

* IN THE HIGH COURT OF JUDICATURE AT BOMBAY

* ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO. 690 OF 1989

CONNECTED WITH

COMPANY APPLICATION NO. 263 OF 1989

In the matter of Companies Act (I of 1956).

AND

In the matter of Section 391 to 394 of the Companies Act (I of 1956).

AND

In the matter of Jaysynth Dyechem Ltd., a Company incorporated under the Companies Act, 1956, having its Registered Office at 303, Navjivan, 125/127, Kazi Sayed Street, Bombay - 400 003.

AND

In the matter of a Scheme of Amalgamation of Jay Phthalocyanines Pvt. Ltd., Jay Ethyl Organics Pvt. Ltd. & N. A. Chemicals Pvt. Ltd. with Jaysynth Dyechem Ltd.

JAYSYNTH DYECHEM LTD., a Company)

incorporated under the)

Companies Act, 1956 having)

its Registered Office at 303,)

Navjivan, 125/127, Kazi Sayed)

Street, Bombay - 400 003.)

... PETITIONER

Coram : VARIAVA J.

Date : 8th February, 1990

UPON the Petition of Jaysynth Dyechem Ltd., the Petitioner Company abovenamed, solemnly declared on 8th November, 1989 and presented to this Hon'ble Court on the 8th November, 1989 for sanctioning of an arrangement

embodied in the Scheme of Amalgamation of Jay Phthalocyanines Pvt. Ltd., Jay Ethyl Organics Pvt. Ltd. and N.A. Chemicals Pvt. Ltd. (hereinafter called the Transferor Companies) with Jaysynth Dyechem Ltd. (hereinafter called the Transferee Company) so as to be binding on all the parties concerned including the Equity Shareholders, Secured and Unsecured Creditors of the Transferee Company, all classes of Shareholders and Creditors of the Transferor Companies and for consequential reliefs as mentioned in the said Petition AND the said Petition being this day called for hearing and final disposal AND UPON READING the said Petition and an Affidavit of Shri R.C. Tolat solemnly affirmed on 8th day of November, 1989, verifying the said Petition AND UPON PERUSING the issues of the Free Press Journal and Bombay Samachar both dated 17th day of November, 1989, both containing advertisements of the date of hearing of the said Petition AND UPON READING the affidavit of Shri R.C. Tolat, solemnly affirmed on the 11th day of December, 1989, proving publication of Notice in the said newspapers AND UPON READING the Order dated 29th day of September, 1989, passed in Company Application No. 263 of 1989, whereby convening the meetings of the Equity Shareholders, Secured and Unsecured Creditors of the Transferee Company including notices to be advertised in the newspapers, filing of Chairman's Report, Explanatory Statement under Section 393 of the Companies Act, 1956 AND UPON HEARING Shri D.R. Poddar of M/s Poddar & Co., Advocates of the Transferee Company and Mr.P.N.Menon instructed by Mr.T.R. Rao, Advocate for the Regional Director, Company Law Board, Bombay, who appeared in pursuance of the

notice of hearing dated 10th day of November, 1989, of the Petition under the signatures of Petitioner's Advocates under Section 391 to 394 of the Companies Act, 1956 (hereinafter called the "said Act"), ^{AND} THIS COURT DOTH HEREBY SANCTION the arrangement embodied in the Scheme of Amalgamation of Jay Phthalocyanines Pvt. Ltd., Jay Ethyl Organics Pvt. Ltd. and N.A. Chemicals Pvt. Ltd., the Transferor Companies with Jaysynth Dyechem Ltd., the Transferee Company as set forth in the Exhibit "C" to the Petition and annexed as Schedule hereto AND THIS COURT DOTH HEREBY FURTHER ORDER that the undertaking of the Transferor Companies shall with effect from 1st April, 1989 (hereinafter called and the "Transfer Date") without further act, deed or thing be transferred to and be vested in or deemed to be, transferred to and be vested in the Transferee Company, pursuant to Section 394(2) of the Act and for all the estate and interest of the Transferor Companies but subject nevertheless to all charges, if any, then affecting the undertaking of the Transferor Companies or any part thereof and on the Transfer Date, the Transferor Companies shall be deemed to have been amalgamated in the Transferee Company as aforesaid AND THIS COURT DOTH FURTHER ORDER that for the purpose of this Scheme the undertaking of the Transferor Companies shall include all the properties movable or immovable, tangible or intangible, rights, powers, sanctions, licences, quota, trade marks, benefits and privileges of the Transferor Companies as on the Transfer Date AND all the liabilities, duties and obligations including charges, liens and mortgages of the Transferor Companies as on the Transfer Date AND THIS COURT DOTH

