केल्यापासून  
हे यात वापरणे बंधनकारक आहे.



महाराष्ट्र MAHARASHTRA

2020

WU 703149

प्रधान मुद्रांक कार्यालय, मुंबई  
प.मु.ति.क्र. ८००००९९  
17 MAR 2020  
सक्षम अधिकारी

श्री. दि. ल. रावडे

1. मुद्रांक विक्री नाद वही अनु. क्रमांक- / दिनांक

23 MAR 2020  
035899

- 2. दस्ताचा प्रकार
- 3. दस्त-नोंदना तारखार आहेत का ?
- 4. मिळवता येतील यात वर्णन-
- 5. मुद्रांक विक्रीत येणाऱ्याचे नांव व सही
- 6. हस्ते असल्यास त्यांचे नाव, पत्ता व सही
- 7. दुसऱ्या पक्षकाराचे नाव
- 8. मुद्रांक शुल्क रक्कम

Agreement  
Sponsors Retail Ltd  
Tasdeo  
Tel of security Ltd

परवाना... सही व परवाना क्र...  
तसेच... उपाय / पत्ता  
परवाना...  
मुद्रांक...  
शॉप नं. ...  
(शासन...)  
मुद्रांक खरेदी केला...  
हिन्यात...



**KHAITAN  
&CO**  
*Advocates since 1911*

**DATED MAY 12, 2020**

**ISSUE AGREEMENT**

**BETWEEN**

**SPENCER'S RETAIL LIMITED**

**AND**

**ICICI SECURITIES LIMITED**

Bangalore  
Simal II Floor,  
7/1 Ulsoor Road  
Bangalore 560 042, India  
T: +91 80 2559 7466  
F: +91 80 2559 7452  
E: [bangalore@khaitanco.com](mailto:bangalore@khaitanco.com)

Kolkata (Calcutta)  
Emerald House  
1B Old Post Office Street  
Kolkata 700 001, India  
T: +91 33 2248 7000  
F: +91 33 2248 7452  
E: [kolkata@khaitanco.com](mailto:kolkata@khaitanco.com)

**Mumbai (Bombay)**  
One Indiabulls Centre  
13<sup>th</sup> Floor, Tower 1  
Mumbai 400 013, India  
T: + 91 22 6636 5000  
F: +91 22 6636 5050  
E: [mumbai@khaitanco.com](mailto:mumbai@khaitanco.com)

New Delhi  
801 Ashoka Estate  
24 Barakhamba Road  
New Delhi 110 001, India  
T: +91 11 4151 5454  
F: +91 11 4151 5318  
E: [delhi@khaitanco.com](mailto:delhi@khaitanco.com)

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**THIS ISSUE AGREEMENT (“AGREEMENT”) IS ENTERED ON THIS 12<sup>th</sup> DAY OF MAY 2020 BY AND BETWEEN:**

**Spencer’s Retail Limited**, a public limited company incorporated under the provisions of the Companies Act, 2013, and having its registered office at Duncan House, 31, Netaji Subhas Road, Kolkata - 700 001 (hereinafter referred to as the **“Company”** or the **“Issuer”**, which expression shall unless repugnant to the context or meaning thereof mean and include its successors and permitted assigns) of the **FIRST PART**;

**AND**

**ICICI Securities Limited**, a company incorporated under the provisions of the Companies Act, 1956, as amended, and having its registered office at ICICI Centre, H.T. Parekh Marg, Churchgate, Mumbai 400 020 (hereinafter referred to as the **“I-Sec”** or the **“Lead Manager”**), which expression shall, unless it be repugnant to the context or meaning, be deemed to mean and include its successors and permitted assigns) of the **SECOND PART**.

The Lead Manager and the Issuer are collectively referred to as **“Parties”** and individually as **“Party”**.

**WHEREAS**

- A. The Issuer is proposing to undertake an issue of its equity shares of face value Rs. 5 (the **“Equity Shares”**), for an amount not exceeding Rs. 80 crores, on a rights basis to the Eligible Equity Shareholders, in accordance with the provisions of the Companies Act, 2013 and the Securities and Exchanges Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018 (**“SEBI ICDR Regulations”**) and other applicable statutory and/or regulatory requirements, at such price as may be decided by the Issuer, in consultation with the Lead Manager (**“Issue”**), in each case where such shareholders or persons outside the United States in “offshore transactions” within the meaning of Regulation S under the U.S. Securities Act of 1933, as amended (the **“Securities Act”**) (**“Regulation S”**).
- B. The Board of Directors has, pursuant to a resolution dated February 11, 2020, authorised the Issue.
- C. The Issuer has approached the Lead Manager to manage the Issue. The Lead Manager has accepted the engagement on the terms and conditions set out in this Agreement.

**NOW, THEREFORE, in consideration of the foregoing and the mutual promises, covenants, and agreements set forth in this Agreement, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged by the Parties, the Parties hereby agree as follows:**

**1. Definitions**

Capitalised terms used in this Agreement, unless the context otherwise requires, shall have the meanings ascribed to such terms as set out below. All other capitalised terms used herein and not otherwise defined shall have the same meanings assigned to such terms in the Draft Letter of Offer or Letter of Offer.

**“Affiliates”** shall have the same meaning ascribed to it in Clause 7.14 of this Agreement;

**“Agreement”** shall mean this agreement between the Parties hereto;

“**BSE**” shall mean BSE Limited;

“**Closing Date**” shall have the meaning ascribed to it in Clause 4.2 of this Agreement;

“**Confidential Information**” shall have the meaning ascribed to it in Clause 19 of this Agreement;

“**CSE**” shall mean the Calcutta Stock Exchange Limited;

“**Disputing Parties**” shall have the meaning ascribed to it in Clause 17.1 of this Agreement;

“**Engagement Letter**” shall mean the engagement letter executed between the Issuer and I-Sec;

“**Environmental Laws**” shall have the meaning ascribed to it in Clause 9.21 of this Agreement;

“**Equity Shares**” shall mean the equity shares of face value of Rs. 5 each of the Issuer;

“**Intermediary**” / “**Intermediaries**” shall have the meaning ascribed to it in Clause 5.1(c) of this Agreement;

“**Issue**” shall have the meaning ascribed to it in Recital A of this Agreement;

“**Issue Documents**” shall mean the Draft Letter of Offer, Letter of Offer, the Abridged Letter of Offer and the CAF, together with all amendments, corrigendum, corrections, supplements or notices to investors, for use in connection with the Issue;

“**Issuer**” shall have the meaning ascribed to it in the Preamble to this Agreement;

“**Lead Manager**” shall have the meaning ascribed to it in the Preamble to this Agreement;

“**Liabilities**” shall have the meaning ascribed to it in Clause 15.1 of this Agreement;

“**LM Group**” shall have the meaning ascribed to it in Clause 14.10 of this Agreement;

“**Material Adverse Effect**” shall mean, individually or in the aggregate, a material adverse effect, as determined by the Lead Manager, (a) in the condition, financial or otherwise, or in the assets, liabilities, earnings, business, management, operations or prospects of the Issuer, on a standalone or consolidated basis (including, without limitation, any material loss or interference with its business from fire, explosions, flood or other calamity, whether or not covered by insurance, or from court or governmental action, order or decree), (b) in the ability of the Issuer to execute or deliver this Agreement or the Engagement Letter, or perform its obligations under, or to consummate the transactions contemplated by, this Agreement or the Engagement Letter, including the issuance, Allotment and delivery of the Equity Shares to the successful Applicants, or (c) in the ability of the Issuer to conduct its businesses, as was previously conducted and to own or lease its assets or properties in substantially the same manner in which such businesses were previously conducted or such assets or properties were previously owned or leased as described in the Issue Documents;



**“Money Laundering Laws”** shall have the meaning as ascribed to it in Clause 9.22 of this Agreement;

**“NSE”** shall mean the National Stock Exchange of India Limited;

**“Parties” / “Party”** shall have the meaning ascribed to it in the Preamble to this Agreement;

**“SEBI”** shall mean the Securities and Exchange Board of India;

**“Stock Exchange(s)”** shall mean BSE, CSE and NSE;

**“Subsidiaries”** shall mean the subsidiaries of the Company as defined in Section 2(87) of the Companies Act, 2013, i.e. Omnipresent Retail India Private Limited and Natures Basket Limited.

**“TDS”** shall mean tax deducted at source; and

**“Transactions”** shall have the meaning ascribed to it in Clause 9.1 of this Agreement.

## **2. Interpretation**

In this Agreement, unless the context otherwise requires:

- 2.1 words denoting the singular or plural number also include the plural or singular number, respectively;
- 2.2 heading and bold typeface are only for convenience and shall be ignored for the purposes of interpretation;
- 2.3 the recitals hereto shall constitute an integral part of this Agreement;
- 2.4 references to persons shall include individuals, bodies corporate (wherever incorporated), unincorporated associations and partnerships;
- 2.5 Any phrase introduced by the terms “other”, “including”, “include” and “in particular” or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
- 2.6 the terms “herein”, “hereof”, “hereto”, “hereunder” and “hereby” and derivative or similar words refer to this Agreement as a whole or specified Clauses of this Agreement, as the case may be;
- 2.7 words of any gender are deemed to include those of the other gender;
- 2.8 references to Agreement or to any other agreement, deed or other instrument shall be construed as a reference to such agreement, deed, or other instrument as the same may from time to time be amended, varied or supplemented or any replacement or novation thereof;
- 2.9 reference to any Party to this Agreement or any other agreement or deed or other instrument shall include its successors, heirs or permitted assigns;

- 2.10 a reference to a Clause, unless indicated to the contrary, is a reference to the Clauses of this Agreement;
- 2.11 unless otherwise defined the reference to the word 'days' shall mean calendar days;
- 2.12 references to any legislation or law or to any provision thereof shall include references to any such law as it may, after the date hereof, from time to time, be amended, supplemented or re-enacted, and any reference to a statutory provision shall include any subordinate legislation made from time to time under that provision;
- 2.13 time is of the essence in the performance of the Parties' respective obligations. If any time period specified herein is extended, such extended time shall also be of the essence; and
- 2.14 references to "Allotment" of Equity Shares by way of the Issue, unless indicated otherwise, includes references to a "credit" of the Equity Shares to the demat accounts of the successful Applicants.

### **3. Payments**

- 3.1 The fees and expenses payable to the Lead Manager for managing the Issue has been mutually agreed upon as per the Engagement Letter entered into with the Lead Manager.
- 3.2 All payments to be made by the Issuer to the Lead Manager under this Agreement shall be made in accordance with the terms of the Engagement Letter. All payments are subject to deductions (excluding deduction of applicable income tax, other than tax deduction at source stipulated under the provisions of the IT Act) on account of any taxes, duties or levies applicable in connection with performance of services hereunder. The Issuer shall provide tax deducted at source ("TDS") certificate in respect of the withholding tax in original. Goods and services tax on the fees payable to the Lead Manager will be borne by the Issuer and the same shall be invoiced together with the fees.
- 3.3 The terms of the Engagement Letter in connection with the payments payable by the Issuer to the Lead Manager, i.e. fees and out of pocket expenses, shall *mutatis mutandis* apply to this Agreement.

