

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY APPLICATION NO. 923 OF 2008**

In the matter of Sections 391 to 394 of the
Companies Act, 1956;

And

In the matter of CUMMINS INDIA LIMITED

And

In the matter of Scheme of Amalgamation of
CUMMINS SALES AND SERVICE INDIA LIMITED
AND CUMMINS AUTO SERVICES LIMITED

With

CUMMINS INDIA LIMITED

CUMMINS INDIA LIMITED, a company)	
incorporated under the Companies Act,)	
1956 and having its Registered Office at)	
Kothrud, Pune 411 038)Applicant / Transferee Company

**NOTICE CONVENING MEETING OF EQUITY SHAREHOLDERS
OF CUMMINS INDIA LIMITED, THE APPLICANT COMPANY / TRANSFEREE COMPANY**

To,
The Equity Shareholders of the Applicant / Transferee Company

Take Notice that by an Order made on the 20th day of June , 2008, in the above Company Application, the High Court of Judicature at Bombay has directed that a meeting of the equity shareholders of the Applicant / Transferee Company, be convened and held at Hotel Le Meridien, Majestic Hall, 1st Floor, Raja Bahadur Mill Road, Pune 411 001 on Thursday, 24th July, 2008 at 3.30 P.M. for the purpose of considering, and if thought fit, approving, with or without modifications, the arrangement proposed in the Scheme of Amalgamation ("the Scheme") of Cummins Sales and Service India Limited and Cummins Auto Services Limited, the Transferor Companies, with Cummins India Limited, the Applicant / Transferee Company.

Take further Notice that in pursuance of the said Order and as directed therein, a meeting of the equity shareholders of the Applicant / Transferee Company will be convened and held at Hotel Le Meridien, Majestic Hall, 1st Floor, Raja Bahadur Mill Road, Pune 411 001 on Thursday, 24th July, 2008 at 3.30 P.M., when you are requested to attend.

Take further Notice that you may attend and vote at the said meeting in person or by proxy provided that a proxy in the prescribed form duly signed by you, is deposited at the Registered Office of the Applicant / Transferee Company situated at Kothrud, Pune 411 038, not later than forty-eight hours before the meeting.

This Court has appointed Mr. Anant J. Talaulicar, Chairman & Managing Director of the Applicant / Transferee Company and failing him Mr. P. S. Dasgupta, Director of the Applicant / Transferee Company and failing him Mr. Nasser Munjee, Director of the Applicant / Transferee Company to be the Chairman of the said meeting.

A copy each of the Scheme of Amalgamation, Statement under Section 393 of the Companies Act, 1956 and a Form of Proxy is enclosed.

Dated this 20th day of June, 2008.

Anant J. Talaulicar
Chairman appointed for the meeting

Registered Office:
Kothrud, Pune 411 038

(Note: All alterations made in the Form of Proxy should be initialed)

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1956 and having its Registered Office at)	
Kothrud, Pune 411 038)Applicant / Transferee Company

STATEMENT UNDER SECTION 393 OF THE COMPANIES ACT, 1956

1. Pursuant to Order dated 20th June 2008 passed by the Hon'ble High Court of Judicature at Bombay in the Company Application referred to above, a meeting of the members holding equity shares of Cummins India Limited, the Applicant / Transferee Company, has been directed to be convened and held at Hotel Le Meridien, Majestic Hall, 1st Floor, Raja Bahadur Mill Road, Pune 411 001 on Thursday, 24th July 2008 at 3.30 P.M. for the purpose of considering, and if thought fit, approving with or without modifications, the arrangement proposed in the Scheme of Amalgamation of Cummins Sales and Service India Limited and Cummins Auto Services Limited, the Transferor Companies with Cummins India Limited, the Applicant / Transferee Company. A certified copy of the said Order is available for inspection at the Registered Office of the Applicant / Transferee Company at Kothrud, Pune 411 038 between 10.00 A.M. to 12.30 P.M. on any working day except Saturday and Sunday till 23rd July 2008.
2. In this statement, the Applicant, Cummins India Limited is hereinafter referred to as "the Transferee Company" or "CIL" and Cummins Sales and Service India Limited is hereinafter referred to as "CSS or Transferor Company No. 1" and Cummins Auto Services Limited is hereinafter referred to as "CASL or Transferor Company No. 2" and Transferor Company No. 1 and 2 are collectively referred to as "The Transferor Companies".
3. The resolution to be submitted to the said meeting will read as follows :
"RESOLVED THAT the arrangement as proposed in the Scheme of Amalgamation of Cummins Sales and Service India Limited and Cummins Auto Services Limited, the Transferor Companies with Cummins India Limited, the Transferee Company, in terms of the draft placed before the meeting and initialed by the Company Secretary of the Transferee Company, for the purpose of identification, be and is hereby approved.

FURTHER RESOLVED that the Board of Directors of the Transferee Company be and are hereby authorised to sign, seal and deliver all documents, agreements etc. and do all such acts, deeds, matters and things as are considered requisite or necessary to effectively implement the said Scheme of Amalgamation and to accept such modifications and/or conditions, if any, as may be required and/or imposed by the Hon'ble High Court of Judicature at Bombay and/or any other authority while sanctioning this Scheme of Amalgamation."