FURTHER ORDER that without prejudice to the generality of sub-clause 2(a) of the Scheme, undertaking of the Transferor Companies shall include all rights, privileges, powers and authorities and all property, movable, real, corporeal or incorporeal in possession or reversion, present or contingent of whatsoever nature and wheresoever situated including in particular all licences and privileges, patents, trade marks, logos and all allotments, reservations, import quotas and licences held by the Transferor Companies or to which the Transferor Companies are entitled to and all debts, liabilities, obligations and duties of the Transferor Companies and all other obligations of whatsoever kind including liabilities for payment of gratuity, pension benefits, provident fund or compensation in the event of retrenchment to employees AND THIS COURT DOTH FURTHER ORDER that except as provided in the Scheme, the Scheme shall not operate to enlarge the security for any loan, deposit or facility created by or available to the Transferor Companies and which shall rest in the Transferee Company by virtue of amalgamation and such security, mortgage and charge shall not extend or be deemed to extend to any of the assets or to any of the other unit of the Transferee Company unless specifically agreed to by the Transferee Company with such secured creditors and subject to the consents and approvals of the existing secured creditors of the Transferee Company after the amalgamation scheme has become effective AND THIS COURT DOTH FURTHER ORDER that the Transferee Company may at any time after the coming into effect of the Scheme in accordance with the provisions thereof if so required, under any law or

otherwise, execute Deeds of Confirmation, in favour of the Secured Creditors of the Transferor Companies or in favour of any other party to any contract or arrangement to which any of the Transferor Companies is a party or any writings as may be necessary to be executed in order to give formal effect to the above provisions. The Transferee Company shall under the provisions of the scheme be deemed to be authorised to execute any such writings on behalf of the Transferor Companies and to implement or carry out all such formalities or compliances referred to above on the part of the Transferor Companies to be carried out or performed AND THIS COURT DOTH FURTHER ORDER that the amounts payable on account of liabilities of dissenting unsecured creditors of the Transferor Companies as on the Effective Date shall be repaid in such manner and on such terms and within such period as may be mutually agreed between the Transferee Company and such unsecured creditors AND THIS COURT DOTH FURTHER ORDER that if any Suit, appeal or other proceedings of whatever nature (hereinafter called "the proceedings") by or against the Transferor Companies be pending, the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer of the undertaking of the Transferor Companies or of anything contained in this scheme but the said proceedings may be continued, prosecuted and enforced by or against the Transferee Company as if the Scheme had not been made AND THIS COURT DOTH FURTHER ORDER that subject to the other provisions contained in the Scheme all contract, deeds, bonds, agreements, instruments and writings and benefits of whatsoever nature to which the Transferor

Companies is/are a party and subject to such charges and variations in the terms, conditions and provisions thereof as may be mutually agreed to between the Transferee Company and other parties thereto, subsisting or having effect immediately before the Effective Date, shall remain in full force and effect in favour of the Transferee Company and may be enforced by and/or against the Transferee Company as fully and effectively as if the Transferee Company was party thereto instead of the Transferor Companies AND THIS COURT DOTH FURTHER ORDER that the transfer and vesting of the property and liabilities under Clauses 1, 2 and 3 of the scheme and the continuance of the proceedings by the Transferee Company and of the Contracts etc. under Clause 4 of the scheme shall not affect any transactions or proceedings already concluded by the Transferor Companies in the ordinary course of business on and after the Transfer Date to the end and intent that the Transferee Company accepts on behalf of itself all acts, deeds and things done and executed by the Transferor Companies in the Ordinary course of business AND THIS COURT DOTH FURTHER ORDER that until the completion of such transfer of the Transferor Companies, the Transferor Companies shall stand possessed of all its properties, so to be transferred to the Transferee Company and have carried on and shall carry on its business for and on behalf of and in trust for the Transferee Company with effect from the Transfer Date and the Transferor Companies shall account for the same accordingly. Between the Transfer Date and the Effective Date, the Transferor Companies shall not, without the concurrence of the Board of Directors of the

Transferee Company alienate, charge, encumber or otherwise deal with undertaking of Transferor Companies including any of the said assets except in the ordinary course of business AND THIS COURT DOTH FURTHER ORDER that any income or profit accruing to the Transferor Companies and all costs, charges and expenses incurred and/or all accrued losses as also all losses arising or suffered by it upto the effective date shall for all purposes be treated as the income, profits, costs, charges and expenses or losses as the case may be of the Transferee Company AND THIS COURT DOTH FURTHER ORDER that upon the Scheme becoming effective, the Transfer of the undertaking of the Transferor Companies pursuant to Clause 1 of the scheme and the amalgamation becoming effective in terms of the Scheme, the consideration in respect of such transfer shall subject to the provisions of this Scheme be paid and satisfied by the Transferee Company as follows :

i) The Transferee Company shall issue at par and allot to Transferor Companies' Shareholders shares in the following proportion:

a) To the Shareholders of JAY PHTHALOCYANINES PVT. LTD. (Transferor Company):

4 (Four) Equity Shares of Rs.10/- each in the Transferee Company credited as fully paid-up for every 1 (One) Equity Share of Rs.100/- each, 1 (one) 9% Redeemable Cumulative Preference Share of Rs.100/- each in the Transferee Company credited as fully paid-up for every 1(one) 9% Redeemable Cumulative Preference