### **4. Term and Termination**

- 4.1 The Issue will be managed by the Lead Manager in terms of the allocation of responsibilities as annexed to this Agreement as **Annexure A**.
- 4.2 The Lead Manager's appointment as Lead Manager to the Issue has commenced as of the date of this Agreement and will continue until (a) termination of this Agreement in accordance with the provisions hereunder, or (b) upon listing of the Equity Shares pursuant to the Issue and the completion of all SEBI compliances in connection with the Issue, whichever is earlier ("**Closing Date**").
- 4.3 This Agreement may be terminated either by the Issuer or the Lead Manager, only with cause, upon giving 30 days written notice thereof to the other party.

No such termination by the Issuer or by the Lead Manager, would affect (i) the Lead Manager's right to receive the fees for services rendered till such termination as set forth

above, or (ii) the Lead Manager's right to receive reimbursement for out of pocket expenses as per actuals against production of bills and vouchers to the satisfaction of the Issuer incurred prior to such termination as set forth above, and such payment of fees and reimbursement or expenses would be subject to the milestones as specified in the Engagement Letter. The Issuer shall be responsible to make payments to the Lead Manager's as indicated above for services rendered till such termination.

- 4.4 Termination of this Agreement after filing of the Draft Letter of Offer with SEBI shall be subject to the Parties complying with the requirements that may be specified by SEBI or the Stock Exchanges.
- 4.5 Notwithstanding anything stated hereinabove, the provisions of Clause 3 (Payments), Clause 7 (Supplying of Information and Documents), Clause 9 (Representations and Warranties of the Issuer), Clause 15 (Indemnity), Clause 16 (Notices), Clause 17 (Arbitration), Clause 19 (Confidentiality), Clause 21 (Governing Law), Clause 22 (Severability), Clause 23 (Binding Effect, Entire Agreement), and Clause 24 (Miscellaneous) and other statements of the Issuer or its officers and of the Lead Manager set forth in or made pursuant to this Agreement shall survive the termination of this Agreement pursuant to this Clause 4, regardless of any investigation made by or on behalf of the Lead Manager or the Issuer, and will survive delivery of and payment for the Equity Shares of this Agreement shall survive any termination of this Agreement.

## 5. Scope of Services

- 5.1 The Lead Manager shall provide the following services in relation to the Issue:
- (a) Assistance in drafting the Draft Letter of Offer, Letter of Offer and the Composite Application Form ("**CAF**"), to be prepared in connection with the Issue including any replacement, supplement (other than international wraps) or amendment thereto. However, where preparation of an international wrap is necessary, the Lead Manager's will co-ordinate the preparation of such document in consultation with the international legal counsel;
  - (b) Management of the Issue covering, amongst others, (i) formulation of shareholder contact programs, (ii) arrangements for assisting selection of collection centers, (iii) deciding on the quantum of Issue material, and (iv) distribution of publicity and Issue material including the Issue Documents;
  - (c) Assisting in the selection of various intermediaries or such other persons as required in connection with Issue, including bankers to the Issue, refund bankers, advertising agencies, monitoring agencies, legal advisors, registrar to the Issue and printers of the Issue Documents, application forms, allotment advices, allotment letters, share certificates, refund orders or any other instruments, circulars or advices (collectively, "**Intermediaries**" and individually as an "**Intermediary**");
  - (d) Follow-up with Registrar to the Issue to get estimates of collection and advising the Issuer about the performance of the Issue based on the information received from Registrar to the Issue;
  - (e) Assisting in applying for, and obtaining, applicable regulatory approvals from statutory and/ or regulatory authorities in connection with the Issue;

- (f) The post-Issue activities involving essential follow-up steps with the various Intermediaries connected with the post-Issue activities, such as bankers, refund bankers and Registrar to the Issue. To the extent that these post-Issue activities would be the responsibility of other Intermediaries and agencies, the Lead Manager shall coordinate with these Intermediaries and agencies to enable these Intermediaries and agencies to fulfill their functions;
  - (g) Assisting, together with other advisors and legal counsels (as appropriate), with completion of the necessary due diligence exercise based on the information provided by the Issuer in connection with the Issue as prescribed under the SEBI Regulations; and
  - (h) Advising/ assisting on matters connected and incidental to (a) to (g) above.
- 5.2 The Lead Manager shall act as an independent party and conduct its duties only in accordance with the terms of this Agreement and any duties arising out of this Agreement shall be owed solely to the Issuer.
- 5.3 The Issuer agrees that the Lead Manager shall be liable for only its own actions and omissions in terms of this Agreement and shall have no liability for the advice, acts or any omission to act, of the other Intermediaries or for any Losses arising therefrom.
- 5.4 The Lead Manager will have no duty or obligations whether as a fiduciary to the Issuer or any other party as a result of this Agreement.

## **6. Issue Terms**

- 6.1 The Issuer, in consultation with the Lead Manager, shall decide the terms of the Issue being the timing, pricing, method, structure and size of the Issue.
- 6.2 The Issuer shall not, without the prior written consent of the Lead Manager, file the Issue Documents with SEBI, the Stock Exchanges or any other authority whatsoever.
- 6.3 The Issuer shall determine the opening and closing dates of the Issue and the last date for accepting split application forms in consultation with the Lead Manager.
- 6.4 All allocations / Allotments made pursuant to the Issue shall be in accordance with the SEBI Regulations and shall be undertaken by the Issuer, in consultation with the Registrar.
- 6.5 The Issuer hereby declares that the Equity Shares proposed to be issued pursuant to the Issue are and will be free and clear from any liens, charges or any other encumbrances, existing or future. The Issuer further declares that the Equity Shares shall rank *pari-passu* with the existing Equity Shares of the Issuer.
- 6.6 The Issuer undertakes that it will make applications to the Stock Exchanges for listing of the Equity Shares and shall obtain in-principle approvals from the Stock Exchanges and designate one of the Stock Exchanges as the Designated Stock Exchange. The Issuer undertakes that all the steps will be taken for the completion of the necessary formalities for listing and commencement of trading of the Equity Shares at all the Stock Exchanges.

- 6.7 The Issuer undertakes to appoint a monitoring agency to monitor the utilisation of the proceeds from the Issue, if required, in terms of the SEBI Regulations.
- 6.8 The Issuer hereby confirms, represents and declares that as of the date of the Draft Letter of Offer and Letter of Offer, it has complied with or agrees to comply with all the statutory formalities under the Companies Act, and the rules framed thereunder, the SEBI Regulations, and applicable instructions, rules, regulations and other relevant statutes to enable the Issuer to undertake the Issue, and the Issuer confirms, represents and declares that it has complied with (i) all laws applicable to the Issuer, Subsidiaries and Affiliates in relation to their respective business and operations (except where a noncompliance would not, either singly or in aggregate, result in a Material Adverse Effect), and (ii) all laws and regulations applicable to the Issue (except where a noncompliance would not, either singly or in aggregate, result in a Material Adverse Effect).
- 6.9 The Issuer has obtained authority for the Issue through a board resolution dated February 11, 2020 and no other consent from the Board of Directors of the Issuer is required for the Issue.
- 6.10 It is clarified that this Agreement is not a commitment, express or implied, on the part of any of the Lead Manager to underwrite or purchase the Equity Shares issued pursuant to the Issue or to commit any capital, nor does it obligate any of the Lead Manager to enter into an underwriting agreement or similar commitment to finance. The Issue will be conditional, among other things, upon the following:
- (a) The existence of market conditions before launch of the Issue, which in the sole opinion of the Lead Manager, are satisfactory for launching the Issue;
  - (b) The absence of any Material Adverse Effect, in the international or Indian financial markets or, in the condition, business, results, operations or prospects of the Issuer, which are described in the Issue Documents, as the case may be;
  - (c) Receipt of the (i) comfort letters in connection with the financial statements to be included in the Draft Letter of Offer, Letter of Offer, as the case may be, from the independent statutory auditors, S.R. Batliboi & Co LLP, Chartered Accountants, in a manner satisfactory to the Lead Manager and Issuer (ii) examination report issued by the independent statutory auditors, S.R. Batliboi & Co LLP, Chartered Accountants in connection with the financial statements to be included in the Draft Letter of Offer, Letter of Offer, as the case may be, from the Company. Its financial statements have been prepared and restated in accordance with the requirements of: (1) Section 26 of Part I of Chapter III of the Companies Act, 2013 (the "Act"); (2) The Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018, as amended ("ICDR Regulations"); and (3) the Guidance Note on Reports in Company Prospectuses (Revised 2019) issued by the Institute of Chartered Accountants of India ("ICAI"), as amended from time to time (iii) comfort letters in connection with the financial statements to be included in the Draft Letter of Offer, Letter of Offer, as the case may be, from the erstwhile statutory auditors, Batliboi, Purohit & Darbari, Chartered Accountants, in a manner satisfactory to the Lead Manager and Issuer and (iv); comfort letters in connection with the financial statements to be included in the Draft Letter of Offer, Letter of Offer, as the case may be, from independent statutory auditors of Nature's Basket

Limited, BSR & Associates LLP, Chartered Accountants, in a manner satisfactory to the Lead Manager and Issuer

- (d) The completion of business, financial and legal due diligence to the satisfaction of the Lead Manager in order to enable the Lead Manager to file the due diligence certificate with SEBI and as is customary in issuances of the kind contemplated herein;
  - (e) Completion of all applicable regulatory requirements (including receipt of all necessary approvals), and compliance with (i) all applicable laws, regulations and guidelines by the Issuer, Subsidiaries and Affiliates in relation to their respective business and operations (except where a noncompliance would not, either singly or in aggregate, result in a Material Adverse Effect), and (ii) all laws and regulations applicable to the Issue (including those governing the issue of securities);
  - (f) Disclosure in the Issue Documents to the satisfaction of the Lead Manager;
  - (g) Changes to the terms and conditions of the Issue from those set forth in the Draft Letter of Offer and Letter of Offer, being determined as satisfactory in the sole opinion of the Lead Manager, subject to approval from relevant regulatory authorities and the stock exchanges;
  - (h) Any change in the type, terms and conditions of the Issue will be made only in prior consultation with the Lead Manager;
  - (i) Confirmation by the management of the Issuer, prior to the filing of the Draft Letter of Offer and Letter of Offer with SEBI and the Stock Exchanges, that (i) it has provided authentic, correct, valid information, reports, statements, declarations, undertakings, clarifications, documents, certifications for incorporation in the Draft Letter of Offer and Letter of Offer, CAF and the Abridged Letter of Offer and (ii) that the Draft Letter of Offer and Letter of Offer is complete in all material respects and does not include any untrue statement of a material fact or omit to state any material fact that would intend to mislead any potential investor; and
  - (j) Approval of the relevant internal committees of the Lead Manager.
- 6.11 The Issuer declares that except as disclosed in the Issue Documents, the consent of the Board of Directors/ Committee of the Issuer and consent of the relevant bankers, lenders, and institutions and appropriate persons, wherever applicable, have been obtained or will be obtained including in relation to any information disclosed in the Issue Documents. The Issuer also declares and represents that, wherever required, it has either obtained all regulatory approvals that may be required for the Issue.
- 6.12 The Issuer shall take such steps as are necessary to ensure the completion of allotment and dispatch of letters of allotment / certificates for Equity Shares and refund orders to the non-ASBA applicants within the time limit stipulated under the applicable Acts, guidelines and regulations and, in the event of failure to do so, pay interest to the applicants as provided under the Companies Act and SEBI Regulations as applicable.