4. The Transferee Company was incorporated on February 17, 1962 under the name of Kirloskar Cummins Limited, under the provisions of the Companies Act, 1956. Further by passing the necessary resolution in terms of Section 21 of the Companies Act, 1956 and after obtaining approval of the Central Government, the name of the Transferee Company was changed to CUMMINS INDIA LIMITED. Consequently on change of name, a fresh certificate of incorporation dated September 10, 1997 was issued to the Transferee Company. The Transferee Company has its Registered Office at Kothrud, Pune 411 038. The present and post - amalgamation authorised, issued and paid-up capital of the Transferee Company is / will be as follows :-

Authorised	Rupees
20,00,00,000 equity shares of Rs. 2 each	40,00,00,000
Issued, subscribed and paid-up	
19,80,00,000 equity shares of Rs. 2 each	39,60,00,000

5. The objects for which the Transferee Company has been established are set out in the Memorandum and Articles of Association. More particularly, the Transferee Company is engaged in the business of manufacturing, producing, exporting, importing, letting on hire of Internal Combustion Engines, Generator Sets and parts and components thereof.
6. CSS / Transferor Company No. 1 was incorporated on January 11, 1952, under the provisions of the Indian Companies Act, 1913, initially as a Private Limited Company under the name Cummins Diesel Sales and Service (India) Private Limited. By an endorsement made by the Registrar of Companies, Pune, the word "Private" was deleted and CSS became a deemed Public Company with effect from September 11, 1967. CSS converted itself into a Public Limited Company effective April 20, 2001, under the same name i.e. Cummins Diesel Sales and Service (India) Limited and a Certificate to that effect was issued by the Registrar of Companies, Maharashtra, Pune on May 20, 2001. By a subsequent Certificate dated August 25, 2006, issued by the Registrar of Companies, Maharashtra, Pune, the name of CSS was changed to Cummins Sales and Service India Limited. CSS has its Registered Office at 35A/1/2, Erandawana, Pune 411 038. The present authorised, issued and paid-up capital of CSS is as follows :-

Authorised	Rupees
12,00,000 equity shares of Rs. 100 each	12,00,00,000
Issued, subscribed and paid-up	
6,00,002 equity shares of Rs. 100 each	6,00,00,200

7. The main objects for which CSS has been established are set out in the Memorandum and Articles of Association and inter alia it is engaged in the business of sales and after sales services for engines and generators manufactured by the Transferee Company.
8. CASL / Transferor Company No. 2 was incorporated on May 16, 2000, as per the provisions of the Companies Act, 1956, as a Private Limited Company and a Certificate of Incorporation was issued by the Registrar of Companies, Pune. By an endorsement made by the Registrar of Companies, Pune, the word "Private" was

deleted and CASL became a deemed Public Company with effect from August 28, 2000. CASL has its Registered Office at Cummins Sales and Service India Limited Premises, 35A/1/2, Erandawana, Pune 411 038. The present authorised, issued and paid-up capital of CASL is as follows :-

Authorised	Rupees
2,00,00,000 Equity Shares of Rs. 10 each	20,00,00,000
Issued, subscribed and paid-up	
5,00,000 Equity Shares of Rs. 10 each	50,00,000

9. The main objects for which CASL has been established are set out in the Memorandum and Articles of Association. CASL is engaged in the business of retailing parts and accessories for commercial vehicles.
10. The entire issued, subscribed and paid-up capital of CSS is held by the Transferee Company and its nominees. Further the entire share capital of CASL is held by CSS which is a wholly owned subsidiary of the Transferee Company, except 100 shares which are held by the Transferee Company. The Transferee Company as well as CSS have given their consent in writing to the proposed Scheme of Amalgamation as the shareholders of CSS and CASL respectively. In the circumstances, CSS and CASL have filed the necessary Company Applications being Company Application Nos. 924 / 2008 and 925 / 2008 respectively. The Hon'ble High Court of Judicature at Bombay by orders made on 20th June 2008 has dispensed with the convening and holding of the meetings of the equity shareholders of CSS and CASL to consider and approve the proposed Scheme of Amalgamation.
11. CIL is engaged mainly in the business of manufacture, sale of Internal Combustion engines and generator sets of various capacities for various applications like marine, rail, power generation, automotive etc. CSS is mainly engaged in the business of sales and after sales services for engines and generator sets manufactured by the Transferee Company and CASL is engaged in retailing parts and accessories for commercial vehicles.

The reasons for amalgamation, inter alia, are as under: -

- a. As a result of the amalgamation, significant synergies will emerge in the marketing, technical support, sourcing and other systems coupled with certain financial and cost benefits which will enhance the financial and administrative abilities of the Amalgamated Company.
 - b. It is envisaged that with the amalgamation, there would be cost economies for enhanced scale of operations, elimination of duplication of administrative functions, better utilisation of assets and flexibility in resource mobilisation and movement.
 - c. With the enhanced capabilities and resources at its disposal, the Amalgamated Company will have greater flexibility to market and meet customer needs and will be able to compete more effectively, thus strengthening its position.
 - d. The amalgamation of the Transferor Companies with the Transferee Company would enable the Transferee Company to carry on the combined business more economically and efficiently. It would also result in the most optimum utilisation of Management and other resources. The amalgamation would, therefore, be in the best interest of all the Companies and their respective Shareholders.
12. The salient features of the said Scheme of Amalgamation of the Transferor Companies with the Transferee Company are as follows :-

12.1 With effect from 1st day of April, 2008 (hereinafter called "the Appointed Date") and subject to the provisions of this Scheme in relation to the mode of transfer and vesting, the whole of the Undertaking of CSS and

CASL shall be transferred into and vested in CIL pursuant to the provisions of Section 394 of the said Act along with all the assets and liabilities of CSS and CASL in the following manner :