Share of Rs.100/- each and 1 (one) 6% Redeemable Cumulative Preference Share of Rs.100/- each in the Transferee Company credited as fully paid-up for every 1(One) 6% Redeemable Cumulative Preference Share of Rs.100/- each held by them in the Transferor Company on a date (Record Date) after the Effective Date as the Board of Directors of the Transferee Company may fix

- b) To the Shareholders of JAY ETHYL ORGANICS PVT. LTD. (Transferor Company):

5 (Five) Equity Shares of Rs.10/- each in the Transferee Company credited as fully paid-up for every 1 (One) Equity Share of Rs.100/- each, 1 (one) 9% Redeemable Cumulative Preference Share of Rs.100/- each in the Transferee Company credited as fully paid-up for every 1 (One) 9% Redeemable Cumulative Preference Share of Rs.100/- each and 1 (one) 6% Redeemable Cumulative Preference Share of Rs.100/- each in the Transferee Company credited as fully paid-up for every 1 (One) 6% Redeemable Cumulative Preference Share of Rs.100/- each held by them in the Transferor Company on a date (Record Date) after the Effective Date as the Board of Directors of the Transferee Company may fix

- c) To the Shareholders of N. A. CHEMICALS PVT. LTD. (Transferor Company):

1 (One) Equity Share of Rs.10/- each in the Transferee Company credited as fully paid-up for

every 1 (One) Equity Share of Rs.100/- each held by them in Transferor Company on a date (Record Date) after the effective date as the Board of Directors of the Transferee Company may fix

AND THIS COURT DOTH FURTHER ORDER that for the purpose as aforesaid, the Transferee Company shall, if and to the extent required, apply for and obtain the consent of the Controller of Capital issues, for the issue and allotment by the Transferee Company to the respective members of the Transferor Companies, the Shares in the said reorganised share capital of the Transferee Company in the ratio aforesaid AND THIS COURT DOTH FURTHER ORDER that the Transferee Company shall take necessary steps to increase the 9% Redeemable Cumulative Preference Share Capital in the authorised Share Capital by restructuring total Authorised Share Capital of the Company AND THIS COURT DOTH FURTHER ORDER that the Equity Shares in the capital of the Transferee Company to be issued and allotted to the Equity Shareholders of the Transferor Companies pursuant hereto shall rank pari-passu in all respect with the existing Equity Shares in the Equity Share Capital of the Transferee Company including the proportionate right or entitlement to dividend in respect of any dividend declared by the Transferee Company for the accounting period commencing from the Transfer date. The 9% Redeemable Cumulative Preference Shares of Rs.100/- each and 6% Redeemable Cumulative Preference Shares of Rs.100/- each in the capital of the Transferee Company to be issued and allotted to the Preference Shareholders of the Transferor Companies pursuant hereto shall

confer on the holders thereof the same rights as are attached to the 9% Redeemable Cumulative Preference Shares of Rs.100/- each and 6% Redeemable Cumulative Preference Shares of Rs.100/-each issued by the Transferor Companies AND THIS COURT DOTH FURTHER ORDER that all the members whose names shall appear in the Register of members of the Transferor Companies on the record date (after the Effective Date) as the Board of Directors of the Transferee Company may fix, shall surrender their share certificates for cancellation thereof to the Transferee Company at its registered office. Upon the new shares in the Transferee Company being issued and allotted by it to the Transferor Companies' Shareholders whose names shall appear in the Register of Members of the Transferor Companies on the record date as aforesaid, the Share Certificates in relation to the shares held by them in the Transferor Companies shall be deemed to have been cancelled AND THIS COURT DOTH FURTHER ORDER that the Transferee Company shall make the allotments of shares of Transferee Company pursuant hereto to every shareholder of the Transferor Companies without further application and every shareholder of the Transferor Companies shall accept the said shares on such allotment. Upon surrender by every shareholder of Share Certificates in relation to the shares of the Transferor Companies the share certificate in respect of the number of shares in the Transferee Company to which he may be entitled under the Scheme shall be issued and every such shareholder of the Transferor Companies shall take all steps to obtain from the Transferee Company Share Certificates for share of the Transferee Company to

which he may be entitled to hereunder AND THIS COURT DOTH FURTHER ORDER that at any time and from time to time after the transfer Date, the Transferee Company and the Transferor Companies shall be entitled to declare and pay dividends whether arrears of preference dividend, interim and/or final to their respective Shareholders for any Financial Year or any period prior to the Effective Date. Both the Transferor Companies and the Transferee Company shall declare and pay dividend only out of the disposable profits earned by respective Companies during such period, as permissible in law and shall not transfer any amount from the reserves for the purpose of payment of dividends AND