- 6.13 Until the Closing Date, the Issuer will keep the Lead Manager formally informed of details of all legal proceedings and shall not resort to any legal proceedings in respect of any matter having a bearing on the Issue, except in consultation with the Lead Manager.
- 6.14 The Issuer shall not access the money raised pursuant to the Issue until the listing and trading approval in respect to the Issue has been received.

## **7. Supplying of Information and Documents**

- 7.1 The Issuer undertakes and declares that for the purposes of the Issue it shall disclose to the Lead Manager all relevant, necessary, material and other information relating to their business, operations, financial condition and financial results, all pending litigation, any further litigation, including without limitation any enquiry, investigation, show cause notice, claims, complaints filed by or before any regulatory, government, quasi-judicial authority, tribunal or any arbitration, in relation to the Issuer and its Subsidiaries, arising until the listing of the Equity Shares, in accordance with the provisions of the SEBI Regulations, and will furnish relevant documents, papers and information relating to such litigation to enable the Lead Manager to corroborate the information and statements included in the Issue Documents.
- 7.2 The Issuer undertakes to furnish such relevant information and particulars regarding the Issue, as may be required by the Lead Manager, to enable the Lead Manager to cause filing of such reports, documents and certificates in time as may be required by SEBI and/or the Stock Exchanges and/or other regulatory bodies.
- 7.3 The Issuer shall extend all necessary facilities to the Lead Manager to interact on any matter relevant to the Issue with its legal advisors, auditors, financial institutions, bankers, consultants or any other organisation, and also with any other Intermediaries including the Registrar to the Issue, who may be associated with the Issue in any capacity whatsoever.
- 7.4 The Issuer undertakes to promptly furnish such information documents, certificates, reports and particulars for the purpose of the Issue as may be required or reasonably requested by the Lead Manager to enable them to cause the filing, in a timely manner of such documents, certificates, reports and particulars, including any post-issue documents, certificates (including any due diligence certificates), reports or other information as may be required by SEBI, the Stock Exchanges and/or any regulatory or supervisory authority or court or tribunal (within or outside India) in respect of the Issue or to enable the Lead Manager to confirm the correctness and/or adequacy of the statements made in the Issue Documents, as applicable, including, without limitation, in relation to any inquiry, review or investigation by SEBI in relation to the Issue.
- 7.5 The Issuer undertakes to prepare the Issue Documents in compliance with, and to ensure that the Issue Documents comply with, (i) the legal requirements connected with the Issue, (ii) the regulations and instructions issued by SEBI, the Government of India and any other competent governmental or regulatory authority in this behalf (including the SEBI Regulations), (iii) customary disclosure norms, and (iv) as per all applicable statutory and/or regulatory requirements, to enable the investors to make a well informed decision as to the investment in the Issue. The Issuer further undertakes that the Issue Documents shall contain all information which, is material in the context of the Issue and that such information shall be true and accurate in all material respects.

- 7.6 The Issuer declares that any information made available to the Lead Manager or any statement made in the Issue Documents will be complete in all respects and will be true and correct and that under no circumstances will it give any information or statement which is likely to mislead the concerned regulatory authorities and/or investors. The Issuer further declares that it will disclose all information, material or otherwise, which would have an impact on the judgment of the concerned regulatory authorities and/or investors.
- 7.7 The Issuer shall be solely responsible for the authenticity, correctness, validity and reasonableness of the information, reports, statements, declarations, undertakings, clarifications, documents, and certification or related to the matters authenticated by its directors, promoters, statutory officers and every person of the Issuer for incorporating in the Issue Documents. The Lead Manager shall in no way be liable for the same.
- 7.8 The Issuer accepts full responsibility for consequences, if any, for making a false statement, providing misleading information or withholding or concealing material facts, which have a bearing on the Issue. The Lead Manager shall have the right to withhold submission of the Draft Letter of Offer and Letter of Offer, to the SEBI and the Stock Exchanges, in case any of the information called for by it is not made available by the Issuer.
- 7.9 The Issuer undertakes to furnish complete audited annual report(s) and any other relevant documents, papers, undertakings, certificates and supporting information, which in the opinion of the Lead Manager is necessary and relevant, to enable the Lead Manager to certify that the information given and the statements made in the Issue Documents are true and correct.
- 7.10 The Issuer agrees to, for the period up to and including, the Closing Date, and for a period of 90 days thereafter, (i) immediately notify the Lead Manager and at the request of the Lead Manager, immediately notify SEBI, the Stock Exchanges or any other regulatory or supervisory authority, as applicable, and the investors (a) upon discovery that any information provided in accordance herewith is, or maybe inaccurate, untrue, incomplete, or misleading or of any failure to provide any material information; (b) of developments which would result in the Issue Documents containing an untrue statement of a material fact or omitting to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they are made, not misleading; (c) of any developments in relation to any other information provided by the Issuer, including if the information has been improperly provided or that its provision or use by the Lead Manager or its advisers would be unauthorised or in breach of any law, duty or obligation, and (d) of any developments which may impact continuous listing and/or statutory and/or regulatory compliances in relation to the Equity Shares; and (ii) disclose all information that may have an impact on the judgment of SEBI, the Registrar of Companies, the Stock Exchanges or any other regulatory or supervisory authority and/or the investment decision of the investor.
- 7.11 The Issuer agrees to (for the period up to and including the Closing Date) immediately notify the Lead Manager and at the request of the Lead Manager, immediately notify SEBI, the Stock Exchanges or any other regulatory or supervisory authority, as applicable, and the investors of material developments in the operations or business of the Issuer and its Subsidiaries, which may have an adverse effect on the Issue or the disclosures made in connection therewith, including but not limited to statutory and/or regulatory compliances in connection with the Issue and/or the Equity Shares, provided that the Issuer shall decide what is 'material' on a case to case basis, as required under applicable laws.;



- 7.12 The Lead Manager shall have the right to call for all reports, documents, papers or information, which in the opinion of the Lead Manager is relevant and necessary, from the Issuer to enable them to certify that the statements made in the Issue Documents are true and correct.
- 7.13 The Issuer shall keep the Lead Manager informed if it encounters any difficulties due to dislocation of communication systems or any other material adverse circumstances which are likely to prevent or which have prevented the Issuer from complying with its obligations, whether statutory or contractual, in respect of any matter pertaining to the Issue, Equity Shares. The Issuer shall, and accepts full responsibility to, update the information provided to the Lead Manager and to duly communicate to the Lead Manager any material change in the information already provided prior to such change.
- 7.14 The Issuer agrees to inform the Lead Manager of any material development in respect of the Issuer or its directors or Affiliates that could have an impact on the financial condition, operations and/or profitability of the Issuer, on an immediate basis until the time the Equity Shares pursuant to the Issue are admitted for trading on the Stock Exchanges. For the purposes of this Agreement, “**Affiliates**” shall mean, with respect to any person: (a) any persons that directly or indirectly, through one or more intermediaries, control or are controlled by or are under common control with such person; (b) any persons in which such person has a significant influence or which has significant influence over such person provided that significant influence over a person is the power to participate in the financial, management and operating policy decisions of the person but is less than control over those policies and that shareholders beneficially holding a 10% interest in the voting power of the person are presumed to have a significant influence on the person; and (c) any other person that is a holding company or subsidiary of such Party . For the purposes of this Agreement, the terms “holding company” and “subsidiary” shall have the respective meanings set forth in Sections 2(46) and 2(87) of the Companies Act, 2013 and the “Promoter” and “Promoter Group” of the Company, as such terms are defined in the Draft Letter of Offer and Letter of Offer, shall be deemed to be Affiliates of the Company. For the purposes of this Agreement, the term “control” (including the terms “controlling”, “controlled by” or “under common control with”) or “influence” shall have the meaning set forth in Section 2(27) of the Companies Act, 2013. For the avoidance of doubt, any reference in this Agreement to Affiliates includes any party that would be deemed an “affiliate” under Rule 405 or Rule 501(b) under the Securities Act, as applicable
- 7.15 The Issuer acknowledges and agrees that all relevant and necessary information, documents and statements required for any purpose related to the Issue and the Issue Documents will be signed / authenticated by authorised signatories, if requested by the Lead Manager.
- 7.16 Further, until the listing of the Equity Shares of the Issuer on the Stock Exchanges, the Issuer undertakes to promptly notify the Lead Manager of any information (including to the extent that the Issuer becomes aware of any pledge of Equity Shares by its Promoters or Directors), corporate event or any decision whatsoever, which would or is likely to have a material bearing on the Issue or the ability of the investor or prospective investor to take an investment decision to participate in the Issue.
- 7.17 The Issuer on its behalf undertakes to sign and cause each of the directors of the Issuer, the Chief Financial Officer to sign the Draft Letter of Offer and Letter of Offer to be filed the SEBI and the Stock Exchanges and such signature would be construed by the Issuer and the Lead Manager and any statutory authority to mean that the Issuer agrees that the Draft Letter of

Offer and Letter of Offer presents, a true and correct description of the Issuer, its Subsidiaries, Directors, and the Equity Shares being issued pursuant to the Issue. This signing off also means that, no relevant material information has been omitted or will be omitted to be stated in the Draft Letter of Offer and Letter of Offer.

7.18 The Issuer agrees that the obligations of the Lead Manager under this Agreement shall be subject to the receipt by the Lead Manager of the following documents:

(a) On the date of filing of the Draft Letter of Offer and Letter of Offer and on the day of the allotment of the Equity Shares offered and subscribed in the Issue, a customary opinion of Khaitan & Co., legal counsel to Issue, in form and substance satisfactory to the Lead Manager.

(b) On the date of the filing of the Draft Letter of Offer and Letter of Offer and on the day of allotment of Equity Shares pursuant to the Issue a letter in form and substance satisfactory to the Lead Manager, from (i) S.R. Batliboi & Co LLP, Chartered Accountants, independent statutory auditors, (ii) the erstwhile statutory auditors, Batliboi, Purohit & Darbari, Chartered Accountants and (iii) statutory auditors of Nature's Basket Limited, BSR & Associates LLP, Chartered Accountants containing statements and information in a format predefined and agreed to between the afore-named statutory auditors and Lead Manager with respect to the financial statements and certain financial information contained in or incorporated by reference into the Draft Letter of Offer and Letter of Offer and each such letter shall use a "cut-off" date not earlier than a date three working days prior to the date of such letter ("**Comfort Letters**"). The Issuer undertakes to provide S.R. Batliboi & Co LLP, Chartered Accountants with all relevant and necessary information, documents and data as may be required for the purposes of issuing the Comfort Letters and providing the customary negative assurances therein as per the requirements of the Lead Manager.

7.19 The Company acknowledges that it is not relying on the advice of the Lead Manager for tax, legal or accounting matters, it is seeking and will rely on the advice of its own professionals and advisors for such matters and it will make an independent analysis and decision regarding the Issue based upon such advice.

## **8. Independent Verification by the Lead Manager**

The Issuer will, if so required, extend such facilities as may be called for by the Lead Manager to enable its representatives to visit the offices of the Issuer and/or its Subsidiaries, or any project site of the Issuer or such other place(s) to ascertain for themselves of the true state of affairs of the Issuer including the progress made in respect of the project implementation, status and other facts relevant to the Issue. If, in the opinion of the Lead Manager, the verification of any of the aforesaid matters requires hiring of services of technical, legal or other experts in the specialized fields, the Issuer shall in consultation with the Lead Manager appoint an independent expert for the same and provide access to such independent expert to all relevant and material facts contained in the records of the Issuer.

