

ARTICLES OF ASSOCIATION OF AKSH OPTIFIBRE LIMITED

<i>“Month”</i>	“Month” means calendar month.
<i>“Year”</i>	“Year” means a calendar year and “Financial Year” shall have the meaning assigned thereto by the Act.
<i>“Proxy”</i>	“Proxy” includes Attorney duly constituted under a Power of Attorney.
<i>“Seal”</i>	“Seal” means the Common Seal of the Company.
<i>“Number and Gender”</i>	“In Writing” and “Written” shall include printing, lithography and other models of representing or reproducing words in a visible form, Words imparting the singular number only include the plural number and vice versa, Words imparting the masculine gender only include the feminine gender, Words importing persons include corporations.

SHARES CAPITAL AND VARIATION OF RIGHTS

<i>Share Capital</i>	3.	The Authorized Share Capital of the Company shall be such amount and be divided into such shares as may from time to time be provided in Clause V of the Memorandum of Association payable in the manner as may be determined by the Directors, from time to time, with powers to increase, reduce, sub-divide or to repay the same or to sub-divide the same into several classes and to attached thereto nay right and to consolidate or subdivide or re-organize the shares subject to provisions of the Act, to vary such rights as may be determined in accordance with the regulation of the Company and Company shall contain a minimum paid up capital of Rupees 5,00,000/- (Rupees Five Lac only).
<i>Shares under control of Board</i>	4.	Subject to the provisions of the Act and these Articles, the shares in the capital of the Company shall be under the control of the Directors or the Committee thereof who may issue, allot or otherwise dispose the same or any of them to such persons, in such proportion and on such terms and conditions and either at a premium or at par and at such time as may from time to time think fit.
<i>Directors may allot shares otherwise than on cash</i>	5.	Subject to provisions of this Act and these Articles, the Board or the committee thereof may issue and allot shares in the capital of the Company on payment or part payment for any property or any assets of any kind whatsoever sold or transferred, goods or machinery supplied, or services rendered to the company in the conduct of its business and any shares which may be so allotted may be issued as fully paid –up or partly paid-up otherwise than on cash, and if so issued, shall be deemed to be fully paid-up or partly paid-up shares, as the case may be.
<i>Kinds of share capital</i>	6.	The company shall have the power to issue the following kinds of shares in accordance with these Articles, the Act, Rules, and other applicable laws: A. Equity share capital I. With voting rights; and / or ii. With differential rights as to dividend, voting or otherwise in accordance with the Act/ Rules. B. Preference Share Capital 6A. Subject to the provisions of the Companies Act, 2013 and SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 as may be applicable from time to time and with the consent of the Members of the Company at General Meeting, the Board, may issue and allot Warrants in such manner and on such terms and conditions as the board may deem fit.
<i>Issue of Certificate</i>	7	(i) Every person whose name is entered as a member in the register of members shall be entitled to receive within two months after allotment or within one month from the date of receipt by the company of the application for the registration of transfer or transmission or within such other period as the conditions of issue shall be provided: (a) One certificate for all his shares without payment of any charges; or (b) Several certificates, each for one or more of his shares, upon payment of such charges as may be fixed by the Board for each certificate after the first.
<i>Certificate to bear seal</i>	(ii)	Every certificate shall be under the seal and shall specify the shares to which it relates and the amount paid –up thereon.

(iii)	In respect of any share or shares held jointly by several persons, the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all such holders.	<i>One certificate for shares held jointly</i>
8.	A person subscribing to shares offered by the Company shall have the option either to receive certificates for such shares or hold the shares in a dematerialized state with a depository. Where a person opts to hold any share with the depository, the Company shall intimate such depository the details of allotment of the share to enable the depository to enter in its records the name of such person as the beneficial owner of that share.	<i>Option to receive share certificate or hold shares with depository</i>
9.	If any share certificate be worn out, defaced, mutilated or torn or if there be no further space on the back for endorsement of transfer, then upon production and surrender thereof to the Company, a new certificate may be issued in lieu thereof, and if any certificate is lost or destroyed then upon proof thereof to the satisfaction of the company and on execution of such indemnity as the company deem adequate, a new certificate in lieu thereof shall be given. Every certificate under this Articles shall be issued on payment of fees as may be fixed by the Board for each certificate.	<i>Issue of new certificate in place of one lost, defaced, torn out, etc.</i>
10.	The provisions of forgoing Articles with respect to issue of certificates shall <i>mutatis mutandis</i> apply to issue of certificate only for any other securities including debentures (except where the Act otherwise requires) of the company.	<i>Provisions as to issue of certificates to apply mutatis mutandis to debentures etc.</i>
11.	(1) The company may exercise the powers of paying commissions conferred by the Act to any person in connection with the subscription of securities, provided that the rate per cent. or the amount of the commission paid or agreed to be paid shall be disclosed in the manner required by that section and rules made there under.	<i>Power to pay commission in connection with securities issued</i>
	(2) The rate or amount of the commission paid or agreed to be paid shall be disclosed in the manner required by that section and rules made there under.	<i>Rate of commission in accordance with Rules.</i>
	(3) The commission may be satisfied by the payment of cash or the allotment of fully or partly paid shares or partly in the one way and partly in the other.	<i>Mode of payment of commission</i>
12.	(1) If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless members' rights otherwise provided by the terms of issue of the shares of that class) may, subject to the provisions of the Act, and whether or not the Company is being wound up, be varied with the consent in writing, of such number of the holders of the issued shares of that class, or with the sanction of a resolution passed at a separate meeting of the holders of the shares of that class, as prescribed by the Act.	<i>Variation of Member's rights</i>
	(2) To every such separate meeting, the provisions of these Articles relating to general meetings shall <i>mutatis mutandis</i> to each meeting	<i>Provisions as to general meetings to apply mutatis Mutandis to each meeting</i>
13.	The rights conferred upon the holders of the shares of any class issued with preferred or other rights shall not, unless otherwise provided by the terms of issue of the shares of that class, be deemed to be varied by the creation of or issue of further shares ranking pari-passu with therewith.	<i>Issue of further shares not to affect rights of existing members</i>

<i>Power of issue Redeemable preference shares</i>	14.	Subject to the provisions of the Act, the Board shall have the power to issue or re-issue preference shares of one or more classes which are liable to be redeemed, or converted into equity shares on such terms and conditions and in such manner
<i>Further issue of Capital</i>	15.	The Board of the Company, as the case may be, in accordance with the Act and the Rules, issue further shares to: The persons who at the date of the offer, are holders of equity shares of the company, such offer shall be deemed to include a right exercisable by the person concerned to renounce the shares offered to him or any of them in favour of any other person; or Employee under stock option; or Any person, whether or not those persons include the persons referred to in clause (a) or (b).
<i>Mode of further issue of shares</i>		A further issue of shares may be made in any manner whatsoever as the Board may determine including by way of preferential offer or private placement, subject to and in accordance with the Act and the rules.
<i>Sweat Equity</i>	16.	Subject to the provisions of the Companies Act, 2013, including any statutory modification(s) or re-enactment thereof for the time being in force and/or as may be re-enacted from time to time, the Company may issue sweat equity shares of a class of shares already issued.

LIEN

<i>Company to have lien on shares</i>	17.	(1) The Company shall have a first and paramount lien - (a) on every share (not being a fully paid share), for all monies (whether presently payable or not) called, or payable at a fixed time, in respect of that share; and (b) on all shares (not being fully paid shares) standing registered in the name of a member, for all monies presently payable by him or his estate to the Company: Provided that the Board may at any time declare any share to be wholly or in part exempt from the provisions of this clause.
<i>Lien to extend to dividends, etc</i>	(2)	The Company's lien, if any, on a share shall extend to all dividends or interest, as the case may be, payable and bonuses declared from time to time in respect of such shares for any money owing to the Company.
<i>Waiver of lien in case of registration</i>	(3)	Unless otherwise agreed by the Board, the registration of a transfer of shares shall operate as a waiver of the Company's lien.
<i>As to enforcing lien by sale</i>	18.	The Company may sell, in such manner as the Board thinks fit, any shares on which the Company has a lien: Provided that no sale shall be made— (a) unless a sum in respect of which the lien exists is presently payable; or (b) until the expiration of fourteen days after a notice in writing stating and demanding payment of such part of the amount in respect of which the lien

exists as is presently payable, has been given to the registered holder for the time being of the share or to the person entitled thereto by reason of his death or insolvency or otherwise.