THIS COURT DOTH FURTHER ORDER that the arrears of (Rs. Four lacs thirty eight thousand five hundred twenty five) Preference dividends of Rs.4,38,525/- & Rs.3,15,740/- (in * (Rs. Three lacs fifteen thousand seven hundred forty only) respect of Preference Shares of the Transferor Companies, Jay Phthalocyanines Pvt. Ltd. & Jay Ethyl Organics Pvt. Ltd. respectively, shall be paid by the Transferee Company if not paid by the respective Transferor Companies before the effective date and that the said amount of arrears of Preference Dividend of Rs.4,38,525/- & Rs.3,15,740/- to be paid in respect of Preference Shares of the Transferor Companies as aforesaid shall be reduced by the amount of any amount paid as Preference Dividend by the Transferor Companies to the respective Preference Shareholders before the effective date AND THIS COURT DOTH FURTHER ORDER that the excess value of the net assets of the Transferor Companies as at March 31, 1989 (the date immediately preceding the Transfer Date) over the paid-up value of the Shares issued and allotted pursuant to the terms of sub-clause (A)(i) of the scheme shall be accounted for

in the books of the Transferee Company as at the Transfer Date as follows:

The Reserves of the Transferor Companies as at March 31, 1989 shall constitute Reserves of corresponding nature of the Transferee Company and the balance shall be transferred to the General Reserve in the Transferee Company.

AND THIS COURT DOTH FURTHER ORDER that the Transferee Company shall cause a Special Resolution to be proposed pursuant to Section 81(1-A) of the Act for the offer and allotment of Equity Shares and Preference Shares in the Transferee Company to the Shareholders of the Transferor Companies in accordance with and subject to the provisions of the Scheme AND THIS COURT DOTH FURTHER ORDER that on this Scheme becoming effective, the Transferor Companies shall be dissolved without winding up AND THIS COURT DOTH FURTHER ORDER that all employees of the Transferor Companies who are in employment of the Transferor Companies on the Effective Date of this Scheme shall from such date become the employees of the Transferee Company on the basis that their services have not been interrupted by the vesting of the undertaking of the Transferor Companies in the Transferee Company under this Scheme and that the terms and conditions of services applicable to them on the Effective Date will be not in any way be less favourable to them than those applicable to them immediately before the Effective Date as aforesaid AND THIS COURT DOTH FURTHER ORDER that the Board of Directors of the Transferor Companies and the Transferee Company acting jointly, or any person or persons duly

authorised by them respectively may do all acts, deeds, matters and things necessary or usual for carrying the Scheme into effect. After the dissolution of Transferor Companies, the Transferee Company by its Directors be and is hereby authorised to take such steps as may be necessary, desirable or proper to resolve any doubts, difficulties or questions, whether by reason of any order of the Court or of any directive or order of any other authority or otherwise howsoever arising out of, under or by virtue of this Scheme and/or any matters connected therewith or to carry the same into effect AND THIS COURT DOTH FURTHER ORDER that the Scheme is conditional subject to the receipt of the approval to the issue and allotment of Equity Share and Preference Shares in the Transferee Company to the Shareholders of Transferor Companies in accordance with and subject to the provision of the Scheme by a Special Resolution of the Transferee Company pursuant to Section 81 (1-A) of the Act AND THIS COURT DOTH FURTHER ORDER that all costs, charges and expenses of the Transferor Companies and the Transferee Company respectively in relation to or in connection with negotiations leading upto the Scheme and of carrying out and completing the terms and provisions of this Scheme and of or incidental to the completion of amalgamation and merger of the undertaking of the Transferor Companies in pursuance of this Scheme shall be borne and paid by the Transferee Company AND THIS COURT DOTH FURTHER ORDER that notwithstanding anything contained hereinabove, the Scheme shall also become effective in terms of and upon the fullfilling of requirements of any other law that may be brought into force in this behalf before this Scheme otherwise

becomes effective as hereinbefore provided AND THIS COURT DOTH HEREBY FURTHER ORDER that the Transferor Companies do within 30 days from the date of sealing of the Order sanctioning the Scheme of Amalgamation cause a certified copy of the order to be delivered to the Registrar of Companies, Maharashtra, Bombay, for registration and, on such certified copy being so delivered, the Transferor Companies shall be dissolved and the Registrar of Companies, Maharashtra, Bombay shall place all the documents relating to the Transferor Companies and registered with him on the file, kept by him in relation to the Transferee Company and the files relating to the said four companies shall be consolidated accordingly AND THIS COURT DOTH FURTHER ORDER that the parties to the Scheme of Amalgamation and any other person or persons interested therein shall be at liberty to apply to this Hon'ble Court for any direction that may be necessary in regard to the working of the Scheme of Amalgamation as sanctioned herein annexed to this Order AND THIS COURT DOTH HEREBY LASTLY ORDER that the Transferee Company do pay a sum of Rs.300/- (Rupees Three Hundred only) to the Regional Director, Company Law Board, Bombay, towards the costs of the said Petition. WITNESS SHRI SHARADCHANDRA KRISHNAPRASAD DESAI, Acting Chief Justice of the - - - - -

~~Witness~~ ~~Shri~~ _____, ~~of the~~ ~~High~~
~~Court~~ ~~Bombay~~ ~~at~~ ~~the~~ ~~said~~ ~~this~~ ~~28th~~ ~~day~~ ~~of~~ ~~February~~ ~~1954~~ ~~at~~ ~~11~~ ~~o'clock~~ ~~AM~~

: 15 :

High Court, Bombay aforesaid this 8th day of February, 1990.