## **9. Representations and Warranties of the Issuer**

The Issuer represents, warrants and agrees with the Lead Manager, as of (i) the date hereof; (ii) the date of the Draft Letter of Offer; (iii) the date of the Letter of Offer (iv) the Rights Issue Opening Date; and (v) as of the Closing Date, that:

- 9.1 It and all its Subsidiaries, are duly incorporated and validly existing under applicable laws, no steps have been taken for their winding up, liquidation or receivership of it, its Subsidiaries under the applicable laws. It has full power and authority to (i) execute, deliver and perform under this Agreement, (ii) execute, deliver and perform under the Engagement Letter, (iii) undertake and consummate the Issue, and (iv) consummate the other transactions contemplated by this Agreement and the Draft Letter of Offer and the Letter of Offer ("**Transactions**"); and all necessary actions has been duly taken by it to authorise the execution, delivery, performance, making and consummation, as the case may be, of the Issue and the Transactions. It has full power and capacity to conduct its business as described in the Draft Letter of Offer and the Letter of Offer and is lawfully qualified to do business in those jurisdictions in which it conducts business, to the extent so required;
- 9.2 The execution of each of the Issue Documents and all documents related thereto, has been duly authorised by all necessary corporate actions, and this Agreement, the Draft Letter of Offer and the Letter of Offer and all documents related thereto have been or will be duly executed and delivered, and each is, or will be upon execution, a legal, valid and binding obligation of the Issuer enforceable against the Issuer in accordance with its terms, except as such enforceability may be limited by (i) applicable bankruptcy, insolvency, reorganisation, moratorium or other similar laws affecting the enforcement of creditors' rights generally, and (ii) general principles of equity;
- 9.3 Neither (a) the Company and its Promoters, Promoter Group, Subsidiaries, Group Companies, Directors and Affiliates, nor (b) the companies with which any of the Affiliates, Promoters and Directors of the Company; are or were associated as a promoter, director or person in control, are debarred or prohibited from accessing the capital markets under any order or direction passed by the SEBI or any other regulatory or administrative authority or agency or have proceedings alleging violations of securities laws initiated or pending against them by such authorities or agencies;
- 9.4 The Issue Documents do not, and will not, as of their respective dates include any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this paragraph shall not apply to any statement or omission in the Issue Documents relating to the Managers made in reliance upon and in conformity with information furnished in writing to the Company by or on behalf of the Lead Manager expressly for use therein. For the avoidance of doubt, the only such information provided by each Lead Manager consists solely of its legal name, SEBI registration number and contact details.
- 9.5 Its financial statements included in the Draft Letter of Offer and the Letter of Offer (the "**Financial Statements**") have been prepared and restated in accordance with the requirements of (i) Section 26 of Part I of Chapter III of the Companies Act, 2013 (the "Act"); (ii) the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018, as amended; and (iii) the Guidance Note on Reports in Company Prospectuses (Revised 2019) issued by the Institute of Chartered Accountants of India , as amended from time to time. Such financial statements give, on the basis of and along with the accompanying notes thereto, a complete, true and fair view of the financial condition for

the periods to which such financial statements relate and of the results of the operations of for that period(s). The Issuer does not have any material contingent liabilities, any material liabilities for taxes, any material off-balance sheet liabilities or any long term leases or unusual forward or long term commitments that are not reflected in the Financial Statements.;

- 9.6 The Issuer maintains a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general and specific authorisations; (ii) transactions are recorded as necessary to enable the preparation of financial statements in conformity with Ind AS, and to maintain accountability for its assets; (iii) access to assets of the Issuer and each of its Subsidiaries is permitted only in accordance with management's general or specific authorizations and (iv) the recorded assets of the Company and each of its Subsidiaries are compared to existing assets at periodic intervals of time, and appropriate action is taken with respect to any differences. Except as described in the Issue Documents, since the end of the Issuer's most recent audited fiscal year, there has been (1) no material weakness in the Issuer's internal control over financial reporting (whether or not remediated) and (2) no change in the Issuer's internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.
- 9.7 Since the date of the Financial Statements, except as may be otherwise stated therein, there has not been (i) any Material Adverse Change in, or any adverse development which affects, the business, prospects, property or assets of the Issuer and / or its Subsidiaries, taken as a whole, or in the results of operations or financial condition of the Issuer and / or its Subsidiaries, taken as a whole, (ii) any transaction which is material to the Issuer and/or its Subsidiaries, except for transactions entered into in the ordinary course of business, (iii) any liabilities or obligations, direct or contingent, incurred by the Issuer and/or its Subsidiaries, which would have a Material Adverse Effect on the Issuer, except for liabilities and obligations incurred in the ordinary course of business, (iv) any changes in the share capital of the Issuer and / or its Subsidiaries which are material to the Issuer and / or its Subsidiaries, or (v) outstanding indebtedness of the Issuer and / or its Subsidiaries which are material to the Issuer and / or its Subsidiaries nor is there any agreement by the Issuer and / or its Subsidiaries to buyback any of their Equity Shares;
- 9.8 It is not engaged in any trading activities involving commodity contracts or other trading contracts which are not currently traded on a securities or commodities exchange and for which the market value cannot be determined;
- 9.9 It and its Subsidiaries are insured by insurers of recognised financial standing against such losses and risks and in such amounts as it considers are prudent and customary in the businesses in which they are engaged. All such insurance is in full force and effect, except in such cases as the failure to carry or be covered by insurance would not reasonably be expected to have a Material Adverse Effect. The Issuer does not have reason to believe that all entities mentioned hereinabove shall not be able (A) to renew their existing insurance coverage as and when such policies expire or (B) to obtain comparable coverage from similar institutions as may be necessary or appropriate to conduct its business as now conducted and at a cost that would not result in a Material Adverse Effect. The Issuer also confirms that the abovementioned entities have not been denied any insurance coverage which they have sought or for which they have applied;

- 9.10 The issue and allotment of Equity Shares, the execution, delivery and performance of this Agreement and the Engagement Letter and other transaction documents to which the Issuer is a party and the consummation of any of the transactions contemplated therein do not and will not, whether with or without the giving of notice or passage of time, conflict with or constitute a breach or violation of, or default or Default Repayment Event (as defined below) under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Issuer and / or its Subsidiaries pursuant to (a) the memorandum and articles of association of any of the abovementioned entities; (b) except as disclosed in the Issue Documents in respect of consents from the lenders of the Company for the Issue, the terms of any indenture, contract, lease, mortgage, deed of trust, note agreement, loan agreement or other agreement, obligation, condition, covenant or other instrument to which any of the Issuer and / or its Subsidiaries are a party or by which they are bound or to which any of their properties or assets are subject, or (c) any applicable law, statute, regulation, rule, judgment, order or decree of any government, governmental or regulatory body or court, administrative agency, arbitrator or other authority, domestic or foreign, having jurisdiction over any of the abovementioned entities or any of their properties, assets or operations. As used herein, a “**Default Repayment Event**” means any event or condition that gives the holder of any note, debenture or other evidence of indebtedness (or any person acting on such holder's behalf) the right to require the repurchase, redemption or repayment of all or a portion of such indebtedness;
- 9.11 All transactions and loans, liability or obligation between the Issuer on the one hand and (i) entities that Control or are Controlled by, or are under common Control with, the Issuer, (ii) entities over which the Issuer has a significant influence or which has a significant influence over the Issuer, (iii) persons owning an interest in the voting power of the Company that gives them significant influence over the Issuer, (iv) management personnel having authority and responsibility for planning, directing and Controlling the activities of the Issuer (including relatives of such management personnel, directors and senior management of the Issuer) and (v) entities in which a substantial interest in the voting power is owned, directly or indirectly, by any person described in (iii) or (iv) or over which such a person is able to exercise significant influence (including entities owned by directors or major shareholders of the Company and entities that have a member of key management in common with the Issuer) (x) have been and are, or will be, as the case may be, fair and on terms that are no less favourable to the Issuer than those that would have been obtained in a comparable transaction by the Issuer with an unrelated person and (y) will be, adequately disclosed in all material respects in the Issue Documents and (z) are, or will be, as the case may be, to the Issuer’s knowledge, legally binding obligations of and fully enforceable against the persons enumerated in (i) to (iv) above.
- 9.12 No labour problem, dispute, slowdown, work stoppage strike, lockout or disturbance involving the employees of the Issuer and / or any of its Subsidiaries, which could result in a Material Adverse Effect, exists or, to the knowledge of the Issuer, is imminent or threatened, and the Issuer is not aware of any existing or imminent labour disturbance by the employees which could result in a Material Adverse Effect. The Issuer is not aware of any director or key managerial personnel of the Issuer who plans to terminate their position or employment with the Issuer and / or any of its Subsidiaries, except to the extent such termination either singly or together with other such terminations, would not reasonably be expected to result in a Material Adverse Effect. Except as disclosed in the Issue Documents, there are no amounts owing or promised to any present or former directors or key managerial personnel of the Issuer, other than remuneration accrued or for reimbursement of business expenses

and no directors or key management personnel of the Issuer have given or have been given notice terminating their employment;

- 9.13 Except as disclosed in the Issue Documents, there are no actions, suits or arbitration, governmental or administrative proceedings before or by any court or governmental agency or body or arbitration panel, domestic or foreign, pending (including any stop order, restraining order or denial of an application for approval) affecting the Issuer or, to the best knowledge of the Issuer, threatened against the Issuer, which would, if adversely determined, affect or impair in any material respect the execution, delivery, performance, making or consummation, as the case may be, of the Issue and the Transactions or the financial position, conditions or results of operations of the Issuer and its Subsidiaries, taken as a whole;
- 9.14 It will not, without the prior written consent of the Lead Manager, during the period starting from the date hereof and ending 180 days after the Closing Date, (i) issue, offer, lend, pledge, encumber, sell, contract to sell or issue, sell any option or contract to purchase, purchase any option contract to sell or issue, grant any option, right or warrant to purchase, lend or otherwise transfer or dispose of, directly or indirectly, Equity Shares or any securities convertible into or exercisable or exchangeable for Equity Shares, other than allotment of equity shares or grant of options pursuant to the employee stock option scheme and allotments pursuant to conversion of Optionally Convertible Debentures of the Company held by the lenders; or (ii) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of Equity Shares or any securities convertible into or exercisable as or exchangeable for the Equity Shares; or (iii) publicly announce any intention to enter into any transaction described in (i) or (ii) above; whether any such transaction described in (i) or (ii) above is to be settled by delivery of Equity Shares or such other securities, in cash or otherwise or (iv) indulge in any publicity activities prohibited under the SEBI Regulations or under the laws of any jurisdiction other than India in which the Equity Shares are being offered, during the period in which it is prohibited under each such laws;
- 9.15 Each consent, order, approval and authorisation of, and registration, filing and declaration with, any court, regulatory authority, governmental agency or Stock Exchanges or any other person required in connection with the execution, delivery or performance by the Issuer of this Agreement, the Draft Letter of Offer and the Letter of Offer and all documents related thereto, in connection with the conduct and consummation of the Issue and the Transactions, has been received, done or obtained and are in full force and effect or, as the case may be, will be received, done or obtained and be in full force and effect prior to the time such consent, order, approval, authorisation, registration, filing and declaration is required;
- 9.16 There has not occurred any material adverse change, in the financial condition or in the business, management or assets of the Company and its Subsidiaries, taken as a whole from December 31, 2019 until the date of the Issue Documents, except as may be disclosed in the Issue Documents; and (ii) since December 31, 2019, there has been no dividend or distribution of any kind declared, paid or made by the Issuer on any class of its capital stock.
- 9.17 It undertakes to pay all applicable stamp duties, other issuance or transfer taxes, duties, other similar fees or charges required to be paid in connection with the execution, delivery and performance of this Agreement, the Issue Documents and all documents related thereto, or the conduct and consummation of the Issue and the Transactions;