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| 19. | (1) To give effect to any such sale, the Board may authorise some person to transfer the shares sold to the purchaser thereof. | <i>Validity of sale</i> |
| | (2) The purchaser shall be registered as the holder of the shares comprised in any such transfer. | <i>Purchaser to be registered holder</i> |
| | (3) The receipt of the company of the consideration (if any) given for the share on the sale thereof shall (subject, if necessary, to execution of an instrument of transfer or a transfer by relevant system, as the case may be) constitute a good title to the share and the purchaser shall be registered as the holder of the share. | <i>Validity of company's receipt</i> |
| | (4) The purchaser shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings with reference to the sale. | <i>Purchaser not affected</i> |
| 20. | The proceeds of the sale shall be received by the Company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable. | <i>Application of proceeds of sale</i> |
| | The residue, if any, shall, subject to a like lien for sums not presently payable as existed upon the shares before the sale, be paid to the person entitled to the shares at the date of the sale. | <i>Payment of residual money</i> |
| 21. | In exercising its lien, the Company shall be entitled to treat the registered holder of any share as the absolute owner thereof and accordingly shall not (except as ordered by a court of competent jurisdiction or unless required by any statute) be bound to recognise any equitable or other claim to, or interest in, such share on the part of any other person, whether a creditor of the registered holder or otherwise. The Company's lien shall prevail notwithstanding that it has received notice of any such claim. | <i>Outsider's lien not to affect Company's lien</i> |
| 22. | The provisions of these Articles with respect to lien shall mutatis mutandis apply to any other securities including debentures of the company. | <i>Provisions as to lien to apply mutatis mutandis to debentures etc</i> |

CALLS ON SHARES

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| 23. | (1) The Board from time to time, subject to the terms on which any shares may have been issued and subject to the conditions of allotment, by a resolution passed at a meeting of the Board, make such calls as it thinks fit upon the members in respect of all money unpaid on the shares held by them respectively and each member shall pay the amount of every call so made to him to the person or persons and at the times and places appointed by the Board. A call may be made payable in installments. | <i>Board to make Calls</i> |
| | (2) Each member, shall subject to receiving at least fourteen day's notice specifying the time or times and place of payment, pay to the company, at the time or times and place so specified, the amount called on his shares. | <i>Notice of call</i> |
| | (1) The Board may, from time to time at its discretion, extend the time fixed for the payment of any call and may extend such time as to all or any of the members who from, residence at a distance or other cause, the Board may deem fairly entitled to such extension save as a matter of grace or favour. | <i>Board may extend time</i> |

<i>Call may be revoked or postponed</i>	(2)	A call may be revoked or postponed at the discretion of the Board.
<i>call to effect from the date of resolution</i>	24.	A call shall be deemed to have been made at the time when the resolution authorizing such call was passed at the meeting of the Board.
<i>Liability of Joint holders</i>	25.	The joint – holders of shares shall be jointly and severally liable to pay all calls in respect thereof.
<i>When interest on call or installment payable</i>	26.	(1) If any member fails to pay any call due from him on the day appointed for the payment thereof, or any such extension thereof as aforesaid, he shall be liable to pay interest on the same from the day appointed for the payment thereof to the time of actual payment at such rates as shall from time to time be fixed by the Board not exceeding 18 percent per annum but nothing in this Articles shall render it obligatory for the Board to demand and recover any interest from any such member.
<i>Board to waive interest</i>	(2)	The Board shall be at liberty to waive payment of any such interest wholly or in part.
<i>Sum deemed to be calls</i>	27.	(1) Any sum, which by the terms of issue of a share become payable on allotment or at fixed date, whether on account of the nominal value of the share or by way of premium, shall, for the purposes of these Articles be deemed to be a call duly made and payable on the date on which by the terms of issue the same become payable, and in case of non-payment all the relevant provisions of these Articles as to payment of interest and expenses, forfeiture or otherwise shall apply as if such sum has become payable by virtue of a call duly made and notified.
<i>Effect of non-payments of sums</i>	(2)	In case of non-payment of such sum, all the relevant provisions of these Articles as to payment of interest and expenses, forfeiture or otherwise shall apply as if such sum had become payable by virtue of call duly made and notified.
<i>Payment in anticipation of calls may carry interest</i>	28.	The Board – (a) may, if it thinks fit, receive from any member willing to advance the same, all or any part of the monies uncalled and unpaid upon any shares held by him; and (b) upon all or any of the monies so advanced, may (until the same would, but for such advance, become presently payable) pay interest at such rate as may be fixed by the Board. Nothing contained in this clause shall confer on the member (a) any right to participate in profits or dividends or (b) any voting rights in respect of the moneys so paid by him until the same would, but for such payment, become presently payable by him.
<i>Instalments on shares to be duly paid</i>	29.	If by the conditions of allotment of any shares, the whole or part of the amount of issue price thereof shall be payable by instalments, then every such instalment shall, when due, be paid to the Company by the person who, for the time being and from time to time, is or shall be the registered holder of the share or the legal representative of a deceased registered holder.
<i>Calls on shares of same class to be on uniform basis</i>	30.	All calls shall be made on a uniform basis on all shares falling under the same class. Explanation: Shares of the same nominal value on which different amounts have been paid-up shall not be deemed to fall under the same class.

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| 31. | Neither a judgment nor a decree in favour of the company for calls or other moneys due in respect in any shares nor any part payment or satisfaction thereof nor the receipt by the company of a portion of any money which shall from time to time be due from any member to the company in respect of his shares, either by way of principal or interest, nor any indulgence granted by the company in respect of the payment of any such money, shall preclude the company from thereafter proceeding to enforce a forfeiture of such shares as hereinafter provided. | <i>Partial Payment not to preclude forfeiture</i> |
| 32. | The provisions of these Articles with respect to calls shall mutatis mutandis apply to any other securities including debentures of the company. | <i>Provisions as to calls to apply mutatis mutandis to debenture, etc</i> |

TRANSFER OF SHARES

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| 33. | <p>(1) The instrument of transfer of nay share in the company shall be duly executed by or on behalf of both the transferor and transferee.</p> <p>(2) The transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of members in respect thereof.</p> | <i>Instrument of transfer to be executed by transferor and transferee</i> |
| 34. | <p>The Board may, subject to the right of appeal conferred by the Act decline to register—</p> <p>(a) the transfer of a share, not being a fully paid share, to a person of whom they do not approve; or</p> <p>(b) any transfer of shares on which the company has a lien.</p> | <i>Board may refuse to register transfer</i> |
| 35. | <p>In case of shares held in physical form, the Board may decline to recognize any instrument of transfer unless—</p> <p>(a) the instrument of transfer is duly executed and in the form as prescribed in rules made under the Act;</p> <p>(b) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer; and</p> <p>(c) the instrument of transfer is in respect of only one class of shares.</p> | <i>Board may decline to recognize instrument of transfer</i> |
| 36. | <p>On giving of previous notice of at least seven days or such lesser period in accordance with the Act and Rules made thereunder, the registration of transfers may be suspended at such times and for such periods as the Board may from time to time determine:</p> | <i>Transfer of shares when suspended</i> |

Provided that such registration shall not be suspended for more than thirty days at any one time or for more than forty-five days in the aggregate in any year.