- (a) With effect from the Appointed Date, the whole of the Assets of CSS and CASL, except for the portions specified in Articles (b) and (c) below of whatsoever nature and wheresoever situated and capable of passing by manual delivery and/or endorsement, transfer or otherwise howsoever, shall, under the provisions of Sections 391 and 394 and all other applicable provisions, if any of the Act, without any further act or deed be transferred to and vested in and/or be deemed to be transferred to and vested in CIL so as to vest in CIL all the rights, title and interest of CSS and CASL therein.
 - (b) With effect from the Appointed Date, all the Quoted and Unquoted Investments of CSS and CASL, capable of passing by manual delivery or by endorsement, transfer and delivery or delivery through electronic mode shall, without any further act or deed, be and shall stand transferred to CIL by manual delivery or by endorsement and delivery or delivery through electronic mode as the case may be, to the end and intent that the property therein passes to CIL, on such delivery or endorsement, transfer and delivery. Such delivery and transfer shall be made on a date mutually agreed upon between the Board of Directors of CSS and CASL and the Board of Directors of CIL, within thirty days from the Effective Date.
 - (c) In respect of the movable properties of CSS and CASL other than specified in Article (b) above, including loans and advances, if any, recoverable in cash or in kind or for value to be received, bank balances and deposits, if any; with government, semi-government, local and other authorities and bodies, CIL may if so required, under any law or otherwise, give notice in such form as it may deem fit and proper, to each person, debtor, depositor, as the case may be, that pursuant to the Hon'ble High Court having sanctioned the Scheme, the said debt, loan, advance or deposit be paid or made good or held on account of CIL as the person entitled thereto, to the end and intent that the right of CSS and CASL to recover or realize all such debts (including the debts payable by such person or depositor to CSS and CASL) stands transferred and assigned to CIL and that appropriate entries should be passed in its books to record the aforesaid change.
 - (d) With effect from the Appointed Date, all the Liabilities of CSS and CASL shall also, under the provisions of Section 391 and 394 of the Act without any further act or deed be transferred to or be deemed to be transferred to CIL so as to become as from the Appointed Date the debts, liabilities, duties, obligations of CIL and further that it shall not be necessary to obtain the consent of any third party or other person who is a party to any contract or arrangement by virtue of which such debts, liabilities, duties and obligations have arisen, in order to give effect to the provisions of this clause.
- 12.2 Subject to other provisions contained in the Scheme, all contracts, deeds, agreements and other instruments of whatever nature to which CSS and/or CASL are parties and which are subsisting immediately before the Effective Date shall remain in full force and effect against or in favour of CIL, as the case may be, and may be enforced as fully and as effectually as if instead of CSS and/or CASL, CIL had been a party or beneficiary thereto.
- 12.3 If any suit, appeal or other proceedings of whatever nature (hereinafter called "the Proceedings") by or against CSS and/or CASL be pending, the same shall not abate, shall not be discounted or be in any way prejudicially affected by reason of the transfer of the Undertakings of CSS and/or CASL or of anything contained in the Scheme, but the proceedings may be continued, prosecuted and enforced by or against CIL in the same manner and to the same extent as it would or might have been continued, prosecuted and enforced by or against CSS and/or CASL, as if the Scheme had not been made.
- 12.4 The employees, if any, of CSS and/or CASL in service on the date immediately preceding the date on which this Scheme finally takes effect, i.e. the Effective Date, shall become the employees of CIL on such date without any break or interruption in service and on terms and conditions not less favourable than those subsisting with reference to CSS and/or CASL on the said date.

- 12.5 With effect from the Appointed Date and upto the Effective Date, CSS and/or CASL :
- a) shall carry on and be deemed to carry on all its business and activities and stand possessed of its properties and assets for and on account of and in trust for CIL and all the profits accruing to CSS and/or CASL or losses arising or incurred by them shall, for all purposes, be treated as the profits or losses of CIL as the case may be;
 - b) undertake to carry on their business until the Effective Date with reasonable diligence and shall not, without the written consent of CIL, alienate, charge or otherwise deal with the said Undertaking or any part thereof except in the ordinary course of their business;
 - c) shall not, without the written consent of CIL, undertake any new business.
- 12.6 Since both the Transferor Companies are wholly owned subsidiaries of the Transferee Company, upon amalgamation, the Transferee Company would not be required to issue and allot any shares to the shareholders of the Transferor Companies. The shares so held by CIL, CSS and its nominees (as the case may be) in Transferor Companies shall stand cancelled and extinguished pursuant to the implementation of the Scheme of Amalgamation.
- 12.7 CSS and CASL shall be dissolved without winding up, on orders made by the Hon'ble High Court of Judicature at Bombay under Section 394 of the said Act.
- 12.8 CSS, CASL and CIL shall, with all reasonable dispatch, make applications under Sections 391 and 394 or other applicable provisions of the said Act to the Hon'ble High Court of Judicature at Bombay for sanctioning the Scheme of Amalgamation and for dissolution of CSS and CASL without winding up.
- 12.9 The Scheme shall not be effective unless :
- a) The sanction or approval of the appropriate authorities concerned being obtained and granted in respect of any of the matters in respect of which such sanction or approval is required.
 - b) The approval to the Scheme by the requisite majorities of such classes of persons of CIL and such compliance as may be directed by the Hon'ble High Court of Judicature at Bombay on applications made for directions under Section 391 of the said Act for calling meetings and necessary resolutions being passed under the said Act.
 - c) The requisite resolution(s) under the applicable provisions of the said Act being passed by the shareholders of CIL for any of the matters provided for or relating to the Scheme as may be necessary or desirable or as directed by the High Court of Judicature at Bombay.
 - d) The sanctions of the High Court of Judicature at Bombay being obtained under Sections 391, 394 and other applicable provisions of the said Act, if so required.
 - e) All other sanctions and approvals as may be required by law in respect of this Scheme being obtained.
13. The said Scheme of Amalgamation will not affect the creditors of CSS and CASL as the Transferee Company will take over the debts, liabilities, duties and obligations of CSS and CASL.
14. The copies of the latest audited accounts of the Transferee Company, CSS and CASL can be inspected at the Registered Office of the Transferee Company.
15. Mr. Anant J. Talaulicar, Chairman & Managing Director, Mr. S. M. Chapman, Mr. B. H. Reporter and Mr. Pradeep Bhargava (Alternate Director) – Directors of the Transferee Company are also on the Board of Directors of CSS. Mr. Anant J. Talaulicar, Chairman & Managing Director, Mr. S. M. Chapman and Mr. P. S. Dasgupta – Directors of the Transferee Company are also on the Board of Directors of CASL. Upon the said Scheme of Amalgamation becoming effective, the Directors of CSS and CASL will cease to be Directors of CSS and CASL.