- 9.18 After due verification of relevant records by it and to the best of its knowledge, it has clear title to all real property and clear title to all personal property which the Issuer has represented as being owned by them, in each case free and clear of all liens, encumbrances and defects, except such as are described in the Issue Documents or such as do not affect the value of such property in a manner that would have a Material Adverse Effect on the financial condition or results of operations of the Issuer taken as a whole, and do not interfere with the use made and proposed to be made of such property by the Issuer in a manner that would have a Material Adverse Effect;
- 9.19 The Issuer and each of its Subsidiaries have filed all tax returns, reports and other information which are required to be filed by or with respect to it or has received extensions with respect thereof, except where any delay or omission of such filing would not reasonably be expected to have a Material Adverse Effect. Except as would not reasonably be expected to have a Material Adverse Effect, the Issuer and each of its Subsidiaries have paid all taxes required to be paid it and any other assessment, fine or penalty levied against it, to the extent that any of the foregoing is due and payable, except for any such tax, assessment, fine or penalty that is being contested in good faith.
- 9.20 Except as described in the Issue Documents and except that such matters as would not, singly or in aggregate, result in a Material Adverse Effect, the Issuer (i) is in compliance with all applicable laws relating to the protection of human health and safety, the environment or hazardous or toxic substances or wastes, pollutants or contaminants (“**Environmental Laws**”), (ii) has received all material and necessary permits, licenses or other approvals required by any applicable Environmental Laws, and (iii) is in compliance with all applicable terms and conditions of any such permit, license or approval; there are no pending or, to the best knowledge of the Issuer after due inquiry, threatened administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of non-compliance or violation, investigation or proceedings relating to any Environmental Law against the Issuer. Except as disclosed in the Issue Documents and except that it would not, singly or in the aggregate, result in a Material Adverse Effect, there are no costs or liabilities associated with Environmental Laws (including, without limitation, any capital or operating expenditures required for clean-up, closure of properties or compliance with Environmental Laws or any permit, license or approval, any related constraints on operating activities and any potential liabilities to third parties);
- 9.21 The operations of the Issuer, its Subsidiaries are and have been conducted at all times in compliance with applicable financial record keeping and reporting requirements and the applicable anti-money laundering statutes and the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency in the jurisdictions in which the Issuer, its Subsidiaries operate (collectively, the “**Money Laundering Laws**”) and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Issuer or any of its Subsidiaries with respect to the Money Laundering Laws is pending or, to the best knowledge of the Issuer, threatened;
- 9.22 All descriptions of contracts, agreements, instruments or other material documents described in the Issue Documents, including contracts, agreements, instruments or other material documents, are accurate descriptions in all material respects, fairly summarize the contents of such contracts, agreements, instruments or documents and do not omit any material information which affects the import of such descriptions. There are no contracts or

documents that would be required to be described in the Issue Documents under any Applicable Law that have not been so described. The Company has full power, authority and legal right to enter into, execute, adopt, assume, issue, deliver and perform its obligations under all contracts and agreements material to the business of the Company (the "**Material Contracts**"), and has authorized, executed and delivered each of the Material Contracts, and such obligations constitute valid, legal and binding obligations enforceable against each of them in accordance with the terms of each Material Contract. Except as disclosed in Issue Documents each Material Contract is in full force and effect and none of the parties to any of the Material Contracts is in breach or default in the performance or observance of any of the terms or provisions of such Material Contracts. The Company has not sent or received any communication regarding termination of, or intention not to renew, any of the Material Contracts, and no such termination or non-renewal has been threatened by the Company or any other party to any Material Contract;

- 9.23 The statements in the Issue Documents under the section "*Management's Discussion and Analysis of Financial Condition and Results of Operations*" accurately and fully describe: (i) (a) the accounting policies that the Company believe to be the most important in the portrayal of the Company's financial condition and results of operations and which require management's most difficult, subjective or complex judgments ("**Critical Accounting Policies**"), (b) the uncertainties affecting the application of Critical Accounting Policies, and (c) an explanation of the likelihood that materially different amounts would be reported under different conditions or using different assumptions; and (ii) (a) all material trends, demands, commitments, events, uncertainties and risks, and the potential effects thereof, that would materially affect liquidity and are reasonably likely to occur; and (b) none of the Company is engaged in any transactions with, or has any obligations to, any unconsolidated entities (if any) that are contractually limited to narrow activities that facilitate the transfer of or access to assets by the Company, including structured finance entities and special purpose entities, or otherwise engages in, or has any obligations under, any off-balance sheet transactions or arrangements. As used herein, the phrase reasonably likely refers to a disclosure threshold lower than more likely than not; and the description set out in the Issue Documents under the section "*Management's Discussion and Analysis of Financial Condition and Results of Operations*" presents fairly and accurately the factors that the management believes have, in the past, and may, in the foreseeable future, affect the business, financial condition and results of operations of the Company;
- 9.24 The execution, delivery and performance by the Company of this Agreement, the Issue Documents and all documents related thereto, and the conduct and consummation of the Issue, and the Transactions, shall not:
- a) contravene, result in any breach of, or constitute a default under, any indenture, mortgage, deed of trust, loan, purchase or credit agreement, lease, corporate charter or by-laws, or any other agreement or instrument to which the Company is bound or by which it or any of its respective properties may be bound;
  - b) conflict with or result in a breach of any of the terms, conditions or provisions of any order, judgment, decree, or ruling of any court, arbitrator or governmental authority applicable to the Company; or
  - c) violate any provision of any statute, law or other rule or regulation of any governmental authority applicable to the Company



- 9.25 Neither the Company nor the Directors, Promoters, the Promoter Group, Subsidiaries, Group Companies, companies in which the Directors of the Company are directors, have been declared as wilful defaulter by RBI or any other government authority, have not been declared or associated with any vanishing company, and except as disclosed in the Issue Documents, SEBI has not initiated any action against them nor have there been any violations of securities laws committed by them in the past and no such proceedings are pending against the Company or them;
- 9.26 None of the Promoters or the Directors of the Company has been declared a fugitive economic offender under section 12 of the Fugitive Economic Offenders Act, 2018;
- 9.27 The Company is in compliance with Chapter III of the SEBI ICDR Regulations;
- 9.28 Neither the Issuer nor any of its Subsidiaries, nor any Director, officer, or employee, nor, any agent or representative of the Issuer, its Subsidiaries, has taken or will take any action (i) in furtherance of an offer, payment, promise to pay, or authorization or approval of the payment or giving of money, property, gifts, any other incentive (financial or otherwise) or anything else of value, directly or indirectly, to any “government official” (including any officer or employee of a government or government-owned or controlled entity or of a public international organization, or any person acting in an official capacity for or on behalf of any of the foregoing, or any political party or party official or candidate for political office) to influence official action or secure an improper advantage; or (ii) that has resulted or will result in a violation by the Issuer and its Subsidiaries of the U.S. Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder (the “FCPA”), or the U.K. Bribery Act, 2010 or any similar statutes in any of the jurisdictions in which they have operations; and the Issuer and its Subsidiaries have conducted their businesses in compliance with applicable anti-corruption laws including without limitation, the FCPA, and have instituted and maintain and will continue to maintain policies and procedures designed to promote and achieve compliance with such laws and with the representation and warranty contained herein.
- 9.29 The Issuer and its Subsidiaries are a “foreign private issuer” as such term is defined in Regulation S and reasonably believe that there is no “substantial U.S. market interest” as defined in Regulation S under the Securities Act in the Equity Shares or any security of the Issuer of the same class or series as the Equity Shares.
- 9.30 Neither the Issuer, its Subsidiaries nor any of their Affiliates, nor any person acting on their behalf has engaged or will engage, in connection with the offering of the Equity Shares, in any form of general solicitation or general advertising within the meaning of Rule 502(c) of Regulation D of the Securities Act. In connection with the offering of the Equity Shares, (i) neither the Issuer, its Subsidiaries nor any of their Affiliates, nor any person acting on their behalf has engaged or will engage in any directed selling efforts (as such term is defined in Regulation S) and (ii) each of the Issuer, its Subsidiaries and their Affiliates and any person acting on their behalf has complied and will comply with the offering restrictions requirement of Regulation S.
- 9.31 It shall not make any further issue of capital in any manner by way of issue of bonus shares, preferential allotment, rights issue, public issue or otherwise; during the period commencing from the submission of the Draft Letter of Offer and the Letter of Offer with the Stock Exchanges and SEBI for the Issue, till the Equity Shares to be offered and issued pursuant to the Issue as referred to in the Draft Letter of Offer and the Letter of Offer have been listed or

application money is refunded on account of non-listing or under-subscription, etc. except as disclosed in the section titled 'Capital Structure' in the Draft Letter of Offer and the Letter of Offer;

- 9.32 All of the issued and outstanding share capital of the Issuer has been duly authorised and validly issued and fully paid; none of the outstanding share capital of the Issuer is subject to any pre-emptive or similar rights. Except as described in the Issue Documents, there are no outstanding rights (including, without limitation, pre-emptive rights), warrants or options to acquire, or instruments convertible into or exchangeable for, any shares or other equity interests in the Issuer, or any contract, commitment, agreement, understanding or arrangement of any kind relating to the issuance of any share capital of the Issuer, any such convertible or exchangeable securities or any such rights, warrants or options;
- 9.33 Except as described in the Issue Documents, no approvals of any governmental or regulatory authorities are required in India (including any foreign exchange or foreign currency approvals) in order for the Company to pay dividends declared by the Issuer to the holders of Equity Shares.
- 9.34 Except as disclosed in the Issue Documents, the Issuer and its Subsidiaries own and / or possess rights or are licensed to use all material intellectual property rights such as trademarks, service marks and trade names (including trade secrets and other un-patented and/or un-patentable proprietary or confidential information, systems or procedures) currently employed by them for the conduct of their businesses as disclosed in the Issue Documents. Neither the Issuer nor any of its Subsidiaries has received any notice of infringement of, or conflict with, asserted rights of others with respect to any of the foregoing which would result in an unfavourable decision, ruling or finding, which would reasonably be expected to result in a Material Adverse Effect.; and
- 9.35 Other than as disclosed in the Draft Letter of Offer and the Letter of Offer, the Issuer has received consents from its lenders to undertake the Issue under all agreements, sanction letters and/or any other arrangements with the lenders, which require such consent to be obtained.
- 9.36 It agrees that all representations, warranties, undertakings and covenants in this Agreement and the Engagement Letter relating to, or given by, the Issuer on its behalf or on behalf of its Subsidiaries, are after due consideration and enquiry, and that the Lead Manager may seek recourse from the Issuer for any breach of these representations, warranties, undertakings or covenants relating to or given by the Issuer on its behalf or on behalf of such entities.