By the Court,

SEAL

Sd/- S.S. Pawar

SEALER

The 16th day of March, 1990.

Sd/- S.S. Pawar,

Prothonotary & Senior Master.

Order sanctioning the Scheme)

of Amalgamation under Section)

391 to 394 of the Companies)

~~By the Court~~

Act, 1956, drawn on the)

Application of M/s Poddar &)

~~For Prothonotary and~~
~~Senior Master~~

Co., Advocates for the)

Petitioners, having their)

Office at Currimji Building,)

2nd Floor, 111A M.G. Road,)

Fort, Bombay - 400 023.)

SCHEME OF AMALGAMATION
OF
JAY PHTHALOCYANINES PRIVATE LIMITED
JAY ETHYL ORGANICS PRIVATE LIMITED
N.A. CHEMICALS PRIVATE LIMITED
WITH
JAYSYNTH DYECHM LIMITED

Preliminary

A. In this Scheme unless repugnant to the context.

- i) "Transferee Company" means JAYSYNTH DYECHM LIMITED, a Company incorporated under the Companies Act 1956 and having its Registered Office at 303, Navjivan, 125/127, Kazi Sayed Street, Bombay - 400 003.
- ii) "Transferor Companies" means JAY PHTHALOCYANINES PVT.LTD., a Company registered under the Companies Act 1956 and having its Registered Office at E-16, Everest, Tardeo, Bombay - 400 034, JAY ETHYL ORGANICS PVT.LTD., a Company registered under the Companies Act, 1956 and having its Registered Office at E-16, Everest, Tardeo Road, Bombay - 400 034 AND N.A.CHEMICALS PVT. LTD., a Company registered under the Companies Act, 1956 and having its Registered Office at E-16, Everest, Tardeo Road, Bombay-400 034.
- iii) "The Transfer Date" means, April 1, 1989 (or such other date as the High Court of Bombay may direct) from which all the movable, immovable and other properties of whatsoever nature including all rights, powers, privileges of every kind, nature and description of the Transferor Companies shall be transferred or deemed to be transferred without any further

act, deed or thing to the Transferee Company.

- iv) "The Effective Date" means the date on which the transfer and vesting of the undertaking of the Transferor Companies shall take effect i.e., the date on which the last of approvals specified in Clause 11 of the Scheme shall have been obtained and certified copies of the Orders of the High Court of Bombay have been filed with the Registrar of Companies, Maharashtra at Bombay.

B. The Authorised Share Capital of the Transferee Company is Rs.5,00,00,000/- (Rupees Five Crores only) divided into 46,30,000 Equity Shares of Rs.10/- each, 5,000 9% Redeemable Cumulative Preference Shares of Rs.100/- each and 32,000 6% Redeemable Cumulative Preference Shares of Rs.100/- each out of which 6,25,000 Equity Shares of Rs.10/- each have been issued and subscribed for and are fully paid up.

C. The Authorised Share Capital of the Transferor Company, Jay Phthalocyanines Pvt. Ltd., is Rs.30,00,000/- (Rupees Thirty Lacs only) divided into 20,000 Equity Shares of Rs.100/- each, 5,000 9% Redeemable Cumulative Preference Shares of Rs.100/- each and 5000 6% Redeemable Cumulative Preference Shares of Rs.100/- each all of which have been issued and subscribed for and are fully paid up.

The Authorised Share Capital of the Transferor Company, Jay Ethyl Organics Pvt. Ltd., is Rs.25,00,000/- (Rupees Twenty-five Lacs only)

divided into 15,000 Equity Shares of Rs.100/- each, 5,000 9% Redeemable Cumulative Preference Shares of Rs.100/- each and 5000 6% Redeemable Cumulative Preference Shares of Rs.100/- each out of which 15,000 Equity Shares of Rs.100/- each, 2,500 9% Redeemable Cumulative Preference Shares of Rs.100/- each and 5,000 6% Redeemable Cumulative Preference Shares of Rs.100/- each have been issued and subscribed for and are fully paid up.

The Authorised Share Capital of the Transferor Company, N.A. Chemicals Pvt. Ltd., is Rs.15,00,000/- (Rupees Fifteen Lacs) divided into 15,000 Equity Shares of Rs.100/- each, out of which 14,000 Equity Shares of Rs.100/- each have been issued and subscribed for and are fully paid up.