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| 37. | The provisions of these Articles with respect to transfer of shares shall mutatis mutandis apply to any other securities including debentures of the company. | <i>Provisions as to transfer of shares to apply mutatis mutandis to debenture, etc.</i> |
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TRANSMISSION OF SHARES

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| 38. | (1) On the death of a member, the survivor or survivors where the member was a joint holder, and his nominee or nominees or legal representatives where he was a sole holder, shall be the only persons recognized by the company as having any title to his interest in the shares. | <i>Title to shares on death of a member</i> |
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	(2)	Nothing in clause (i) shall release the estate of a deceased joint holder from any liability in respect of any share which had been jointly held by him with other persons.
<i>Transmission clause</i>	39.	(1) Any person becoming entitled to a share in consequence of the death or insolvency of a member may, upon such evidence being produced as may from time to time properly be required by the Board and subject as hereinafter provided, elect, either— (a) to be registered himself as holder of the share; or (b) to make such transfer of the share as the deceased or insolvent member could have made.
<i>Board's Right unaffected</i>	(2)	The Board shall, in either case, have the same right to decline or suspend registration as it would have had, if the deceased or insolvent member had transferred the share before his death or insolvency.
<i>Indemnification to the company</i>	(3)	The company shall be fully indemnified by such persons from all liability, if any, by action taken by the Board to give effect to such registration or transfer.
<i>Right to election of holder of share</i>	40.	(1) If the person so becoming entitled shall elect to be registered as holder of the share himself, he shall deliver or send to the company a notice in writing signed by him stating that he so elects. (2) If the person aforesaid shall elect to transfer the share, he shall testify his election by executing a transfer of the share. (3) All the limitations, restrictions and provisions of these regulations relating to the right to transfer and the registration of transfers of shares shall be applicable to any such notice or transfer as aforesaid as if the death or insolvency of the member had not occurred and the notice or transfer were a transfer signed by that member.
<i>Manner of testifying election</i>		
<i>Limitations applicable to notice</i>		
<i>Claimant to be entitled for same advantage</i>	41.	A person becoming entitled to a share by reason of the death or insolvency of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company: Provided that the Board may, at any time, give notice requiring any such person to elect either to be registered himself or to transfer the share, and if the notice is not complied with within ninety days, the Board may thereafter withhold payment of all dividends, bonuses or other monies payable in respect of the share, until the requirements of the notice have been complied with.
<i>Provisions as to transmission of shares to apply mutatis mutandis to debenture, etc.</i>	42.	The provisions of these Articles with respect to transmission of shares shall mutatis mutandis apply to any other securities including debentures of the company.
FORFEITURE		
<i>If money payable on shares not paid, notice to be given to member</i>	43.	If any member fails to pay any call or installment of a call on or before the day appointed for the payment of the same or any such extension notice to thereof as aforesaid, the Board may at any time thereafter, such time as the call or installment remains unpaid, give notice to him requiring him to pay the same together with any interest that may have accrued, and all expenses that may have been incurred by the Company by reasons of such non-payment.

44.	The notice aforesaid shall:	<i>Form of notice</i>
	(a) name a further day (not being earlier than the expiry of fourteen days from the date of service of the notice) on or before which the payment required by the notice is to be made; and	
	(b) state that, in the event of non-payment on or before the day so named, the shares in respect of which the call was made shall be liable to be forfeited.	
45.	If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may, at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the Board to that effect.	<i>If default of payment, shares to be forfeited.</i>
46.	Neither the receipt by the Company for a portion of any money which may from time to time be due from any member in respect of his shares, nor any indulgence that may be granted by the Company in respect of payment of any such money, shall preclude the Company from thereafter proceeding to enforce a forfeiture in respect of such shares as herein provided. Such forfeiture shall include all dividends declared or any other moneys payable in respect of the forfeited shares and not actually paid before the forfeiture.	<i>Receipt of part amount or grant of indulgence not to affect forfeiture.</i>
47.	When any share shall have been so forfeited, notice of the forfeiture shall be given to the defaulting member and an entry of the forfeiture with the date thereof, shall forthwith be made in the register of members but no forfeiture shall be invalidated by any omission or neglect or any failure to give such notice or make such entry as aforesaid.	<i>Entry of forfeiture in the register of members</i>
48.	The forfeiture of a share shall involve extinction at the time of the forfeiture, of all interest in all claims and demand against the company, in respect of the share and all other rights incidental to the share, except only such of those rights as by these Articles are expressly save.	<i>Effect of forfeiture</i>
49.	(1) A forfeited share shall be deemed to be the property of the Company and may be sold or re-allotted or otherwise disposed of either to the person who was before such forfeiture the holder thereof or entitled thereto or to any other person on such terms and in such manner as the Board thinks fit.	<i>Forfeited shares may be sold, etc</i>
	(2) At any time before a sale, re-allotment or disposal as aforesaid, the Board may cancel the forfeiture on such terms as it thinks fit.	<i>Cancellation of forfeiture</i>
50.	(1) A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, liable to pay notwithstanding the forfeiture, remain liable to pay, and money owing shall pay, to the Company all monies which, at the date of forfeiture, were presently payable by him to the Company in respect of the shares.	<i>Members still liable to pay money owing at the time of forfeiture</i>
	(2) All such monies payable shall be paid together with interest thereon at such rate as the Board may determine, from the time of forfeiture until payment or realisation. The Board may, if it thinks fit, but without being under any obligation to do so, enforce the payment of the whole or any portion of interest the monies due, without any allowance for the value of the shares at the time of forfeiture or waive payment in whole or in part.	<i>Member still liable to pay money owing at the time of forfeiture and interest</i>
	(3) The liability of such person shall cease is and when the company shall have received payment in full of all such monies in respect of the shares.	<i>Cesser of liability</i>

<i>Certificate of forfeiture</i>	51.	(1)	A duly verified declaration in writing that the declarant is a director, the manager or the secretary of the Company, and that a share in the Company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share;
<i>Title of purchaser and transferee of forfeited shares</i>		(2)	The Company may receive the consideration, if any, given for the share on any sale, re-allotment or disposal thereof and may execute a transfer of the share in favour of the person to whom the share is sold or disposed of;
<i>Transferee to be registered as holder</i>		(3)	The transferee shall thereupon be registered as the holder of the share; and
<i>Transferee not affected</i>		(4)	The transferee shall not be bound to see to the application of the purchase money, if any, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale, re-allotment or disposal of the share.
<i>Validity of sale</i>	52.		Upon any sale after forfeiture or for enforcing a lien in exercise of the powers hereinabove given, the Board may, if necessary, appoint some person to execute an instrument for transfer of the shares sold and cause the purchaser's name to be entered in the register of members in respect of the shares sold and after his name has been entered in the register of members in respect of such shares the validity of the sale shall not be impeached by any person.
<i>Cancellation of shares certificates in respect of forfeited shares.</i>	53.		Upon any sale, re-allotment or other disposal under the provisions of the preceding Articles, the certificate originally issued in respect of the relative shares unless the same shall on demand by the company has been previously surrendered to it by the defaulting member stand cancelled and become null and void and of no effect, and the directors shall be entitled to issue a duplicate certificate or certificates in respect of the said shares to the person or persons entitled thereto.
<i>Surrender of share certificates</i>	54.		The Board may, subject to the provisions of the Act, accept a surrender of any share from or by any member desirous of surrendering them on such terms as they think fit.
<i>Sums deemed to be calls</i>	55.		The provisions of these Articles as to forfeiture shall apply in the case of non-payment of any sum, which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the nominal value of the share or by way of premium, as if the same had been payable by virtue of a call duly made and notified.
<i>Provisions as to forfeiture of shares to apply mutatis mutandis to debenture, etc</i>	56.		The provisions of these Articles with respect to forfeiture of shares shall mutatis mutandis apply to any other securities including debentures of the company.

ALTERATION OF CAPITAL

<i>Power to alter share capital</i>	57.		Subject to the provisions of the Act, the Company may, by ordinary resolution –
		(a)	increase the share capital by such sum, to be divided into shares of such amount as it thinks expedient;
		(b)	consolidate and divide all or any of its share capital into shares of larger amount than its existing shares: Provided that any consolidation and division which results in changes in the voting percentage of members shall require applicable approvals under the Act;
		(c)	convert all or any of its fully paid-up shares into stock, and reconvert that stock into fully paid-up shares of any denomination;

- (d) sub-divide its existing shares or any of them into shares of smaller amount than is fixed by the memorandum;
- (e) cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person.