16. None of the Directors of the Transferee Company / CSS / CASL have any material interest in the Scheme save and except to the extent of their shareholding in the Transferee Company / CSS / CASL as set out herein below :

Names of the Directors of the Transferee Company	No. of equity shares of Rs. 2 each held in the Transferee Company	No. of equity shares of Rs. 100 each held in CSS	No. of equity shares of Rs. 10 each held in CASL
Mr. Anant J. Talaulicar	—	—	1**
Mr. Rajeev Bakshi	—	—	—
Mr. S. M. Chapman	—	—	—
Mr. P. S. Dasgupta	—	—	—
Mr. M. A. Levett	—	—	—
Mr. Nasser Munjee	—	—	—
Mr. Glyn Price	—	—	—
Mr. B. H. Reporter	75,000*	—	—
Mr. Venu Srinivasan	—	—	—
Dr. John Wall	—	—	—
Mr. J. M. Barrowman (Alternate Director to Mr. M. A. Levett)	—	—	—
Mr. Sean Milloy (Alternate Director to Dr. John Wall)	—	—	—
Mr. Pradeep Bhargava (Alternate Director to Mr. S. M. Chapman)	—	1#	—

* Jointly with Mrs. Aloo B. Reporter

Equity shares are held as Nominee of the Transferee Company

** Equity shares are held as Nominee of CSS

Names of the Directors of CSS	No. of equity shares of Rs. 2 each held in the Transferee Company	No. of equity shares of Rs. 100 each held in CSS	No. of equity shares of Rs. 10 each held in CASL
Mr. Anant J. Talaulicar	—	—	1**
Mr. S. M. Chapman	—	—	—
Mr. Rajiv Batra	—	10#	100**
Mr. Vikram Jaisinghani	—	10#	—
Mr. B. H. Reporter	75,000*	—	—
Mr. Pradeep Bhargava	—	1#	—

* Jointly with Mrs. Aloo B. Reporter

Equity shares are held as Nominee of the Transferee Company

** Equity shares are held as Nominee of CSS

Names of the Directors of CASL	No. of equity shares of Rs. 100 each held in CSS	No. of equity shares of Rs. 10 each held in CASL
Mr. Anant J. Talaulicar	—	1 [#]
Mr. S. M. Chapman	—	—
Mr. Rajiv Batra	10 [*]	100 [#]
Mr. P. S. Dasgupta	—	—
Ms. Gladys Vaz	—	100 [#]

* Equity shares are held as Nominee of the Transferee Company

Equity shares are held as Nominee of CSS

17. There will not be any change in the pre and post - amalgamation shareholding pattern of the Transferee Company as in terms of the Scheme of Amalgamation, the Transferee Company will not issue and allot any shares to the Shareholders of the Transferor Companies.
18. No investigation proceedings have been instituted and/or pending under Sections 235 to 251 of the Companies Act, 1956 in respect of the Transferee Company or the Transferor Companies.
19. This statement may also be treated as explanatory statement under Section 173 of the Companies Act, 1956.

Dated this 20th day of June 2008.

Anant J. Talaulicar
Chairman appointed for the meeting

Registered Office:
Kothrud, Pune 411 038

Notes :

The following documents will be open for inspection at the Registered Office of the Transferee Company between 10.00 A.M. and 12.30 P.M. on any working day except Saturday and Sunday till 23rd July 2008.

1. Memorandum and Articles of Association of Cummins India Limited.
2. Memorandum and Articles of Association of Cummins Sales and Service India Limited.
3. Memorandum and Articles of Association of Cummins Auto Services Limited.
4. Balance Sheet and Profit and Loss Account of Cummins India Limited for the year ended March 31, 2008.
5. Balance Sheet and Profit and Loss Account of Cummins Sales and Service India Limited for the year ended March 31, 2008.
6. Balance Sheet and Profit and Loss Account of Cummins Auto Services Limited for the year ended March 31, 2008.
7. Certified copy of the Order dated 20th June 2008 passed by the Hon'ble High Court of Judicature at Bombay in case of Application No. 923 / 2008.