The Scheme

1. The undertaking of the Transferor Companies shall with effect from the Transfer Date, without further act, deed or thing be transferred to and be vested in or deemed to be, transferred to and be vested in the Transferee Company, pursuant to Section 394(2) of the Act and for all the estate and interest of the Transferor Companies but subject nevertheless to all charges, if any, then affecting the undertaking of the Transferor Companies or any part thereof and on the Transfer Date, the Transferor Companies shall be deemed to have been amalgamated in the Transferee Company as aforesaid.

2. a) For the purpose of this Scheme the undertaking of the Transferor Companies shall include:

i) All the properties movable or immovable, tangible or intangible, rights, powers, sanctions, licences, quota, trade marks, benefits and privileges of the Transferor Companies as on the Transfer Date.

ii) All the liabilities, duties and obligations including charges, liens and mortgages of the Transferor Companies as on the Transfer Date.

b) Without prejudice to the generality of sub-clause(a) hereof the undertaking of the Transferor Companies shall include all rights, privileges, powers and authorities and all property, movable, real, corporeal or incorporeal in possession or reversion, present or contingent of whatsoever nature and wheresoever situated including in particular all licences and privileges, patents, trade marks, logos and all allotments, reservations, import quotas and licences held by the Transferor Companies or to which the Transferor Companies are entitled to and all debts, liabilities, obligations and duties of the Transferor Companies and all other obligations of whatsoever kind including liabilities for payment of gratuity, pension benefits, provident fund or compensation in the event of retrenchment to employees.

PROVIDED ALWAYS that except as provided herein, the Scheme shall not operate to enlarge the security for any loan, deposit or facility created

by or available to the Transferor Companies and which shall rest in the Transferee Company by virtue of amalgamation and such security, mortgage and charge shall not extend or be deemed to extend to any of the assets or to any of the other unit of the Transferee Company unless specifically agreed to by the Transferee Company with such secured creditors and subject to the consents and approvals of the existing secured creditors of the Transferee Company after the amalgamation scheme has become effective.

c) The Transferee Company may at any time after the coming into effect of this Scheme in accordance with the provisions hereof, if so required, under any law or otherwise, execute Deeds of Confirmation, in favour of the Secured Creditors of the Transferor Companies or in favour of any other party to any contract or arrangement to which any of the Transferor Companies is a party or any writings as may be necessary to be executed in order to give formal effect to the above provisions. The Transferee Company shall under the provisions of the scheme be deemed to be authorised to execute any such writings on behalf of the Transferor Companies and to implement or carry out all such formalities or compliances referred to above on the part of the Transferor Companies to be carried out or performed.

3. The amounts payable on account of liabilities of dissenting unsecured creditors of the Transferor Companies as on the Effective Date shall be repaid

in such manner and on such terms and within such period as may be mutually agreed between the Transferee Company and such unsecured creditors.

4. a) If any Suit, appeal or other proceedings of whatever nature (hereinafter called "the proceedings") by or against the Transferor Companies be pending, the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer of the undertaking of the Transferor Companies or of anything contained in this scheme but the said proceedings may be continued, prosecuted and enforced by or against the Transferee Company as if this Scheme had not been made.

b) Subject to the other provisions contained in the Scheme all contract, deeds, bonds, agreements, instruments and writings and benefits of whatsoever nature to which the Transferor Companies is/are a party and subject to such charges and variations in the terms, conditions and provisions thereof as may be mutually agreed to between the Transferee Company and other parties thereto, subsisting or having effect immediately before the Effective Date, shall remain in full force and effect in favour of the Transferee Company and may be enforced by and/or against the Transferee Company as fully and effectively as if the Transferee Company was party thereto instead of the Transferor Companies.

5. a) The transfer and vesting of the property and liabilities under Clauses 1, 2 and 3 and the continuance of the proceedings by the Transferee Company and of the Contracts etc. under Clause 4 hereof shall not affect any transactions or proceedings already concluded by the Transferor Companies in the ordinary course of business on and after the Transfer Date to the end and intent that the Transferee Company accepts on behalf of itself all acts, deeds and things done and executed by the Transferor Companies in the Ordinary course of business.
- b) Until the completion of such transfer of the Transferor Companies, the Transferor Companies shall stand possessed of all its properties, so to be transferred to the Transferee Company and shall carry on its business for and on behalf of and in trust for the Transferee Company with effect from the Transfer Date and the Transferor Companies shall account for the same accordingly. Between the Transfer Date and the Effective Date, the Transferor Companies shall not, without the concurrence of the Board of Directors of the Transferee Company alienate, charge, encumber or otherwise deal with undertaking of Transferor Companies including any of the said assets except in the ordinary course of business.
- c) Any income or profit accruing to the Transferor Companies and all costs, charges and expenses incurred and/or all accrued losses as also all losses arising or suffered by it upto the effective

date shall for all purposes be treated as the income, profits, costs, charges and expenses or losses as the case may be of the Transferee Company.