## **10. Representations and Warranties of the Lead Manager**

- 10.1 The Lead Manager hereby represents and warrants to the Issuer, as to itself only, that this Agreement has been duly authorised, executed and delivered by it, and is a valid and legally binding obligation of it, enforceable against it in accordance with its terms.
- 10.2 The Lead Manager hereby represents and warrants to the Issuer, that SEBI has granted to it a certificate of registration to act as a merchant banker in accordance with the Securities and Exchange Board of India (Merchant Bankers) Regulations, 1992, as amended, and that it is entitled to carry on business as an underwriter under the Securities and Exchange Board of India Act, 1992.

10.3 The Lead Manager hereby represents and warrants to the Issuer that (i) it or any of its Affiliates or any person acting on its behalf has not made and will not make, directly or indirectly, offers or sales of any security, and has not solicited and will not solicit offers to buy any security, under circumstances that would require the registration of the Rights Entitlements and the Equity Shares under the Securities Act; and (ii) neither it nor any of its Affiliates, nor any person acting on their behalf has engaged in or will engage in any directed selling efforts (as that term is defined in Regulation S under the Securities Act) with respect to the Rights Entitlement and the Equity Shares or has engaged in or will engage in connection with the offering of the Equity Shares in the United States, any form of general solicitation or general advertising within the meaning of Rule 502(c) under the Securities Act.

## **11. Appointment of Intermediaries**

11.1 The Issuer shall, in consultation with the Lead Manager, appoint the Intermediaries. Fees payable to the Intermediaries shall be payable by the Issuer in accordance with the appointment or engagement letters of such Intermediaries and the Lead Manager shall not be responsible for the payment of any fees or expenses of any Intermediary.

11.2 The Parties agree that any Intermediary who is appointed shall be registered with SEBI, where applicable under the applicable regulations issued by SEBI from time to time

11.3 Whenever required, the Issuer shall, in consultation with the Lead Manager, enter into a memorandum of understanding or agreement with the concerned Intermediary associated with the Issue, clearly setting out their mutual rights, responsibilities and obligations. Certified true copies of such memorandum of understanding or agreement shall be furnished to the Lead Manager.

11.4 The Issuer shall not, directly or indirectly, engage or associate with any other agency to carry out any part of the service agreed to be performed by the Lead Manager without consulting the Lead Manager. Fees and expenses due to such agencies, if appointed, shall be payable by the Issuer directly and the Lead Manager shall not be liable or responsible therefore.

11.5 All cost and expenses relating to the Issue including listing fees, costs relating to road shows (if any), hotel and travel expenses of Issuer's personnel and fees and expenses paid to any Intermediaries to the Issue shall be borne by the Issuer.

11.6 The Lead Manager are, and shall be, the exclusive Lead Manager in respect of the Issue, subject to terms of the Agreement and the Engagement Letter. The Issuer shall not during the term of this Agreement, appoint any other advisor or Lead Manager in relation to this Issue without the prior written consent of the Lead Manager. During the period of engagement of the Lead Manager hereunder, except what is in the public domain, the Issuer will not discuss the Issue or any other placement or issuance and allotment of any equity or equity linked securities of the Issuer relating to this issue with any third parties, except with the prior consent of the Lead Manager, (which consent shall not be unreasonably withheld), and it will promptly notify the Lead Manager if it receives any inquiry concerning the Issue. Nothing contained herein shall be interpreted to prevent the Issuer from retaining legal counsel or such other advisers or parties as may be required for taxation, accounts, legal matters, employee matters, due diligence and related matters in connection with the Issue. However, the Lead Manager shall not be liable in any manner whatsoever for the actions of any other advisors or parties appointed by the Issuer.

11.7 The Lead Manager shall have no liability with respect to acts or omissions of any Intermediary, except to the extent of the Lead Manager's bad faith, willful misconduct or gross negligence, as finally determined by a court or arbitral tribunal of competent jurisdiction. The Parties acknowledge that any such Intermediary, being an independent entity, shall be fully and solely responsible for the performance of its duties and obligations.

## **12. Publicity for the Issue**

12.1 The Issuer shall enter into an agreement with an advertising/public relations service provider/agency, in a form which is satisfactory to the Lead Manager prior to filing of the Draft Letter of Offer and the Letter of Offer or such other extended date as may be agreed to in writing by the Lead Manager.

12.2 The Issuer shall obtain prior approval of the Lead Manager, Khaitan & Co. (legal counsel to the Issue) in respect of all Issue advertisements, publicity material or any other media communications in connection with the Issue and shall make available to them copies of all Issue-related material. The Issuer shall ensure that all publicity materials including advertisements prepared and released by the advertising agency or otherwise in connection with the Issue conform to the SEBI Regulations and instructions given by the Lead Manager from time to time. The Issuer shall not make any misleading or incorrect statements or release any material or information, which is not contained in the Issue Documents, in the advertisements or at any press, broker or investor conference without the approval of the Lead Manager. Furthermore, the Issuer shall follow the restrictions prescribed by SEBI in respect of its corporate and product advertisements up to the listing of shares proposed to be issued in this Issue.

12.3 Subject to the applicable regulations and laws regarding publicity restrictions issued by SEBI, the Lead Manager may, at its own expense place advertisements in newspapers and other external publications describing its involvement in the Issue and the services rendered by it, and may use the Issuer's name and logo in this regard after the completion of the Issue and with the prior consent of the Issuer and such consent would not be unreasonably withheld. The Lead Manager agrees that such advertisements shall be issued only after the date on which the Equity Shares to be offered and issued pursuant to the Issue are approved for trading on the Stock Exchanges and, in the event that approval for trading on each of the Stock Exchanges occurs on different dates, the later date shall be the relevant date for the purpose of this Clause.

## **13. Post-Issue Work**

13.1 The Issuer shall take such steps as are necessary to ensure the completion of allotment and dispatch of letters of allotment/share certificates and refund orders to the Applicants for the Equity Shares soon after the basis of allotment has been approved by the Designated Stock Exchange and/or the Rights Issue Committee of the Company and in any case not later than the statutory time limit, if any, save and except on account of reasons beyond its control, and in the event of failure to do so, pay interest and penalty to the applicants for the Equity Shares as provided in the Draft Letter of Offer and the Letter of Offer or otherwise required under any applicable law or regulation or pursuant to any order or direction of the SEBI, the Stock Exchanges or any regulatory authority.

13.2 The Issuer shall set up an investor grievance redressal system to redress all Issue related grievances to the satisfaction of the Lead Manager.

13.3 The Issuer shall refund the money raised in the Issue to the applicants for the Equity Shares if required to do so for any reason such as failing to get listing permission or under any direction or order of SEBI and shall pay the requisite interest amount if so required under the laws or direction or order of SEBI.

#### **14. Duties of the Lead Manager**

14.1 The Lead Manager shall manage the Issue process in accordance with the SEBI Regulations and other laws and regulations applicable to the Issue process.

14.2 The services rendered by the Lead Manager are on a best efforts basis and in an advisory capacity. The Lead Manager shall not be held responsible for any acts of commission or omission of the Issuer or its directors, agents, employees or authorised persons, Affiliates or its associates.

14.3 In the event of breach of any of the conditions mentioned in the Agreement, the non-defaulting Party shall have the absolute right to take such action, as it may deem fit including but not limited to withdrawing from the Issue. In such an event, the non-defaulting Party shall not be liable or responsible for the consequences if any, resulting from such termination and withdrawal.

14.4 In the event the Issuer fails to comply with any of the provisions of this Agreement and such non-compliance is not cured within a period of 15 Working Days from the date that such non-compliance is brought to the notice of the Issuer, the Lead Manager, shall have the right to withdraw from the Issue either temporarily or permanently, without prejudice to the terms agreed under the engagement letter..

14.5 The duties and responsibilities of the Lead Manager under this Agreement shall be limited to those expressly set out in this Agreement, and shall not include general financial, strategic advice and providing services as receiving bankers or Registrar. No tax, legal, regulatory, accounting or technical or specialist advice is being given by the Lead Manager.

14.6 The Lead Manager, may provide services herein through one or more of its Affiliates, as it deems appropriate, after prior consultation with the Issuer. The Lead Manager shall be responsible for the activities carried out by its Affiliates in relation to this Issue, only if such activities are specifically delegated by the Lead Manager to its Affiliates and there is an established breach of this Agreement by such Affiliate.

14.7 The Issuer acknowledges that, the Lead Manager and its Affiliates are not acting as an agent or fiduciary and are an independent contractor, retained to act for the Issuer (and any duties of the Lead Manager arising out of this Agreement will be owed only to the Issuer). The Issuer acknowledges and agrees that the Lead Manager have neither assumed nor will assume a fiduciary responsibility in favour of the Issuer with respect to the Issue (irrespective of whether the Lead Manager have advised or is currently advising the Issuer on other matters) and the Lead Manager do not have any obligation to the Issuer with respect to the Issue except the obligations expressly set forth herein. Accordingly, the Lead Manager shall not be liable for any claims brought against them for the issue price being set at a level that it is too high or too low or for any sale of Equity Shares by investors to which such Equity Shares are allocated.

- 14.8 The provision of services by the Lead Manager herein is subject to the requirements of any laws and regulations applicable to the Lead Manager and their Affiliates. The Lead Manager and their Affiliates are authorised by the Issuer to carry out all such acts deeds and things which they consider is appropriate, necessary or desirable to carry out their services herein or to comply with any applicable laws, rules, regulations, codes of conduct, authorisations, consents and the Issuer hereby agrees to ratify and confirm all such actions lawfully taken by the Lead Manager only in connection with the Issue.
- 14.9 The Issuer acknowledges that, this Agreement is not intended to constitute, and should not be construed as a commitment between the Issuer and the Lead Manager with respect to underwriting or purchasing the Equity Shares in the Issue and the Lead Manager and the Issuer may, in their sole judgment and discretion, determine at any time not to proceed with the Issue.
- 14.10 The Issuer hereby acknowledges and agrees that the Lead Manager and their Affiliates (together, the “**LM Group**”) are engaged in a wide range of financial services and businesses (including investment management, financing securities trading, financial advisory, corporate and investment banking and research). Members of the LM Group and the businesses within each such member generally act independent of each other, both for their own account and for the account of clients. Accordingly, there may be situations where members of the LM Group and/or their clients either now have or may in the future have interests, or take actions that may conflict with interests of the Issuer. For example, a member of the LM Group may, in the ordinary course of business, engage in trading in financial products or undertake other investment businesses for its own account or on behalf of its clients, including, but not limited to, trading in or holding long, short or derivative positions in securities, loans or other financial products of the Issuer or other entities connected with the Issue. In recognition of the foregoing, the Issuer agrees that the LM Group is not required to restrict their activities as a result of this engagement, and that the LM Group may undertake any business activity without further consultation with or notification to the Issuer. Provided however that nothing contained in this Clause 14.10 shall affect the obligations of confidentiality set forth in this Agreement.
- 14.11 Neither this Agreement nor the receipt by the Lead Manager of confidential information or any other matter shall give rise to any fiduciary, equitable or contractual duties (including without limitation any duty of trust or confidence) that would prevent or restrict the LM Group from acting on behalf of other customers or for their own accounts. Furthermore, the Issuer agrees that neither the LM Group nor any member or business of the LM Group is under a duty to disclose to the Issuer or use on behalf of the Issuer any information whatsoever about or derived from those activities or to account for any revenue or profits obtained in connection with such activities. The Lead Manager or its Affiliate(s) involved in the Issue will not use confidential information obtained from the Issuer except in connection with its services to, and its relationship with, the Issuer or except as in situations identified in Clause 19 of this Agreement.
- 14.12 The Parties agree and undertake that they will not circulate or will cause to circulate the Issue Documents in those jurisdictions where the circulation of the Issue Documents would be contrary to law.