**SCHEME OF AMALGAMATION
BETWEEN
CUMMINS INDIA LIMITED
AND
CUMMINS SALES AND SERVICE INDIA LIMITED
AND
CUMMINS AUTO SERVICES LIMITED**

1. DEFINITIONS :

In this Scheme unless inconsistent with the subject or context the following expressions shall have the following meanings :

- 1.1** "CIL" means CUMMINS INDIA LIMITED, a Company registered under the provisions of the Companies Act, 1956 and having its registered office at Kothrud, Pune 411 038 ("The Transferee Company").
- 1.2** "CSS" means CUMMINS SALES AND SERVICE INDIA LIMITED, an existing Company under the provisions of the Companies Act, 1956 and having its registered office at 35A/1/2, Erandawana, Pune 411 038 ("The First Transferor Company").
- 1.3** "CASL" means CUMMINS AUTO SERVICES LIMITED, a Company registered under the provisions of the Companies Act, 1956 and having its registered office at 35A/1/2, Erandawana, Pune 411 038 ("The Second Transferor Company").
- 1.4** "The said Act" means, the Companies Act, 1956, including any variation/substitution thereof.
- 1.5** "The Appointed Date" means 1st day of April 2008 or such other date as the Hon'ble High Court of Bombay may direct.
- 1.6** "The Effective Date" means the date on which the certified copy of the Order of the Hon'ble High Court at Bombay vesting the assets, properties, liabilities, rights, duties, obligations and the like of CSS and CASL respectively in CIL is filed with the Registrar of Companies, Pune, after obtaining the consents, approvals, permissions, resolutions, agreements, sanctions and orders necessary therefor. References in this Scheme as to "Scheme coming into effect" or "Scheme becoming effective" or "Effectiveness of this Scheme" shall mean the Effective Date.
- 1.7** "Undertaking of CSS" shall mean and include :
All immovable and movable properties, assets, cash and bank balances, investments, capital, work-in-progress, debtors, creditors, computers, vehicles, furniture, fixtures, telephones, facsimiles, mobiles and other communication facilities and other assets, loans and advances, allotments, approvals and consents, registrations, contracts, engagements, arrangements, rights, titles, interests, trade marks, trade names, intellectual property rights and benefits and advantages of whatsoever nature and wheresoever situate belonging to or in the control of or vested in or granted in favour of or enjoyed by CSS ("the Assets") and all secured, unsecured debts, duties and other liabilities and obligations of CSS along with any charge, mortgage, encumbrance, lien or security thereon ("the Liabilities").
- 1.8** "Undertaking of CASL" shall mean and include :
All immovable and movable properties, assets, cash and bank balances, investments, capital, work-in-progress, debtors, creditors, computers, vehicles, furniture, fixtures, telephones, facsimiles, mobiles and other communication facilities and other assets, loans and advances, allotments, approvals and consents, registrations, contracts, engagements, arrangements, rights, titles, interests, trade marks, trade names, intellectual property rights and benefits and advantages of whatsoever nature and wheresoever situate belonging to or in the control of or vested in or granted in favour of or enjoyed by CASL ("the Assets") and all secured, unsecured debts, duties and other liabilities and obligations of CASL along with any charge, mortgages, encumbrance, lien or security thereon ("the Liabilities").
- 1.9** "The Scheme" means this Scheme of Amalgamation in its present form or with any modification(s) approved or imposed or directed by the Hon'ble High Court of Bombay.

2. SHARE CAPITAL :

- 2.1** The Authorised Share Capital of CIL is Rs. 40,00,00,000/- (Rupees Forty Crores only) comprising of 20,00,00,000 (Twenty Crores only) Equity Shares of Rs. 2/- (Rupees Two only) each. The Issued, Subscribed and Paid-up Share Capital of CIL is Rs. 39,60,00,000/- (Rupees Thirty Nine Crores Sixty Lacs only) comprising of 19,80,00,000 (Nineteen Crores Eighty Lacs only) Equity Shares of Rs. 2/- (Rupees Two only) each fully paid up.

- 2.2 The Authorised Share Capital of CSS is Rs.12,00,00,000/- (Rupees Twelve Crores only) divided into 12,00,000 (Twelve Lacs only) Equity Shares of Rs. 100/- (Rupees One Hundred only) each. The Issued, Subscribed and Paid-up Share Capital of CSS is Rs. 6,00,00,200/- (Rupees Six Crores Two Hundred only) comprising of 6,00,002 (Six Lacs Two only) Equity Shares of Rs. 100/- (Rupees One Hundred only) each.
- 2.3 The Authorised Share Capital of CASL is Rs. 20,00,00,000/- (Rupees Twenty Crores Only) divided into 2,00,00,000/- (Two Crores only) Equity Shares of Rs. 10/- (Rupees Ten only) each. The Issued, Subscribed and Paid-up Share Capital of CASL is Rs. 50,00,000/- (Rupees Fifty Lacs only) divided into 5,00,000 (Five Lacs only) Equity Shares of Rs.10/- (Rupees Ten only) each.