6A. Upon the Scheme becoming effective including it being approved by the members of the respective Companies and sanctioned by the High Court of Bombay and the Transfer of the undertaking of the Transferor Companies pursuant to Clause 1 hereof and the amalgamation becoming effective in terms of this Scheme, the consideration in respect of such transfer shall subject to the provisions of this Scheme be paid and satisfied by the Transferee Company as follows:

i) The Transferee Company shall issue at par and allot to Transferor Companies' Shareholders shares in the following proportion:

a) To the Shareholders of JAY PHTHALOCYANINES PVT. LTD. (Transferor Company):

4 (Four) Equity Shares of Rs.10/- each in the Transferee Company credited as fully paid-up for every 1 (One) Equity Share of Rs.100/- each, 1 (one) 9% Redeemable Cumulative Preference Share of Rs.100/- each in the Transferee Company credited as fully paid-up for every 1(one) 9% Redeemable Cumulative Preference Share of Rs.100/- each and 1 (one) 6% Redeemable Cumulative Preference Share of Rs.100/- each in the Transferee Company credited as fully paid-up for every 1(One) 6% Redeemable Cumulative

Preference Share of Rs.100/- each held by them in the Transferor Company on such date after the Effective Date as the Board of Directors of the Transferee Company may determine.

b) To the Shareholders of JAY ETHYL ORGANICS PVT. LTD. (Transferor Company):

5 (Five) Equity Shares of Rs.10/- each in the Transferee Company credited as fully paid-up for every 1 (One) Equity Share of Rs.100/- each, 1 (one) 9% Redeemable Cumulative Preference Share of Rs.100/- each in the Transferee Company credited as fully paid-up for every 1 (One) 9% Redeemable Cumulative Preference Share of Rs.100/- each and 1 (one) 6% Redeemable Cumulative Preference Share of Rs.100/- each in the Transferee Company credited as fully paid-up for every 1 (One) 6% Redeemable Cumulative Preference Share of Rs.100/- each held by them in the Transferor Company on such date after the Effective Date as the Board of Directors of the Transferee Company may determine.

c) To the Shareholders of N. A. CHEMICALS PVT. LTD. (Transferor Company):

1 (One) Equity Share of Rs.10/- each in the Transferee Company credited as fully paid-up for every 1 (One) Equity Share of Rs.100/- each held by them in Transferor Company on such date after the effective date as the Board of Directors of the Transferee Company may determine.

d) For the purpose as aforesaid, the Transferee

Company shall, if and to the extent required, apply for and obtain the consent of the Controller of Capital issues, for the issue and allotment by the Transferee Company to the respective members of the Transferor Companies, the Shares in the said reorganised share capital of the Transferee Company in the ratio aforesaid.

- (i) The Transferee Company shall take necessary steps to increase the 9% Redeemable Cumulative Preference Share Capital by in the authorised Share Capital by restructuring total Authorised Share Capital of the Company.
- (ii) The Equity Shares in the capital of the Transferee Company to be issued and allotted to the Equity Shareholders of the Transferor Companies pursuant hereto shall rank pari-passu in all respect with the existing Equity Shares in the Equity Share Capital of the Transferee Company including the proportionate right or entitlement to dividend in respect of any dividend declared by the Transferee Company for the accounting period commencing from the Transferee date. The 9% Redeemable Cumulative Preference Shares of Rs.100/- each and 6% Redeemable Cumulative Preference Shares of Rs.100/- each in the capital of the Transferee Company to be issued and allotted to the Preference Shareholders of the Transferor Companies pursuant hereto shall confer on the holders thereof the same rights as are attached to the 9% Redeemable Cumulative Preference Shares of Rs.100/- each and 6% Redeemable Cumulative Preference Shares of Rs.100/-

each issued by the Transferor Companies.

2 (ii) All the members whose names shall appear in the Register of members of the Transferor Companies on such date (after the Effective Date) as the Board of Directors of the Transferee Company may determine shall surrender their share certificates for cancellation thereof to the Transferee Company at its registered office. Upon the new shares in the Transferee Company being issued and allotted by it to the Transferor Companies' Shareholders whose names shall appear in the Register of Members of the Transferor Companies on such date as aforesaid, the Share Certificates in relation to the shares held by them in the Transferor Companies shall be deemed to have been cancelled.

2 (iv) The Transferee Company shall make the allotments of shares of Transferee Company pursuant hereto to every shareholder of the Transferor Companies without further application and every shareholder of the Transferor Companies shall accept the said shares on such allotment. Upon surrender by every shareholder of Share Certificates in relation to the shares of the Transferor Companies the share certificate in respect of the number of shares in the Transferee Company to which he may be entitled under this Scheme shall be issued and every such shareholder of the Transferor Companies shall take all steps to obtain from the Transferee Company Share Certificates for share of the Transferee Company to which he may be entitled to hereunder.