## **15. Indemnity**

15.1 The Issuer shall indemnify and hold harmless the Lead Manager, its Affiliates and their respective directors, officers, agents, controlling persons and employees (the Lead Manager and each such Affiliate and each such person being an “**Indemnified Party**”), from and against any and all claims, actions, losses, demands, damages, notices, penalties, costs, charges, expenses, suits, investigations, appeals, liabilities of any kind or proceedings of whatever nature made, suffered or incurred (collectively, “**Liabilities**”) to which such Indemnified Party may become subject under any applicable laws including the law of any applicable foreign jurisdiction or otherwise relating to or consequent upon or arising out of the Issue, including:

- (a) any breach or alleged breach by the Issuer of its obligations under this Agreement, any of the agreements entered into in relation to the Issue, any Issue Documents and /or the CAF and /or the Engagement Letter and/or applicable laws;
- (b) any untrue statement or alleged untrue statement of a material fact contained in the Issue Documents or the omission or the alleged omission thereof of a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made or arising from this engagement, not misleading;
- (c) to the extent of any aggregate amount paid in settlement of any litigation, or any investigation or proceeding by any governmental agency or body, commenced, or of any claim whatsoever arising out of or based upon (i) any such untrue statement or omission or any such alleged untrue statement or omission; provided that (subject to Clause 15.2 hereof) any such settlement is effected with the written consent of the Issuer; or (ii) any breach of the representations, warranties or covenants contained in this Agreement; provided that (subject to Clause 15.2 hereof) any such settlement is effected with the written consent of the Issuer;
- (d) any correspondence with the Stock Exchanges or any other Governmental Authority in connection with the Issue or any written information provided by the Issuer to any Indemnified Party to enable such Indemnified Party to correspond, on behalf of the Company with the Stock Exchanges or any other regulatory authorities in connection with the Issue; and
- (e) any of the warranties, representations or undertakings in this Agreement being untrue or incorrect or any third-party claims;

and agrees to reimburse each such Indemnified Party, as suffered or incurred, for any legal or other expenses reasonably incurred by it in connection with investigating or defending any such loss, claim, damage, liability, action, penalty, expense, suit or proceeding.

Notwithstanding anything contained in this Agreement, the Issuer shall not be liable to indemnify the Lead Manager for any loss, claims, damages and liabilities directly attributable to (a) the bad faith, gross negligence or willful misconduct of the Lead Manager, as may be finally determined by an arbitral tribunal or court of competent jurisdiction, or (b) any untrue statement or untrue statement of a material fact or omission relating to information about the Lead Manager, and provided to the Issuer by the Lead Manager, in writing, expressly for inclusion in the Issue Documents, which the Parties hereto agree, shall only consist of the names of the Lead Manager, their respective contact details and SEBI registration numbers,

- 15.2 Promptly after receipt by the Indemnified Party of notice of the commencement of any action, such Indemnified Party will, notify the Issuer in writing of the commencement thereof; but the failure so to notify the Issuer, (i) will not relieve it from liability above unless and to the extent it did not otherwise learn of such action and such failure results in the forfeiture by the Issuer of substantial rights and defenses, and (ii) will not, in any event, relieve the Issuer from any obligations to any Indemnified Party. The Indemnified Party shall be entitled to appoint counsel (including local counsel) of the Issuer's choice at the Issuer's expense to represent the Indemnified Party in any action for which indemnification is sought. Notwithstanding the Issuer's election to appoint counsel (including local counsel) to represent the Indemnified Party in an action, the Indemnified Party shall have the right to employ separate counsel (including local counsel), and the Issuer shall bear the reasonable fees, costs and expenses of such separate counsel if, (i) the use of counsel chosen by the Issuer to represent the Indemnified Party would present such counsel with a conflict of interest; (ii) the actual or potential defendants in, or targets of, any such action include both the Indemnified Party and the Issuer and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it and/or other Indemnified Parties that are different from or additional to those available to the Issuer; (iii) the Issuer shall not have employed counsel satisfactory to the Indemnified Party to represent the Indemnified Party within a reasonable time after notice of the institution of such action; or (iv) the Issuer shall authorize the Indemnified Party to employ separate counsel at the expense of the Issuer.
- 15.3 To the extent the indemnification provided for in Clause 15.1 is unavailable to an Indemnified Party or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then each Indemnifying Party under such paragraph, in lieu of indemnifying such Indemnified Party thereunder shall contribute to the amount paid or payable by such Indemnified Party as a result of such losses, claims, damages or liabilities (or actions in respect thereof) in such proportion as is appropriate to reflect the relative benefits received by the Issuer on the one hand and the Lead Manager on the other from the Issue. If, however, the allocation provided by the immediately preceding sentence is not permitted by applicable law, then each Indemnifying Party shall contribute to such amount paid or payable by such Indemnified Party in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the Issuer on the one hand and the Lead Manager on the other in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities (or actions in respect thereof), as well as any other relevant equitable considerations. The relative benefits received by the Issuer on the one hand and the Lead Manager on the other shall be deemed to be in the same proportion as the total net proceeds from the issue of the Equity Shares purchased under this Agreement (before deducting expenses) received by the Issuer bear to the total underwriting fees received by the Lead Manager with respect to the Equity Shares purchased under this Agreement as set forth in this Agreement. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Issuer on the one hand or the Lead Manager on the other and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Issuer and the Lead Manager agree that it would not be just and equitable if contributions pursuant to this Clause 15.3 were



determined by pro rata allocation or by any other method of allocation which does not take account of the equitable considerations referred to above in this Clause 15.3. The amount paid or payable by an Indemnified Party as a result of the losses, claims, damages or liabilities (or actions in respect thereof) referred to above in this Clause 15.3 shall be deemed to include any legal or other expenses reasonably incurred by such Indemnified Party in connection with investigating or defending any such action or claim. No person guilty of fraudulent misrepresentation shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

- 15.4 The remedies provided for in this Clause 15 are not exclusive and shall not limit any rights or remedies which may otherwise be available to any Indemnified Party at law or in equity.
- 15.5 The indemnity contained in this Clause 15 and the representations and warranties of the Issuer set forth in this Agreement shall survive and remain operative and in full force and effect regardless of, (a) any termination of this Agreement, (b) any investigation made by or on behalf of the Lead Manager, its Affiliates or any person controlling the Lead Manager or by or on behalf of the Issuer, its officers or directors or any other person controlling the Issuer, and (c) acceptance of and payment for any of the Equity Shares.

The Issuer shall not, without the prior written consent of the Indemnified Party, effect any settlement of any pending or threatened proceeding in respect of which any Indemnified Party is or could have been a party and indemnity could have been sought hereunder by such Indemnified Party, unless such settlement includes an unconditional release of such Indemnified Party from all liability on claims that are the subject matter of such proceeding.

- 15.6 The termination of this Agreement by the Parties shall be without prejudice to any rights or remedies of the Indemnified Party for, or in respect of, any breach or non-performance by the Issuer of its obligations under this Agreement prior to such termination.

## **16. Notices**

- 16.1 Any notice between the Parties hereto relating to this Agreement shall be effective upon receipt and shall, except as otherwise expressly provided herein, be sent by hand delivery, by first class mail or airmail, or by facsimile transmission to:

If to the Issuer:

**Spencer's Retail Limited**

RP-SG House, 3rd floor,  
2/4 Judges Court Road,

Kolkata 700 027

Attention:

Rama Kant (Company Secretary)

Tel: +91-33-24870651

Email: rama.kant@rpsg.in

If to the Lead Manager:

**ICICI Securities Limited**

ICICI Center, H.T. Parekh Marg

Churchgate  
Mumbai 400 020  
Fax: +91 (22) 2282 6580  
Attention: Prem Dcunha / Sameer Purohit  
Email: project.phoenix2020@icicisecurities.com

Any Party hereto may change its address by a notice given to the other Parties hereto in the manner set forth above.

## **17. Arbitration**

- 17.1 If any dispute, difference or claim arises between the Parties ("**Disputing Parties**") hereto in connection with this Agreement or the validity, interpretation, implementation or alleged breach of the terms of this Agreement or anything done or omitted to be done pursuant to this Agreement, the Disputing Parties shall attempt in the first instance to resolve the same through amicable negotiations. If the dispute is not resolved through such negotiations within 15 days after commencement of discussions, then any Disputing Party may by notice in writing to the other refer the dispute to binding arbitration to be conducted in accordance with the Arbitration and Conciliation Act, 1996, as amended.
- 17.2 Any reference made to the arbitration tribunal under this Agreement shall not affect the performance of terms, other than the terms related to the matter under arbitration, by Parties under the Agreement and the Engagement Letter.
- 17.3 The arbitration shall be conducted as follows:
- (a) all claims, disputes and differences between the Parties arising out of or in connection with this Agreement shall be referred to or submitted for arbitration in Mumbai;
  - (b) the arbitration shall be conducted by a panel of three arbitrators, one to be appointed by the Issuer and one to be appointed by the Lead Manager within 15 days of the Disputing Party referring the matter to arbitration and the two arbitrators so appointed shall appoint the third or the presiding arbitrator within 15 days of the appointment of the last of the two aforementioned arbitrators. In the event that the Lead Manager or the Issuer fails to appoint an arbitrator or the arbitrators fail to appoint the third arbitrator as provided herein, such arbitrator(s) shall be appointed in accordance with the Arbitration and Conciliation Act, 1996. The arbitrators so appointed shall have relevant expertise in the area of securities and commercial laws such as laws related to Companies, accounting and finance;
  - (c) all proceeding shall be conducted in English language;
  - (d) the arbitral tribunal shall have the power to award interest on any sums awarded;
  - (e) notwithstanding the power of the arbitrator to grant interim relief, the Disputing Parties shall have the power to seek appropriate interim relief from the courts of Mumbai;

- (f) the arbitration award shall state the reasons on which it was based and shall be final and binding on the Disputing Parties and the Disputing Parties agree to be bound thereby and to act accordingly;
- (g) the Parties shall bear their respective costs incurred in the arbitration unless otherwise awarded or fixed by the arbitrators;
- (h) the arbitrator may award to a Disputing Party that substantially prevails on the merits, its costs and actual expenses (including actual fees of its counsel); and
- (i) the Disputing Parties shall co-operate in good faith to expedite, to the maximum extent practicable, the conduct of any arbitral proceedings commenced pursuant to this Agreement.