58. Where shares are converted into stock:

Shares may be converted into stock

- (a) the holders of stock may transfer the same or any part thereof in the same manner as, and subject to the same Articles under which, the shares from which the stock arose might before the conversion have been transferred, or as near thereto as circumstances admit:

Provided that the Board may, from time to time, fix the minimum amount of stock transferable, so, however, that such minimum shall not exceed the nominal amount of the shares from which the stock arose;

- (b) the holders of stock shall, according to the amount of stock held by them, have the same rights, privileges and advantages as regards dividends, voting at meetings of the Company, and other matters, as if they held the shares from which the stock arose; but no such privilege or advantage (except participation in the dividends and profits of the Company and in the assets on winding up) shall be conferred by an amount of stock which would not, if existing in shares, have conferred that privilege or advantage;
- (c) such of these Articles of the Company as are applicable to paid-up shares shall apply to stock and the words "share" and "shareholder"/"member" shall include "stock" and "stock-holder" respectively.

Right of stockholders

59. The Company may, by resolution as prescribed by the Act, reduce in any manner and in accordance with the provisions of the Act and the Rules, —

Reduction of capital

- (a) its share capital; and/or
- (b) any capital redemption reserve account; and/or
- (c) any securities premium account; and/or
- (d) any other reserve in the nature of share capital

JOINT HOLDERS

60. Where two or more persons are registered as joint holders (not more than three) of any share, they shall be deemed (so far as the Company is concerned) to hold the same as joint tenants with benefits of survivorship, subject to the following and other provisions contained in these Articles:

Joint- Holders

- (a) The joint-holders of any share shall be liable severally as well as jointly for and in respect of all calls or instalments and other payments which ought to be made in respect of such share.
- (b) On the death of any one or more of such joint-holders, the survivor or survivors shall be the only person or persons recognized by the Company as having any title to the share but the Directors may require such evidence of death as they may deem fit, and nothing herein contained shall be taken to release the estate of a deceased joint-holder from any liability on shares held by him jointly with any other person.

Liability of Joint- Holders

Death of one or more joint- holders

Receipt of one sufficient

<i>Delivery of certificate and giving of notice to first named holder</i>	(c)	Any one of such joint holders may give effectual receipts of any dividends, interests or other moneys payable in respect of such share.
<i>Vote of Joint –holders</i>	(d)	Only the person whose name stands first in the register of members as one of the joint-holders of any share shall be entitled to the delivery of certificate, if any, relating to such share or to receive notice (which term shall be deemed to include all relevant documents) and any notice served on or sent to such person shall be deemed service on all the joint-holders.
<i>Executors or administrators as joint holders</i>	(e)	(i) Any one of two or more joint-holders may vote at any meeting either personally or by attorney or by proxy in respect of such shares as if he were solely entitled thereto and if more than one of such joint-holders be present at any meeting personally or by proxy or by attorney then that one of such persons so present whose name stands first or higher (as the case may be) on the register in respect of such shares shall alone be entitled to vote in respect thereof.
<i>Provisions as to joint holders as to shares to apply mutatis mutandis to debentures etc.</i>	(ii)	Several executors or administrators of a deceased member in whose (deceased member) sole name any share stands, shall for the purpose of this clause be deemed joint-holders.
	(f)	The provisions of these Articles relating to joint holders of shares shall mutatis mutandis apply to any other securities including debentures of the Company registered in joint names.

CAPITILASION OF PROFITS

<i>Capitalization</i>	61.	(1)	The Company in general meeting may, upon the recommendation of the Board, resolve—
		(a)	that it is desirable to capitalise any part of the amount for the time being standing to the credit of any of the company's reserve accounts, or to the credit of the profit and loss account, or otherwise available for distribution; and
		(b)	that such sum be accordingly set free for distribution in the manner specified in clause (ii) amongst the members who would have been entitled thereto, if distributed by way of dividend and in the same proportions.
<i>Sum how applied</i>	(2)		The sum aforesaid shall not be paid in cash but shall be applied, subject to the provision contained in clause (iii), either in or towards—
		(a)	paying up any amounts for the time being unpaid on any shares held by such members respectively;
		(b)	paying up in full, unissued shares or other securities of the company to be allotted and distributed, credited as fully paid-up, to and amongst such members in the proportions aforesaid;
		(c)	partly in the way specified in sub-clause (A) and partly in that specified in sub-clause (B);
	(3)		A securities premium account and a capital redemption reserve account or any other permissible reserve account may, for the purposes of this Article, be

applied in the paying up of unissued shares to be issued to members of the company as fully paid bonus shares;

- (4) The Board shall give effect to the resolution passed by the company in pursuance of this Article.

62. (1) Whenever such a resolution as aforesaid shall have been passed, the Board shall—

- (a) make all appropriations and applications of the amount resolved to be capitalised thereby, and all allotments and issues of fully paid shares or other securities if any; and

*Powers of the Board
for capitalization*

- (b) generally do all acts and things required to give effect thereto.

- (2) The Board shall have power—

- (a) to make such provisions, by the issue of fractional certificates/coupons or by payment in cash or otherwise as it thinks fit, for the case of shares becoming distributable in fractions; and

*Board's power to
issue fractional
certificate/ coupon etc.*

- (b) to authorise any person to enter, on behalf of all the members entitled thereto, into an agreement with the company providing for the allotment to them respectively, credited as fully paid-up, of any further shares to which they may be entitled upon such capitalisation, or as the case may require, for the payment by the company on their behalf, by the application thereto of their respective proportions of profits resolved to be capitalised, of the amount or any part of the amounts remaining unpaid on their existing shares;

- (3) Any agreement made under such authority shall be effective and binding on such members.

*Agreement binding on
members*

BUY-BACK OF SHARES

63. Notwithstanding anything contained in these Articles, the Board of Directors may, when and if thought fit, buy back such of the company's own shares or other securities as it may think proper subject to such limits upon such terms and condition and subject to such approvals as may be provided under the applicable provisions of the Act and rules and any other laws for the time being in force.

GENERAL MEETINGS

64. All general meetings other than annual general meeting shall be called Extraordinary General Meeting.

*Extraordinary general
meeting*

65. The Board may, whenever it thinks fit, call an Extraordinary General Meeting.

*Powers of Board to call
Extraordinary General Meeting*

PROCEEDINGS AT GENERAL MEETINGS

66. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.

Presence of Quorum

No business shall be discussed or transacted at any general meeting except election of Chairperson whilst the chair is vacant.

*Business confined to
election of chairperson
whilst chair vacant.*

<i>Quorum for general meeting</i>	67.	The quorum for a general meeting shall be as provided in the Act.
<i>Chairpersons of the meetings</i>	68.	The Chairperson of the meeting shall preside as Chairperson at every general meeting of the Company.
<i>Directors to elect a Chairperson</i>	69.	If there is no such chairperson, or if he is not present within fifteen minutes after the time appointed for holding the meeting, or is unwilling to act as chairperson of the meeting, the directors present shall, by poll or electronically, choose one of their members to be chairperson of the meeting.
<i>Casting vote of Chairperson at general meeting</i>	70.	On any business at any general meeting, in case of an equality of votes, whether on a show of hands or electronically or on a poll, the chairperson shall have a second or casting vote.
<i>Minutes of proceedings of meetings and resolutions passed by postal ballot</i>	71.	(1) The Company shall cause minutes of the proceedings of every general meeting of any class of members or creditors and every resolution passed by postal ballot to be prepared by the Rules and kept by making within thirty days of the conclusion of every such meeting concerned or passing of resolution by postal ballot entries thereof in books kept for that purpose with their pages consecutively numbered.
<i>Certain matters not to be included in Minutes</i>	(2)	There shall not be included in the minutes any matter which, in the opinion of the Chairperson of the meeting – (a) is, or could reasonably be regarded, as defamatory of any person; or (b) is irrelevant or immaterial to the proceedings; or (c) is detrimental to the interests of the Company.
<i>Discretion of Chairman in relation to minutes Minutes to be evidence</i>	(3)	The Chairperson shall exercise an absolute discretion in regard to the inclusion or non- inclusion of any matter in the minutes on the grounds specified in the aforesaid clause.
	(4)	The minutes of the meeting kept in accordance with the provisions of the Act shall be evidence of the proceedings recorded therein.
<i>Inspection of minute books of general meeting</i>	72.	(1) The books containing the minutes of the proceedings of any general meeting of the Company or a resolution passed by postal ballot shall: a. be kept at the registered office of the company; and b. be open for inspection of any member without charge, during 11.00 a.m., to 1.00 p.m. on all working days other than Sundays.
<i>Members may obtain a copy of minutes</i>	(2)	Any member shall be entitled to be furnished, within the time prescribed by the Act, after he has made a request in writing in that behalf to the Company and on payment of such fees as may be fixed by the board, with a copy of any minutes referred to in clause (1) above: Provided that a member who has made a request for provisions of a soft copy of the minutes of any previous general meeting held during the period immediately preceding three financial years, shall be entitled to be furnished with the same free of cost.
<i>Powers to arrange security at meetings</i>	73	The Board, and also any person(s) authorised by it, may take any action before the commencement of any general meeting, or any meeting of a class of members in the company, which they may think fit to ensure the security of the meeting, the safety of people attending the meeting, and the future orderly conduct of the meeting. Any

decision made in the good faith under this Article shall be final, and rights to attend and participate in the meeting concerned shall be subject to such decision.