- 2) At any time and from time to time after the transfer Date, the Transferee Company and the Transferor Companies shall be entitled to declare and pay dividends whether arrears of preference dividend, interim and/or final to their respective Shareholders for any Financial Year or any period prior to the Effective Date. Both the Transferor Companies and the Transferee Company shall declare and pay dividend only out of the disposable profits earned by respective Companies during such period, as permissible in law and shall not transfer any amount from the reserves for the purpose of payment of dividends.

Provided further that the arrears of Preference dividends of Rs.4,38,525/- & Rs.3,15,740/- in respect of Preference Shares of the Transferor Companies, Jay Phthalocyanines Pvt. Ltd. & Jay Ethyl Organics Pvt. Ltd. respectively, shall be paid by the Transferee Company if not paid by the respective Transferor Companies before the effective date and further provided that the said amount of arrears of Preference Dividend of Rs.4,38,525/- & Rs.3,15,740/- to be paid in respect of Preference Shares of the Transferor Companies as aforesaid shall be reduced by the amount of any amount paid as Preference Dividend by the Transferor Companies to the respective Preference Shareholders before the effective date.

- B. The excess value of the net assets of the Transferor Companies as at March 31, 1989 (the date immediately preceding the Transfer Date) over the

paid-up value of the Shares issued and allotted pursuant to the terms of sub-clause (A)(i) hereof shall be accounted for in the books of the Transferee Company as at the Transfer Date as follows:

The Reserves of the Transferor Companies as at March 31, 1989 shall constitute Reserves of corresponding nature of the Transferee Company and the balance shall be transferred to the General Reserve in the Transferee Company.

7. The Transferee Company shall cause a Special Resolution to be proposed pursuant to Section 81(1-A) of the Act for the offer and allotment of Equity Shares and Preference Shares in the Transferee Company to the Shareholders of the Transferor Companies in accordance with ~~the~~ subject to the provisions of this Scheme.

8. Subject to the Scheme being sanctioned and order being made by the High Court of Bombay under section 394 of the Act and on this Scheme becoming effective, the Transferor Companies shall be dissolved without winding up on such order as may be made by the High Court.

9. All employees of the Transferor Companies who are in employment of the Transferor Companies on the Effective Date of this Scheme shall as from such date become the employees of the Transferee Company on the basis that their services have not been interrupted by the vesting of the undertaking of the Transferor Companies in the Transferee

Company under this Scheme and that the terms and conditions of services applicable to them on the Effective Date will be not in any way be less favourable to them than those applicable to them immediately before the Effective Date as aforesaid.

10. The Board of Directors of the Transferor Companies and the Transferee Company acting jointly, or any person or persons duly authorised by them respectively may consent on behalf of all concerned to any modification and/or addition to this Scheme or agree to any conditions which the High Court of Bombay may think fit to impose and may do all acts, deeds, matters and things necessary or usual for carrying this Scheme into effect . After the dissolution of Transferor Companies the Transferee Company by its Directors be and is hereby authorised to take such steps as may be necessary, desirable or proper to resolve any doubts, difficulties or questions, whether by reason of any order of the Court or of any directive or order of any other authority or otherwise howsoever arising out of, under or by virtue of this Scheme and/or any matters connected therewith or to carry the same into effect.

11. The Scheme is conditional subject to the receipt of the following approvals/declarations:

- a) The grant of sanction by the High Court of Bombay as provided in section 391, 392 and 394 of the Companies Act 1956.

- b) The approval to the issue and allotment of

Equity Share and Preference Shares in the Transferee Company to the Shareholders of Transferor Companies in accordance with and subject to the provision of the Scheme by a Special Resolution of the Transferee Company pursuant to Section 81 (1-A) of the Act.

12. The Scheme shall be subject to such modifications as the High Court of Bombay sanctioning such amalgamation of the Transferor Companies with the Transferee Company may direct and which the Board of Directors of the Transferor Companies and the Transferee Company consent and agree to.
13. All costs, charges and expenses of the Transferor Companies and the Transferee Company respectively in relation to or in connection with negotiations leading upto the Scheme and of carrying out and completing the terms and provisions of this Scheme and of or incidental to the completion of amalgamation and merger of the undertaking of the Transferor Companies in pursuance of this Scheme shall be borne and paid by the Transferee Company.
14. Notwithstanding anything contained hereinabove, the Scheme shall also become effective in terms of and upon the full-filling of requirements of any other law that may be brought into force in this behalf before this Scheme otherwise becomes effective as hereinbefore provided.
15. In case the Scheme is not sanctioned by the High Court of Bombay for any reason whatsoever or for any other reason this Scheme cannot be implemented,

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this scheme will become null and void and of no effect and in the event no rights and/or liabilities shall accrue to or be incurred interse by the Transferor Companies and the Transferee Company and the parties shall bear and pay their respective costs and expenses incurred in connection with or relating to this Scheme.



CERTIFIED TO BE A TRUE COPY

This 16th day of March 1996

For Prothonotary and Senior Master