## **18. Grounds for Termination**

18.1 Notwithstanding anything contained herein, the Lead Manager shall have the option, to be exercised in the sole discretion of the Lead Manager and to be exercised at any time until the allotment of the Equity Shares, of termination of this Agreement under any or all of the following circumstances:

- (a) (I) there shall have been any breach or potential breach by the Issuer of, or any event rendering untrue or incorrect or misleading in any respect, any of the representation or warranties contained herein or any failure to perform any of the Issuer's undertakings or agreements in this Agreement which is, in the opinion of the Lead Manager, materially adverse in the context of the Issue or the allotment of the Equity Shares pursuant to the Issue; (II) or if there is any non-compliance by the Issuer of (i) applicable laws and regulations related to the Issue, or (ii) applicable laws and regulations related to its business and operations and such non-compliance, either singly or in aggregate results in a Material Adverse Effect; or (III) all corporate and regulatory approvals and lender consents required to be obtained by the Issuer for the Issue prior to the Closing Date, have not been obtained by the Issuer as of the dates on which such corporate and regulatory approvals and lender consents are required to be obtained;
- (b) trading in any securities of the Issuer has been suspended or limited by the SEBI on any exchange or over-the-counter market or trading generally having been suspended or materially limited on or by any of the Stock Exchanges or minimum or maximum prices for trading have been fixed by the Stock Exchanges or any other applicable governmental or regulatory authority or a material disruption has occurred in commercial banking, securities settlement or clearance services in the United Kingdom, the United States of America, Hong Kong or Singapore or with respect to the Clearstream or Euroclear systems in Europe or in any of the cities of Mumbai, Kolkata, Chennai or New Delhi;
- (c) A general moratorium on commercial banking activities have been declared by either Indian, United Kingdom, the European Union, Singapore, Hong Kong or United States Federal or New York State authorities;
- (d) Any material adverse change in the financial markets in India, the UK, USA or the international financial markets, any outbreak of hostilities (including terrorism) or

escalation thereof or any calamity or crisis or any other change or development involving a prospective change in India, the UK, USA or Indian or international political, financial or economic conditions (including the imposition of or a change in exchange controls or a change in currency exchange rates) in each case the effect of which event, singularly or together with any other such event, is such as to make it, in the sole judgment of the Lead Manager, impracticable or inadvisable to market the Equity Shares on the terms and in the manner contemplated in the Issue Documents;

- (e) There shall have occurred any change, or any development involving a prospective change, in the condition, financial or otherwise, or in the earnings, business, management or operations of the Issuer and its Subsidiaries, taken as a whole, whether or not arising in the ordinary course of business that, in the sole judgment of the Lead Manager, are material and adverse and that makes it, in the sole judgment of the Lead Manager, impracticable to market the Equity Shares or to enforce contracts for the sale of the Equity Shares on the terms and in the manner contemplated in the Issue Documents; or
- (f) There shall have occurred any regulatory change, or any development involving a prospective regulatory change (including, but not limited to, a change in the regulatory environment in which the Issuer and its Subsidiaries operate or a change in the regulations and guidelines governing the terms of this Issue) or any order or directive from SEBI, Registrar of Companies, Stock Exchanges or any other Indian governmental, regulatory or judicial authority that, in the sole judgment of the Lead Manager, are material and adverse and that makes it, in the sole judgment of the Lead Manager, impracticable to market the Equity Shares or to enforce contracts for the sale of the Equity Shares on the terms and in the manner contemplated in the Draft Letter of Offer and the Letter of Offer.

## 19. Confidentiality

19.1 The Lead Manager agrees from the date hereof to treat as confidential this Agreement and any information relating specifically to the Issue that is disclosed by the Issuer to the Lead Manager for the purpose of the execution of this engagement, by any employee, officer or Director of the Issuer involved in the Issue (“**Confidential Information**”), except that the foregoing shall not apply:

- (a) To any information which, prior to its disclosure in connection with this Issue, was already in the possession of the Lead Manager when not acting as Lead Manager for purposes of the Issue;
- (b) To any information which is required to be disclosed, or is disclosed, in the Issue Document;
- (c) Any information which is made public with the prior consent of the Issuer;
- (d) To any disclosure by Lead Manager to its Affiliates and their respective employees, analysts, legal counsel, independent auditors and other experts or agents who need to know such information for and in connection with the Issue;

- (e) To any information, which is or comes into the public domain without any default on the part of the Lead Manager of the terms of this Agreement or comes into the possession of the Lead Manager other than in breach of any confidentiality obligation owed to the Issuer of which they are aware;
  - (f) To any disclosure pursuant to any law or order of any court or pursuant to any direction, request or requirement (whether or not having the force of law) of any central bank or any governmental, statutory, regulatory or, supervisory or other authority, subject to notice to the Issuer, provided (i) the Lead Manager are permitted under law, rule or regulation to provide the Issuer with such notice, and (ii) such notice does not prejudice or diminish the Lead Manager's rights under any such direction, request or requirement; or
  - (g) To the extent that the Lead Manager needs to disclose any information with respect to any proceeding for the protection or enforcement of any of its rights arising out of this Agreement or the Issue, subject to prior notice to the Issuer, wherever practicable, provided, (i) the Lead Manager are permitted under law, rule or regulation to provide the Issuer with such notice, and (ii) such notice does not prejudice or diminish the Lead Manager's rights in any such proceeding.
- 19.2 Obligation of confidentiality will not apply to any information that is stated in the Issue Documents, which may have been filed with relevant regulatory authorities (excluding any informal filings or filings where the documents are treated in a confidential manner), or was included in any investor presentation or advertisements or in the opinion of the Lead Manager is necessary to make the statements therein not misleading.
- 19.3 The Issuer acknowledges that, any advice or opinions provided by the Lead Manager under or pursuant to this Issue shall not be disclosed or referred to publicly or to any third party except in accordance with the prior written consent from the Lead Manager and except where such information is required to be disclosed by law or in connection with disputes between the Parties or if required to be disclosed by a court of law or any other regulatory authority. Each Party agrees to keep the confidential the terms specified under this Agreement and the Engagement Letter and agrees that no public announcement or communication related to the subject matter of this Agreement or the Engagement Letter shall be issued or dispatched without the prior consent of the Lead Manager.
- 19.4 The Lead Manager shall be entitled to retain all information furnished by the Issuer and its advisors, representatives or counsel to the Lead Manager in connection with the Issue, and to rely upon such information in connection with any defenses available to the Lead Manager under applicable laws, including, without limitation, any due diligence defenses. Further, the Lead Manager shall be entitled to retain all correspondence, records, workings, analysis and other papers prepared by it or its Affiliates in connection with the Issue either stored electronically or physically or otherwise.
- 19.5 The confidentiality obligation shall be operative until a period of one year from the date of this Agreement.
- 20. Consequences of Breach**
- 20.1 In the event of breach of any of the conditions mentioned in this Agreement, each of the non-defaulting Party shall have the absolute right to take such action as they may deem fit

including but not limited to withdrawing from the Issue either temporarily or permanently, without prejudice to the compensation payable to it in accordance with the terms of this Agreement. The Lead Manager shall not be liable to refund the monies paid to them as fees or reimbursement of out-of-pocket expenses unless finally determined by the court of competent jurisdiction that there is primarily a bad faith or gross negligence or willful default on the part of the Lead Manager. Subject to applicable laws, in the event of a breach by any Party, the defaulting Party shall have the right to cure any such breach within a period of 10 days of the breach. The defaulting Party shall immediately upon occurrence of a breach or the knowledge of a breach give notice in writing to other Party. In the event that the breach is not cured within the aforesaid period, the non-defaulting Party shall not be liable or responsible for the consequences if any, resulting from such termination and withdrawal.

- 20.2 The Company may not recover from the Lead Manager, in contract or tort, under statute or otherwise, any amount with respect to loss of profit, data or goodwill, or any other consequential, incidental, indirect, punitive or special damages in connection with claims arising out of this Agreement or otherwise relating to the Services, whether or not the likelihood of such loss or damage was contemplated. The Company shall also not recover from the Lead Manager, in contract or tort, under statute or otherwise, aggregate damages in excess of the fees actually paid for the Services to the Lead Manager that directly caused the loss in connection with claims arising out of this Agreement or otherwise relating to the Services.

## **21. Governing Law**

- 21.1 This Agreement shall be governed by and performed in accordance to the law of India and subject to the Arbitration provisions hereof the courts in Mumbai shall have exclusive jurisdiction in relation to the matters pertaining hereto.

## **22. Severability**

- 22.1 If any provision or any portion of a provision of this Agreement or the Engagement Letter is or becomes invalid or unenforceable, such invalidity or unenforceability will not invalidate or render unenforceable the Agreement or Engagement Letter, but rather will be construed as if not containing the particular invalid or unenforceable provision or portion thereof, and the rights and obligations of the Parties hereto will be construed and enforced accordingly. Each Party will use its reasonable efforts to negotiate and implement a substitute provision which is valid and enforceable and which as nearly as possible provides the Parties hereto the benefits of the invalid or unenforceable provision.

## **23. Binding Effect, Entire Agreement**

- 23.1 These terms and conditions will be binding on and inure to the benefit of the Parties hereto, their successors, and permitted assigns. These terms and conditions supersede and replace any and all prior contracts, understandings or arrangements, whether oral or written, heretofore made between any of the Parties hereto and relating to the subject matter hereof, and as of the date hereof constitute the entire understanding of the Parties with respect to the Issue.
- 23.2 The Parties hereto acknowledge, declare and confirm that this Agreement, together with the Engagement Letter referred to herein, represents the entire agreement between them

regarding the subject matter hereof and no alterations, additions or modifications hereto shall be valid and binding unless the same are reduced to writing and signed by all the Parties.

**24. Miscellaneous**

- 24.1 No modification, alteration or amendment of this Agreement or any of its terms or provisions shall be valid or legally binding on the Parties unless made in writing and duly executed by or on behalf of all the Parties hereto.
- 24.2 These terms and conditions of this Agreement are not assignable by any Party hereto without the prior written consent of all the other Parties hereto.
- 24.3 In the event that any provision contained in this Agreement conflicts with any provision in the Engagement Letter, the provisions contained in this Agreement will prevail to the extent of such inconsistency, except for the fee which shall be governed by the Engagement Letter.

In witness whereof the parties have caused these presents to be executed on the date mentioned above as hereinafter appearing.

**For and behalf of**

**SPENCER'S RETAIL LIMITED**

Authorised Signatory



**ICICI SECURITIES LIMITED**

Authorised Signatory



Name: Sameer Purohit - AVP  
Place Mumbai  
Date: May 12, 2020

## Annexure A

Sr. No.	Activity
1.	Capital structuring with the relative components and formalities such as type of instrument, number of instruments to be issued, etc.
2.	Drafting, design and distribution of the Draft Letter of Offer and the Letter of Offer, Abridged Letter of Offer, CAF, etc. and memorandum containing salient features of the Letter of Offer. The Lead Manager shall ensure compliance with the SEBI ICDR Regulations, SEBI Listing Regulations and other stipulated requirements and completion of prescribed formalities with the Stock Exchanges and SEBI.
3.	Selection of various agencies connected with the Issue, namely Registrar to the Issue, printers, advertisement agencies, and Monitoring Agency
4.	Drafting and approval of all publicity material including statutory advertisement, corporate advertisement, brochure, corporate films, etc.
5.	Formulating marketing strategy which will cover, inter alia, distribution of publicity and Issue materials including application form, brochure and Draft Letter of Offer and the Letter of Offer
6.	Post-Issue activities, which shall involve essential follow-up steps including follow-up with Bankers to the Issue and the SCSBs to get quick estimates of collection and advising the Company about the closure of the Issue, based on correct figures, finalisation of the Basis of Allotment or weeding out of multiple applications, listing of instruments, dispatch of certificates or demat credit and refunds and coordination with various agencies connected with the post-issue activity such as Registrar to the Issue, Bankers to the Issue, SCSBs, etc., and underwriting arrangement, if any