ADJOURNMENT OF MEETING

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| 74. (1) | The Chairman may, <i>suo moto</i> , adjourn the meeting from time to time and from place to place. | <i>Chairperson may adjourn the meeting</i> |
| (2) | No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from adjourned meeting which the adjournment took place. | <i>Business at adjourned meeting</i> |
| (3) | When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. | <i>Notice of adjourned meeting</i> |
| (4) | Save as aforesaid, and save as provided in the Act, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting. | <i>Notice of adjourned meeting not required</i> |

VOTING RIGHTS

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| 75. | Subject to any rights or restrictions for the time being attached to any class or classes of shares,—

(a) on a show of hands, every member present in person shall have one vote; and

(b) on a poll, the voting rights of members shall be in proportion to his share in the paid-up equity share capital of the company. | <i>Entitlement to vote on show of hands and on poll</i> |
| 76. | A member may exercise his vote at a meeting by electronic means in accordance with the Act and shall vote only once. | <i>Voting through electronic means</i> |
| 77. (1) | In the case of joint holder, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders. | <i>Vote of Joint- holders</i> |
| (2) | For this purpose, seniority shall be determined by the order in which the names stand in the register of members. | <i>Seniority of names</i> |
| 78. | A member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction in lunacy, may vote, whether by show of hands or on a poll, by his committee or other legal guardian and any such committee or guardian may, on a poll, vote by proxy. If any member be a minor, the vote in respect of his share or shares shall be by his guardian or any one of his guardians. | <i>How members non compos mentis and minor may vote</i> |
| 79. | Subject to the provisions of the Act, and other provisions of these Articles, any person entitled under the Transmission clause to any shares may vote at any general meeting in respect thereof as if he was the registered holder of such shares, provided that at least 48 (forty eight) hours before the time of holding the meeting or adjourned meeting, as the case may be, at which he proposes to vote, he shall duly satisfy the Board of his right to such shares unless the Board shall have previously admitted his right to vote at such meeting in respect thereof. | <i>Votes in respect of shares of deceased or insolvent members, etc.</i> |
| 80. | Any business other than that upon which a poll has been demanded may be proceeded with, pending the taking of the poll. | <i>Business may proceed pending poll</i> |

<i>Restriction on voting rights</i>	81.	No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the Company have been paid or in regard to which the Company have been paid or in regard to which the Company has exercised any right of lien.
<i>Restriction on exercise of voting rights in other cases or be void</i>	82.	A member is not prohibited from exercising his voting on the ground that he has not held his share or other interest in the Company for any specified period preceding the date on which the vote is taken, or on any other ground not being a ground set out in the preceding Article.
<i>Equal rights of members</i>	83.	Any member whose name is entered in the register of members of the company shall enjoy the same rights and subject to the same liabilities as all other members of the same class.

PROXY

<i>Appointment of proxy</i>	84.	Every proxy, whether a member or not, shall be appointed in writing under the hand of the appointer or his attorney, or if such appointer is corporation under the common seal of such corporation or be signed by an officer or any attorney duly authorized by it and any committee or guardian may appoint such proxy. The proxy so appointed shall not have any right to speak at the meetings.
<i>Form of proxy</i>	85.	An instrument appointing a proxy shall be in the form as prescribed in the Act/Rules.
<i>Proxy for specified meeting</i>	86.	An instrument of proxy may appoint a proxy for the purpose of a particular meeting specified in the instrument and any adjournment thereof.
<i>Proxy to vote only on a poll</i>	87.	A member present by proxy shall be entitled to vote only on a poll.
<i>Deposit of instrument of appointment</i>	88.	The instrument appointing a proxy and the power of attorney or their authority if any, under which it is signed or a notarized copy of that power of authority, shall be deposited at the office not later than forty eight hours before the time for holding meeting at which the person named in the instrument purposes to vote, and in default the instrument or proxy shall not be treated as valid.
<i>Validity of votes given by proxy notwithstanding death of member</i>	89.	A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal, or revocation of the proxy or of any power of attorney under which such proxy was signed, or the transfer of the share in respect of which the vote is given, provided that no intimation in writing of the death or insanity or revocation or transfer shall have been received at the office before the meeting.
<i>Time for objections of votes</i>	90.	No objection shall be made to the validity of any vote, except at any meeting or poll at which such vote will be tendered, and every vote whether given personally or by proxy, not disallowed at such meeting or poll shall be deemed valid for all purposes of such meeting or poll whatsoever.

BOARD OF DIRECTORS

<i>Number of Directors</i>	91.	The number of Directors shall not be less than three and not more than twelve.
<i>Chairman</i>	92.	The Board may elect a Chairman of its meeting and may determine the period for which he is to hold office. If no such Chairman is elected, or if at any meeting the Chairman is not present within five minutes after the time appointed for holding the meeting, the directors present may choose one of their number to be the chairman of the meeting.

93. The following are the First Directors of the Company *First Directors*
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| 1. Mr. Bharat S Choudhari | 2. Mr. Kamal H Navani |
| 3. Mr. Kailash S Choudhari | 4. Mr. Sanjeev Navani |
94. Whenever Directors enter into a contract with any Government, Central, State or local, any bank or financial institution or any person or persons hereinafter referred to as "the appointer" for borrowing any money or for providing any guarantee or security or for technical collaboration or assistance or for underwriting or enter into any other arrangement whatsoever, the Directors shall have, subject to the provisions of Act, the power to agree that such appointer shall have the right to appoint or nominee by a notice in writing addressed to the company one or more persons, who are acceptable to the Board as Directors on the Board for such period and upon such conditions as may be mentioned in the agreement and that such Director or Directors may not be required to hold any qualification shares. The Directors may also agree that any such Director or Directors may be removed from time to time by the appointer entitled to appoint or nominate them and the appointer may appoint another or other in his or their place and also fill in vacancy, which may occur as a result of any such Director or Directors ceasing to hold that office for any reason whatsoever. The Directors appointed nominated under this Article shall be entitled to exercise and enjoy all or any of the right and privileges exercised and enjoyed by the Directors of the company including payment of remuneration and traveling expenses to such Director or Directors as may be agreed by the company with the appointer. *Power to appoint ex-officio Directors*
95. If it is provided by the trust deed, securing or otherwise, in connection with any issue of debentures of the company, that any Person or persons shall have power to nominate a Director of the Company, then in case of any and every such issue of debentures, the person or persons having such power may exercise such power from time to time and appoint a Director accordingly. Any Director so appointed is herein referred to as Debenture Director. A Debenture Director may be removed from office at any time by the person or Persons in whom for the time being is vested the power under which he was appointed and another Director may be appointed in his place. A Debenture Director shall not be bound to hold any qualification shares. *Debenture Director*
96. (1) Subject to the provisions of the Act, the Board shall have power at any time, and from time to time, to appoint a person as an additional director, provided the directors and additional directors together shall not at any time exceed the maximum strength fixed for the Board by the Articles. *Appointment of Additional director*
- (2) Such person shall hold office only up to the date of the next annual general meeting of the Company but shall be eligible for appointment by the Company as a director at that meeting subject to the provisions of the Act. *Duration of office of additional director*
97. (1) At the request of the concerned Director the Board may appoint an Alternate Director to act for Director, hereinafter call "the original Director", during his absence for a period of not less than three months from India. An Alternate Director appointed under the Articles shall not hold office for a period longer than that permissible to the original director in whose place he has been appointed and shall vacate office if and when the original Director returns to India. If the term of office of the original Director is determined before he so returns to India, any provisions in the Act or in these Articles for the automatic reappointment of retiring Director in defaulting of another appointment shall apply to the original Director and not to the alternate Director. No person shall be appointed as an Alternate Director for an Independent Director unless he is qualified to be appointed as an Independent director under the provisions of the Act. *Appointment of Alternate Director*