3. TRANSFER OF UNDERTAKINGS :

- 3.1 With effect from the commencement of the 1st day of April, 2008 (hereinafter called "the Appointed Date") the whole of Undertaking of CSS shall be transferred into and vested in CIL pursuant to the provisions of Section 394 of the said Act along with all the assets and liabilities of CSS in the following manner :
- (a) With effect from the Appointed Date, the whole of the Assets of CSS, except for the portions specified in Articles 3.1(b) and 3.1(c) below of whatsoever nature and wheresoever situated and capable of passing by manual delivery and/or endorsement, transfer or otherwise howsoever, shall, under the provisions of Sections 391 and 394 and all other applicable provisions, if any of the Act, without any further act or deed be transferred to and vested in and/or be deemed to be transferred to and vested in CIL so as to vest in CIL all the rights, title and interest of CSS therein.
- (b) With effect from the Appointed Date, all the Quoted and Unquoted Investments of CSS, capable of passing by manual delivery or by endorsement, transfer and delivery or delivery through electronic mode shall, without any further act or deed, be and shall stand transferred to CIL by manual delivery or by endorsement and delivery or delivery through electronic mode as the case may be, to the end and intent that the property therein passes to CIL, on such delivery or endorsement, transfer and delivery. Such delivery and transfer shall be made on a date mutually agreed upon between the Board of Directors of CSS and the Board of Directors of CIL within thirty days from the Effective Date.
- (c) In respect of the movable properties of CSS other than specified in Article 3.1(b) above, including loans and advances, if any, recoverable in cash or in kind or for value to be received, bank balances and deposits, if any; with government, semi-government, local and other authorities and bodies, CIL may if so required, under any law or otherwise, give notice in such form as it may deem fit and proper, to each person, debtor, depositor, as the case may be, that pursuant to the High Court having sanctioned the Scheme, the said debt, loan, advance or deposit be paid or made good or held on account of CIL as the person entitled thereto, to the end and intent that the right of CSS to recover or realize all such debts (including the debts payable by such person or depositor to CSS) stands transferred and assigned to CIL and that appropriate entries should be passed in its books to record the aforesaid change.
- (d) With effect from the Appointed Date, all the Liabilities of CSS shall also, under the provisions of Section 391 and 394 of the Act without any further act or deed be transferred to or be deemed to be transferred to CIL so as to become as from the Appointed Date the debts, liabilities, duties, obligations of CIL and further that it shall not be necessary to obtain the consent of any third party or other person who is a party to any contract or arrangement by virtue of which such debts, liabilities, duties and obligations have arisen, in order to give effect to the provisions of this clause.
- 3.2 The transfer/vesting as aforesaid shall be subject to existing charges/hypothecation/mortgage (if any, as may be subsisting) over or in respect of the said Assets or any part thereof. Provided however, that any reference in any security documents or arrangements to which CSS is party to, the assets of CSS which they have offered or agreed to offer as security for any Financial Assistance or obligation to the secured creditors, such reference shall be construed as reference only to the assets pertaining to the assets of CSS as are vested in CIL by virtue of the aforesaid clause, to the end and intent that such security, mortgage and charge shall not extend or be deemed to extend to any of the assets of CIL.
- 3.3 With effect from the commencement of the 1st day of April, 2008 (hereinafter called "the Appointed Date") the whole of Undertaking of CASL shall be transferred into and vested in CIL pursuant to the provisions of Section 394 of the said Act along with all the assets and liabilities of CASL in the following manner :
- (a) With effect from the Appointed Date, the whole of the assets, of CASL, except for the portions specified in Articles 3.3(b) and 3.3(c) below of whatsoever nature and wheresoever situated and capable of passing by manual delivery and/or endorsement, transfer or otherwise howsoever, shall, under the provisions of Sections 391 and 394 and all other applicable provisions, if any of the Act, without any further act or deed be transferred

to and vested in and/or be deemed to be transferred to and vested in CIL so as to vest in CIL all the rights, title and interest of CASL therein.

- (b) With effect from the Appointed Date, all the Quoted and Unquoted Investments of CASL, capable of passing by manual delivery or by endorsement, transfer and delivery or delivery through electronic mode shall, without any further act or deed, be and shall stand transferred to CIL by manual delivery or by endorsement, transfer and delivery or delivery through electronic mode as the case may be, to the end and intent that the property therein passes to CIL, on such delivery or endorsement, transfer and delivery. Such delivery and transfer shall be made on a date mutually agreed upon between the Board of Directors of CASL and the Board of Directors of CIL within thirty days from the Effective Date.
- (c) In respect of the movable properties of CASL other than specified in Article 3.3(b) above, including loans and advances, if any, recoverable in cash or in kind or for value to be received, bank balances and deposits, if any; with government, semi-government, local and other authorities and bodies, CIL may if so required, under any law or otherwise, give notice in such form as it may deem fit and proper, to each person, debtor, depositor, as the case may be, that pursuant to the High Court having sanctioned the Scheme, the said debt, loan, advance or deposit be paid or made good or held on account of CIL as the person entitled thereto, to the end and intent that the right of CASL to recover or realize all such debts (including the debts payable by such person or depositor to CASL) stands transferred and assigned to CIL and that appropriate entries should be passed in its books to record the aforesaid change.
- (d) With effect from the Appointed Date, all the liabilities of CASL shall also, under the provisions of Section 391 and 394 of the Act without any further act or deed be transferred to or be deemed to be transferred to CIL so as to become as from the Appointed Date the debts, liabilities, duties, obligations of CIL and further that it shall not be necessary to obtain the consent of any third party or other person who is a party to any contract or arrangement by virtue of which such debts, liabilities, duties and obligations have arisen, in order to give effect to the provisions of this clause.

3.4 The transfer/vesting as aforesaid shall be subject to existing charges/hypothecation/mortgage (if any, as may be subsisting) over or in respect of the said Assets or any part thereof. Provided however, that any reference in any security documents or arrangements to which CASL is party to, the assets of CASL which they have offered or agreed to offer as security for any Financial Assistance or obligation to the secured creditors, such reference shall be construed as reference only to the assets pertaining to the assets of CASL as are vested in CIL by virtue of the aforesaid clause, to the end and intent that such security, mortgage and charge shall not extend or be deemed to extend to any of the assets of CIL.