<i>Duration of office of alternate director</i>	(2)	An alternate director shall not hold office for a period longer than that permissible to the Original Director in whose place he has been appointed and shall vacate the office and when the Original Director returns to India.
<i>Re-appointment provisions applicable to original director</i>	(3)	If the term of office of the Original Director is determined before he returns to India the automatic reappointment of retiring directors in default of another appointment shall apply to the Original Director and not to the alternate director.
<i>Directors power to fill casual vacancies</i>	98. (1)	If the office of any director appointed by the company in general meeting is vacated before his term of office expires in the normal course, the resulting casual vacancy may be filled by the Board at a meeting of the Board.
<i>Duration of office of Director appointed to fill casual vacancy</i>	(2)	The Director so appointed shall hold office only upto the date upto which the Director in whose place he is appointed would have held office if it had not been vacated by him.
<i>Directors not liable to retire by rotation</i>	99.	The Board shall have the power to determine the directors whose period of office is or is not liable to determination by retirement of directors by rotation.
<i>Eligibility for re- election</i>	100.	A retiring director shall be eligible for re-appointment.
<i>Same individual may be Chairman and MD or CEO</i>	101.	The same individual may at the same time be, appointed as Chairman of the company as well as Managing Director or Chief Executive officer of the Company.
<i>Qualification of Directors</i>	102.	A Director of the company shall not be bound to hold any qualification share.
<i>Remuneration of Directors</i>	103. i.	The remuneration of the directors shall, in so far as it consists of a monthly payment, be deemed to accrue from day-to-day.
<i>Remuneration to require member's consent</i>	ii.	The remuneration payable to the directors including any managing or whole-time director or manager, if any, shall be determined in accordance with and subject to provisions of the Act by a resolution passed by the company in general meeting.
<i>Travelling and other expenses</i>	iii.	In addition to the remuneration payable to them in pursuance of the Act, the directors may be paid all travelling, hotel and other expenses properly incurred by them - a. in attending and returning from meetings of the Board of Directors or any committee thereof or general meetings of the company; or b. in connection with the business of the company.
<i>Severance Compensation</i>	iv.	The Directors/ Managing Director/ other officials of the company may be paid severance compensation for the incomplete term of employment.

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| 104. All cheques, bills of exchange, drafts, hundies, promissory notes and other negotiable instruments and all receipts of monies paid to the company, shall be signed, drawn, excepted, endorsed or other executed, as the case may be, by such person and in such manner as the Board shall from time to time determine. | <i>Execution of negotiable instruments</i> |
| 105. The continuing Directors may act notwithstanding any vacancy in the Board but if, and so long as their number is reduced below the quorum fixed by the Act for a meeting of the Board, the continuing Director(s) may act for the purpose of increasing the number of directors to that fixed for the quorum, or for summoning a general meeting, but for no other purpose. | <i>Director may act notwithstanding a vacancy</i> |
| 106. Subject to the provisions of the Act and of these Articles, the Board shall have power to appoint from time to time any one or more of its number as the managing director or managing Directors or whole-time Director or Directors, including technical Director, of the company. | <i>Board may appoint Managing Director(s) etc.</i> |
| 107. A Managing Director shall not, while he continues to hold that office, be subject to retirement by rotation, in accordance with the Act. If he ceases to hold the office of Director he shall ipso facto, immediately cease to be a Managing Director. | |

POWERS OF THE BOARD

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| 108. The management of the business of the Company shall be and the Board may exercise all such powers, and do all such acts and things, as the Company is vested in Board by the memorandum of association or otherwise authorized to exercise and do, and, not hereby or by the statute or other wise directed or required to be exercised or done by the Company in general meeting but subject nevertheless to the provisions of the Act and other laws and of the memorandum of association and these Articles and to any regulations, not being inconsistent with the memorandum of association and these Articles or the Act, from time to time made by the Company in general meeting provided that no such regulation shall invalidate any prior act of the Board which would have been valid if such regulation had not been made. | <i>General Powers of the Company vested in Board.</i> |
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SPECIAL POWERS OF THE BOARD

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| 109. Without prejudice to the general powers conferred by preceding article and the other powers conferred by these presents and so as not in any way to limit any or all these powers it is hereby expressly declared that subject to the provisions of Companies Act, 2013 and applicable Rules , the Directors shall have the following powers : | <i>Special Powers of the Board</i> |
| <p>(1) to pay and charge to the capital account of the Company any interest lawfully payable there out under the provisions of the Act,</p> <p>(2) to purchase or otherwise acquire for the Company any property, rights or privileges which the Company is authorized to acquire at such price and generally on such terms and conditions as they think fit,</p> <p>(3) to acquire by purchase, lease or in exchange or otherwise, lands, buildings, hereditaments, machinery, rights, privileges, movable or immovable;</p> <p>(4) to erect, construct, enlarge, improve, alter, maintain, pull down, rebuild or reconstruct any buildings, factories, offices, workshops or other structures necessary or convenient for the purpose of the Company and to acquire lands for the purpose of the Company;</p> <p>(5) to let, mortgage, charge, sell or otherwise dispose of subject to the provisions of Section of the Act, any property of the Company either absolutely or conditionally and in such manner and upon such terms and conditions in all respects as they think fit and to accept payment or satisfaction for the same in cash or otherwise as they may think fit.</p> | |

- (6) at their discretion to pay for any property rights or privileges acquired by or services rendered to the Company, either wholly or partially in cash or in shares, bonds, debentures, debenture-stock or other securities of the Company, and any such shares may be issued either as fully paid up or with such amount credited as paid up thereon as may be agreed upon and any such bonds, debentures, debenture-stock or other securities may either specifically charged upon all or any part of the property of the Company and its uncalled capital or not so charged.
- (7) to insure and keep insured against loss or damage by fire or otherwise for such period and to such extent as they may think proper all or any part of the buildings, machinery, goods, stores, produce and other movable property of the Company either separately or co-jointly also to insure all or any portion of the goods, produce, machinery and other articles imported or exported by the Company and to sell, assign, surrender or discontinue any policies of assurance affected in pursuance of this power;
- (8) Subject to the provisions of the Act, to open accounts with any bank or bankers or with any Company, firm or individual and to pay money into and draw money from any account from time to time as the Directors may think fit;
- (9) to secure the fulfillment of any contracts or arrangements entered into by the Company by mortgage or charge of all or any of the properties of the Company and its unpaid capital for the time being or in such other manner as they may think fit;
- (10) to attach to any shares to be issued as the consideration or part of the consideration for any contract with or property acquired by the Company or in payment for service rendered to the Company, such conditions subject to the provisions of the Act as to the transfer thereof as they think fit;
- (11) to accept from any member on such terms and conditions as shall be agreed, a surrender of his shares or stock or any part thereof subject to provisions of the Act;
- (12) to appoint any person or persons (whether incorporated or not) to accept and hold in trust for the Company any property belonging to the Company or in which is interested or for any other purposes and to execute and do all such deeds and things as may be requisite in relation to any such trust and to provide for the remuneration of such trustee or trustees;
- (13) to institute, conduct, defend, compound or abandon any legal proceedings by or against the Company or its officers or otherwise concerning the affairs of the Company and also subject to the provisions of the Act, to compound and allow time for payment or satisfaction of any debts due, or any claims or demands by or against the company;
- (14) to refer, subject to the provisions of the Act, any claims or demands by or against the Company to arbitration and observe and perform the awards;
- (15) to act on behalf of the Company in all matters relating to bankrupts and insolvents;
- (16) to make and give receipts, release and other discharge for moneys payable to the Company and for the claims and demands of the Company subject to the provisions of the Act;