4. ACCOUNTING TREATMENT UPON AMALGAMATION :

- 4.1 CIL shall, upon the Scheme coming into effect, record the assets and liabilities of CSS and CASL vested in it pursuant to this Scheme, at the respective book values thereof as appearing in the books of CSS and CASL, respectively, at the close of business of the day immediately preceding the Appointed Date.
- 4.2 The credit/debit balance appearing in the profit and loss account of CSS and CASL, respectively, shall be adjusted against the General Reserve of CIL.
- 4.3 The excess or deficit, if any, of the value of the net assets of CSS and CASL, respectively, over their respective liabilities shall be adjusted against the General Reserve of CIL.
- 4.4 To the extent there are inter-corporate investments held by CIL/ CSS in CSS and/or CASL, as the case may be, the same shall be cancelled and accordingly, effect shall be given to General Reserve of CIL for the cancellation of investments.
- 4.5 To the extent that there are inter-corporate loans or balances between CSS and/or CASL and CIL, the obligations in respect thereof shall come to an end and corresponding effect shall be given in the books of account and records of CIL for the reduction of any assets or liabilities, as the case may be.
- 4.6 In case of any differences in accounting policy between CSS and/or CASL on one hand and CIL on the other, the impact of the same till the amalgamation will be quantified and adjusted in the books of accounts of CIL to ensure that the financial statements of CIL reflect the financial position on the basis of consistent accounting policy. The net effect of the same shall be adjusted against the General Reserve of CIL.

5. CONTRACTS, DEEDS, BONDS AND OTHER INSTRUMENTS :

Subject to other provisions contained in the Scheme, all contracts, deeds, agreements and other instruments of whatever nature to which CSS and/or CASL are parties and which are subsisting or having effect immediately before the Effective Date shall remain in full force and effect against or in favour of CIL, as the case may be, and may be enforced as fully and

as effectually as if, instead of CSS and/or CASL, CIL had been a party or beneficiary thereto. CIL shall enter into and/or issue and/or execute deeds, writings or confirmations or enter into any tripartite arrangements, confirmations or novations to which CSS and/or CASL will, if necessary, also be a party in order to give formal effect to the provisions of this clause, if so required, or if it becomes necessary.

6. LEGAL PROCEEDINGS :

If any suit, appeal or other proceedings of whatever nature (hereinafter called "the Proceedings") by or against the CSS and/or CASL be pending, the same shall not abate, shall not be discounted or be in any way prejudicially affected by reason of the transfer of the Undertakings of CSS and/or CASL or of anything contained in the Scheme, but the proceedings may be continued, prosecuted and enforced by or against CIL in the same manner and to the same extent as it would or might have been continued, prosecuted and enforced by or against CSS and/or CASL, as if the Scheme had not been made. On and from the Effective Date, CIL shall and may initiate any legal proceeding for and on behalf of CSS and/or CASL.

7. PLACE OF VESTING :

The vesting of the Undertakings, shall by virtue of the provisions of this Scheme, and the effect of the provisions of Section 394 of the said Act, take place at the registered office of CIL.

8. NO EFFECT ON THE TRANSACTIONS / CONTRACTS ALREADY CONCLUDED :

The vesting of the assets and the liabilities of CSS and/or CASL in CIL and the continuance of all the contracts or proceedings by or against CSS and/or CASL shall not affect any contract or proceedings relating to the assets or the liabilities already concluded by CSS and/or CASL on or after the Appointed Date.

9. OPERATIVE DATE OF THE SCHEME :

The Scheme although operative from the Appointed Date, shall become effective from the Effective Date.

10. TRANSFEROR COMPANIES' STAFF, WORKMEN AND EMPLOYEES :

10.1 The employees, if any, of CSS and/or CASL in service on the date immediately preceding the date on which this Scheme finally takes effect, i.e. the Effective Date, shall become the employees of CIL on such date without any break or interruption in service and on the terms and conditions not less favourable than those subsisting with reference to CSS and/or CASL on the said date.

10.2 It is expressly provided that as far as funds, if any, existing for the benefit of the staff, workmen and other employees of CSS and/or CASL are concerned, upon the Scheme becoming effective, CIL shall stand substituted for CSS and/or CASL for all purposes whatsoever related to the administration or operation of such Funds or in relation to the obligation to make contributions to the said Funds in accordance with the provisions of such Funds as per the terms provided in the respective documentation/ deeds etc. It is the aim and intent that all the rights, duties, powers and obligations of CSS and/or CASL in relation to such Funds shall become those of CIL. It is clarified that the services of the employees of CSS and/or CASL will also be treated as having been continuous for the purpose of the aforesaid Funds or provisions.

11. CONDUCT OF BUSINESS BY CSS AND/OR CASL TILL EFFECTIVE DATE :

With effect from the Appointed Date and upto the Effective Date, CSS and/or CASL :

11.1 shall carry on and be deemed to carry on all its business and activities and stand possessed of its properties and assets for and on account of and in trust for CIL and all the profits accruing to CSS and/or CASL or losses arising or incurred by them shall, for all purposes, be treated as the profits or losses of CIL as the case may be;

11.2 hereby undertake to carry on their business until the Effective Date with reasonable diligence and shall not, without the written consent of CIL, alienate, charge or otherwise deal with the said Undertaking or any part thereof except in the ordinary course of their business;

11.3 shall not, without the written consent of CIL, undertake any new business.

12. ISSUE OF SHARES BY CIL :

(i) As the entire Issued, Subscribed and Paid-up share capital of CSS is held by CIL and its nominees and (ii) 99.99 % of Issued, Subscribed and Paid-up share capital of CASL is held by CSS and its nominees and 0.01% (100 equity

shares) of CASL are held by CIL, upon amalgamation, CIL would not be required to issue and allot any shares to the shareholders of CSS and CASL. The shares so held by CIL, CSS and its nominees shall stand cancelled and extinguished pursuant to the implementation of the Scheme of Amalgamation.

13. DIVIDENDS, PROFITS, BONUS / RIGHTS SHARES :

13.1 CSS and/or CASL shall not declare any dividend for the period commencing from and after 1st day of April 2008 without the written consent of CIL.

13.2 CSS and/or CASL shall not issue or allot any Rights Shares or Bonus Shares out of its Authorised or unissued share capital for the time being.

13.3 CIL shall be entitled to declare and pay dividend to its shareholders for any financial year or for any period.

14. DISSOLUTION OF CSS AND CASL :

CSS and CASL shall be dissolved without winding up on orders made by the Hon'ble High Court of Bombay under Section 394 of the said Act.

15. APPLICATIONS TO HIGH COURT :

CSS, CASL and CIL shall, with all reasonable dispatch, make applications under Sections 391 and 394 or other applicable provisions of the said Act to the Hon'ble High Court of Judicature at Bombay for sanctioning the Scheme of Amalgamation and for dissolution of CSS and CASL without winding up.

16. MODIFICATIONS/AMENDMENTS TO THE SCHEME :

16.1 CSS (by its Directors) and CASL (by its Directors) and CIL (by its Directors) may assent to any modification or amendment to the Scheme or agree to any terms and/or conditions which the Courts and/or any other authorities under law may deem fit to direct or impose or which may otherwise be considered necessary or desirable for settling any question or doubt or difficulty that may arise for implementing and/or carrying out the Scheme and do all acts, deeds and things as may be necessary, desirable or expedient for putting the Scheme into effect.

16.2 For the purpose of giving effect to the Scheme or to any modification thereof, the Directors of CIL are hereby authorised to give such directions and/or to take such steps as may be necessary or desirable including any directions for settling any question or doubt or difficulty whatsoever that may arise.

17. EFFECTIVENESS OF THE SCHEME :

The Scheme shall not be effective unless :

17.1 The sanction or approval of the appropriate authorities concerned being obtained and granted in respect of any of the matters in respect of which such sanction or approval is required.

17.2 The approval to the Scheme by the requisite majorities of such classes of persons of CSS, CASL and CIL as may be directed by the Hon'ble High Court of Judicature at Bombay on applications made for directions under Section 391 of the said Act for calling meetings and necessary resolutions being passed under the said Act.

17.3 The requisite resolution(s) under the applicable provisions of the said Act being passed by the shareholders of CSS, CASL and CIL for any of the matters provided for or relating to the Scheme as may be necessary or desirable or as directed by the High Court of Judicature at Bombay.

17.4 The sanctions of the High Court of Judicature at Bombay being obtained under Sections 391, 394 and other applicable provisions of the said Act, if so required.

17.5 All other sanctions and approvals as may be required by law in respect of this Scheme being obtained.

18. EFFECT OF NON RECEIPT OF APPROVALS/ SANCTIONS :

In the event of the Scheme not being sanctioned by the High Court and/or the Order or Orders not being passed as aforesaid on or before the 30th day of June, 2009 or within such further period or periods as may be agreed upon between CSS, CASL and CIL through their respective Board of Directors, the Scheme shall become null and void.

19. EXPENSES CONNECTED WITH THE SCHEME :

All costs, charges and expenses of CSS, CASL and CIL respectively in relation to or in connection with the Scheme and of carrying out and completing the terms and provisions of the Scheme and/or incidental to the completion of amalgamation of the Undertakings of CSS and CASL, in pursuance of the Scheme shall be borne and paid solely by CIL.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY APPLICATION NO. 923 OF 2008**

In the matter of Sections 391 to 394 of the Companies Act, 1956;

And

In the matter of CUMMINS INDIA LIMITED

And

In the matter of Scheme of Amalgamation of CUMMINS SALES AND SERVICE INDIA LIMITED AND CUMMINS AUTO SERVICES LIMITED

With

CUMMINS INDIA LIMITED

CUMMINS INDIA LIMITED, a company)
incorporated under the Companies Act,)
1956 and having its Registered Office at)
Kothrud, Pune 411 038)

.....Applicant / Transferee Company

Form of Proxy

I / We
the undersigned, the Equity Shareholders of the Applicant / Transferee Company, hereby appoint
.....
of and failing him / her
..... of

as my / our Proxy to act for me / us at the Meeting of the Equity Shareholders of the Applicant / Transferee Company to be held at Hotel Le Meridien, Majestic Hall, 1st Floor, Raja Bahadur Mill Road, Pune 411 001 on Thursday, 24th July, 2008 at 3.30 P.M. for the purpose of considering, and if thought fit, approving, with or without modifications, the arrangement proposed in the Scheme of Amalgamation of Cummins Sales and Service India Limited and Cummins Auto Services Limited, the Transferor Companies with Cummins India Limited, the Applicant / Transferee Company and at such meeting and any adjournment / adjournments thereof, to vote, for me / us and in my / our name(s)

(here, "if for" insert "for" "if against" insert "against" and in the latter case, strike out the words below after "Scheme of Amalgamation") the said Scheme of Amalgamation either with or without modifications as my / our proxy may approve.

Dated this day of 2008

Folio No. / I.D. No. :

Name(s) :

Address :

Affix.
15 Paise
Revenue
Stamp

Signature

Notes :

1. All alterations in the Proxy form should be initialed.
2. The Proxy must be deposited at the Registered Office of the Applicant Company at Kothrud, Pune 411 038, not less than 48 hours before the time of the meeting.
3. In case of multiple Proxies, Proxy latter in time shall be accepted