- (17) to determine from time to time who shall be entitled to sign on the Company's behalf, bills notes, receipts, acceptances, endorsements, cheque, dividend warrants, releases, contracts and documents;
- (18) Subject to the provisions of the Act, to invest and deal with any of the money of the Company not immediately required for the purposes thereof, upon such shares, securities or investments (not being shares in this Company) and in such manner as they may think fit and from time to time to vary or realize such investments;
- (19) to execute in the name and on behalf of the Company in favor of any Director or other person who may incur or be about to incur any personal liability for the benefit of the Company such mortgages of the Company's property (present and future) as they think fit and any such mortgage may contain a power of sale and such other powers, covenants and provisions as shall be agreed on;
- (20) subject to such sanction as may be necessary under the Act or the Articles to give to any Director, officer, or other person employed by the Company and interest in any particular business or transactions their by way of commission on the gross expenditure thereon or otherwise or a share in the general profits of the Company; and such interests, commission or share of profits shall be treated as part of the working expenses of the Company.
- (21) to provide for the welfare of employees or ex-employees of the Company and their wives, widows, families, dependants by contributing to the building of houses, dwellings or chawls, or by grants of money, pensions, allowances, gratuities, bonus or payments or by creating and from time to time subscribing or contributing to provident and other funds institutions or trusts and by providing or subscribing or contributing towards places of amusement and recreation, hospitals and dispensaries, medical and other attendances and other assistance as the Directors shall think fit;
- (22) to subscribe or contribute or otherwise to assist or guarantee money to charitable, benevolent, religious, scientific, national, public, or any other useful institutions, objects or purposes or for any exhibition;
- (23) to establish and maintain or procure the establishment and maintenance of any contributory or non-contributory pension or Superannuation funds for the benefit of, and give or procure the giving of donations, gratuities, pensions, allowances or emoluments, to any persons who are or were at any time in the employment or service of the Company, or of any Company which is a subsidiary of the Company or is allied to or associated with the Company or with any such subsidiary Company or who are or were at any time Directors or officers of the Company or of any such other Company as aforesaid, and the wives, widows, families and dependants of any such persons, and also establish and subsidies and subscribe to any institutions, associations, clubs or funds calculated to be for the benefit of or to advance the interests and well-being or the Company or of any such other Company as aforesaid, and make payments to or towards the insurance of any such person as aforesaid, and do any of the matters aforesaid, either along or in conjunction with any such other Company as aforesaid;
- (24) Before recommending any dividend, to set aside out of the profits of the Company such sums as they may think proper for depreciation or to Depreciation Fund or Reserve Fund or Sinking Fund or any other Special

Fund to meet Contingencies or to repay redeemable preference shares, debentures or debenture stock or for special dividends or for equalizing dividends or for repairing, improving, extending and maintaining any part of the property of the Company, and for such other purpose as the Directors may, in their absolute discretion, think conducive to the interests of the Company and to invest the several sums to set aside or so much thereof as required to be invested upon such investments as the Directors may think fit, and from time to time, to deal with and vary such investments and dispose of and apply and expend all or any part thereof for the benefit of the Company in such manner and for such purposes as the Directors in their absolute discretion think conducive to the interests of the Company, notwithstanding that the matters to which the Directors apply or upon which they may expend the same or any part thereof may be matters to or upon which the capital moneys of the Company might rightly be applied or expended; and to divide the Reserve Fund into such special funds as the Directors think fit, and to employ the assets constituting all or any of the above funds, including the Depreciation Fund, in the business of the Company or in repayment or redemption of redeemable preference shares, debentures or debenture-stock and that without being bound to keep the same separate from the other assets or to pay interest on the same, with power, however to the Directors at their discretion, to pay or allow to the credit of such funds, interest at such rate as the Directors may think proper;

- (25) to appoint and at their discretion to remove or suspend such managers, secretaries, officers, clerks, agents, and servants for permanent, temporary or special service as they may from time to time think fit, and to determine their powers and duties, and fix their salaries or emoluments and require security in such instances and to such amounts as they may think fit and from time to time to provide for the management and transactions of the affairs of the Company in any specified locality in India in such manner as they think fit and the provisions contained in Clause (27) following shall be without prejudice to the general powers conferred by this clause;
- (26) to comply with the requirements of any local law which in their opinion, it shall be in the interest of the Company necessary or expedient to comply with;
- (27) at any time and from time to time by power of attorney to appoint any person or persons to be the Attorney or Attorneys of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under these presents) and for such period and subject to such conditions as the Directors may from time to time think fit and any such appointment (if the Directors think fit) be made in favor of any Company or the members, directors, nominees or manager of any Company or firm or otherwise in favor of any fluctuating body of persons whether nominated, directly or indirectly by the Director and any such power of attorney may contain any such power for the protection or convenience of persons dealing with such Attorneys as the Directors may think fit, and may contain powers enabling any such delegates or Attorney as aforesaid to sub-delegate all or any of the powers authorities and discretions for the time being vested in them;
- (28) Subject to the provisions of the Act, generally and from time to time and at any time to authorise, empower or delegate to (with or without powers of sub-delegation) any Director, officer or officers or employee for the time being of

the Company all or any of the powers, authorities and discretions for the time being vested in the Directors by these presents subject to such restrictions and conditions, if any, as the Directors may think proper; provided that the above delegation(s) shall stand withdrawn forthwith on cessation of services of delegate by whatsoever reasons.

- (29) to enter into all such negotiations and contracts and rescind and vary all such contracts and to execute and do all such acts, deeds and things in the name and on behalf of the Company they may consider expedient for or in relations to any of the matters aforesaid or otherwise for the purpose of the Company;
- (30) from time to time make, vary and repeal by-laws for the regulation of the business of the Company, its officers and servants;

Without prejudice to the general powers conferred by the preceding article the Director may, from time to time, and at any time subject to the restrictions contained in the Act, delegate to managers, secretaries, officers, assistants, and other employees or other persons (including any firm or body corporate) any of the powers authorized and discretions for the time being vested in the Directors.

Power to delegate

The Directors may authorize any such delegate or attorney as aforesaid to sub-delegate all or any of the powers, authorities and discretion for the time being vested in them.

*Power to authorize
sub delegation,*

All deeds, agreements and documents and all cheque, promissory notes, drafts, hundies, bills of exchange and other negotiable instruments and all receipts for moneys paid to the Company, shall be signed, drawn, accepted or endorsed or otherwise executed as the case may be by such persons (including any firm or body corporate) whether in the employment to the Company or not and in such manner as the Directors shall, from time to time, by resolution determine.

signing of documents

BORROWING POWERS

- 110. Subject to provision of the Act, the Board may, from time to time at its discretion by a resolution passed at a meeting of the Board, accept deposits from members in advance of calls or otherwise and generally raise or borrow or secure the payment of any sum or sums of money for the purpose of the company provided however, where the moneys already borrowed apart from temporary loans obtained from the company's bankers in the ordinary course of business exceed the aggregate of the paid up[capital of the company and its free reserves not being reserves set apart for any specific purpose the Board shall not borrow such moneys without the consent of the company in general meeting.
- 111. The payment or re-payment of the moneys borrowed as aforesaid may be secured in such manner and upon such terms and conditions in all respect as the resolutions of the members shall prescribe including by the issue of debentures or debenture – stock of the company both present and future including its uncalled capital for the time being ; and debentures, debenture –stock and other securities may be made assignable free from any equities between the company and the person to whom the same be issued.
- 112. Any debenture, debenture-stock, or other securities may be issued at a discount premium or otherwise and may be issued on condition that they shall be convertible into share of any denomination, and with nay privileges and condition as to redemption, surrender, drawing, allotment of shares and attending but not voting at general meeting, appointment of directors and otherwise. Debentures with right to conversion in to or allotment of share shall be issued only with the consent of general meeting by special resolution.

Power to borrow

*Payment or re-
payment of the
moneys borrowed.*

*Terms of Issue of
debenture*

PROCEEDINGS OF THE BOARD

<i>When meeting to be convened</i>	113. (i)	The Board of Directors may meet for the conduct of business, adjourn and otherwise regulate its meetings, as it thinks fit.
<i>Who may summon the Board meeting</i>	(ii)	The Chairman or any one director with the previous consent of the Board may, or the Company Secretary on the direction of the Chairman or of such director shall, at any time, summon a meeting of the Board.
<i>Notice of meetings</i>	(iii)	Notice of every meeting of the Board shall be given in writing to every director at his usual address or to their e-mail id as may be provided by them to the company.
<i>Quorum for Board meeting</i>	(iv)	The quorum for a Board meeting shall be as provided in the Act.
<i>Participation at Board meeting</i>	(v)	The participation of directors in the Board meeting may be either in person or through video conferencing or audio visual means or teleconferencing, as may be prescribed by the Rules or permitted under the law.
<i>Chairman</i>	114.	The directors may, from time to time, elect from among their number, a Chairman of the Board.
<i>Question at Board meeting how decided</i>	115.	Questions arising at any meeting of the Board of Directors shall be decided by majority of votes and in the case of an equality of votes, the Chairman shall have a second or a casting vote.
<i>Adjournment of meeting for want of quorum</i>	116.	If a meeting of the Board could not be held for want of a quorum, then the meeting shall automatically stand adjourned to such other date, time and place, if any, as may be fixed by the Chairman not being later than seven days from the date originally fixed for the meeting.
<i>Power of Board meeting</i>	117.	A meeting of the Board for the time being at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions which by or under the Act or the Articles of the company are for the time being vested in or exercisable by the Board generally.
<i>Directors may appoint committee</i>	118.	Subject to the restriction contained in the Act, the Board may delegate any of their power to committees of the Board consisting of such member or members of its body, as it thinks fit, and it may from time to time revoke and discharge any such Committee of the Board either wholly or in part and either as to person or purposes, but every committee of the Board so formed shall, in the exercise of the powers so delegated, conform to any regulation that may from time to time be imposed on it by the Board. All acts done by any such committee of the Board in conformity with such relations and fulfillment of the purposes of their appointment, but not otherwise shall have the like force and effect as if done by the Board.
<i>Meeting of Committee how to be governed</i>	119.	The meeting and proceeding of any such committee for the Board consisting of two or more members shall be governed by the provisions herein contained for regulating the meetings and proceeding of the Directors, so far as the same are applicable thereto and are not superseded by any regulations made by the Directors under the last preceding Article.

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| 120. Save as otherwise expressly provided in the Act, a resolution in writing, signed whether manually or by securing electronic mode, by a majority of the members of the Board or of a committee thereof, for the time being entitled to receive notice of a meeting of the Board or committee, shall be valid and effective as if it had been passed at a meeting of the Board or committee, duly convened and held. | <i>Passing of resolution
by circulation</i> |
| 121. All acts done by any meeting of the Board or by committee of the Board, or by any person acting as a director shall notwithstanding that it shall afterwards be discovered that there was some defect in the appointment of such Director or person acting as aforesaid, or that they or any of them were disqualified or had vacated office or that the appointment of any of them had been terminated by virtue of any provisions contained in the Act or in these Articles, be as valid as if every such person had been duly appointed, and was qualified to be director and had not vacate his office or his appointment had not been terminated; provided that nothing in this Article shall be deemed to give validity to acts done by a director after his appointment has been shown to the company to be invalid or to have terminated. | <i>Acts of Board or
Committee valid
notwithstanding
defect in appointment</i> |
| 122. The proceedings of the meeting of the Board and Committees thereof shall be prepared, signed, kept, etc. in accordance with the provisions of the Act. | <i>Minutes of proceeding
of meeting of the Board</i> |
| 123. The management of the business of the Company shall be vested in the Board and the Board may exercise all such powers and do all such acts and things, as the company by memorandum of association or otherwise authorized to exercise and do and not hereby or by the statute or otherwise directed or required to be exercised or done by the company in general meeting but subject nevertheless to the provisions of the Act and other laws and of the memorandum of association and these Articles and to any regulations, not being inconsistent with the memorandum of association and these Articles or the Act, from time to time, made by the company in general meeting provided that no such regulations shall invalidate any prior act of the Board which would have been valid if such regulation have not been made. | <i>General Powers of
the Company vested
in Board</i> |

CHIEF EXECUTIVE OFFICER, MANAGER, COMPANY SECRETARY AND CHIEF FINANCIAL OFFICER

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| 124. Subject to the provisions of the Act,— | <i>Chief Executive
Officers, etc.</i> |
| (i) A chief executive officer, manager, company secretary and chief financial officer may be appointed by the Board for such term, at such remuneration and upon such conditions as it may thinks fit; and any chief executive officer, manager, company secretary and chief financial officer so appointed may be removed by means of a resolution of the Board; the Board may appoint one or more chief executive officers for its multiple businesses. | |
| (ii) A director may be appointed as chief executive officer, manager, company secretary or chief financial officer. | Director may be Chief
Executive Officer |

REGISTERS

- | | |
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| 125. The Company shall keep and maintain at its registered office all statutory registers in physical / electronic form, namely register of charges, register of members, register of debenture holders, register of any other security holders, the register and index of beneficial owners and annual return, register of loans, guarantees, security and acquisitions, register of investments not held in its own name and register of contracts and arrangements for such duration as the Board may, unless otherwise prescribed, decide, and in such manner and containing such particulars as | Statutory Registers |
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prescribed by the Act and the Rules. The registers and copies of annual return shall be open for inspection during 11.00 a.m. to 1.00 p.m. on all working days, other than Saturdays, at the registered office of the Company by the persons entitled thereto on payment, where required, of such fees as may be fixed by the Board but not exceeding the limits prescribed by the Rules.

Foreign Register

126. (a) The Company may exercise the powers conferred on it by the Act with regard to the keeping of a foreign register; and the Board may (subject to the provisions of the Act) make and vary such regulations as it may think fit respecting the keeping of any such register.
- (b) The foreign register shall be open for inspection and may be closed, and extracts may be taken therefrom and copies thereof may be required, in the same manner, mutatis mutandis, as is applicable to the register of members.

COMMON SEAL

*Common Seal, its custody and use
Affixation of seal.*

127. The Directors shall provide a Common Seal for the purpose of the Company and shall have power from time to time to destroy the same and substitute a new Seal in lieu thereof and the Directors shall provide for the safe custody of the Seal for the time being and the Seal shall never be used except by or under the authority of the Directors or a Committee of Directors previously given and every deed or other instrument to which the Seal of the Company is required to be affixed, shall be affixed in the presence of at least one Director or the President/Vice President/Asstt. Vice President or the Manager or the Secretary or such other person as the Board/Committee of the Board may appoint for the purpose, who shall sign every instrument to which the Seal is so affixed in his presence provided that the Certificate of Shares or Debentures shall be sealed in the manner and in conformity with the provisions of the Companies Act, 2013 read with the provisions of Companies (Issue of Shares Certificates) Rules, 1960 or any Statutory modification thereof for the time being in force.

DIVIDENDS AND RESERVE

The company in general meeting may declare a dividend

128. The Company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the Board but the Company in general meeting may declare a lesser dividend.

Interim dividend

129. Subject to the provisions of the Act, the Board may from time to time pay to the members such interim dividends of such amount on such class of shares and at such times as it may think fit.

Dividends only to be paid out of profits

130. (a) The Board may, before recommending any dividend, set aside out of the profits of the Company such sums as it thinks fit as a reserve or reserves which shall, at the discretion of the Board, be applied for any purpose to which the profits of the Company may be properly applied, including provision for meeting contingencies or for equalizing dividends; and pending such application, may, at the like discretion, either be employed in the business of the Company or be invested in such investments (other than shares of the Company) as the Board may, from time to time, think fit.

Carry forward of profits

- (b) The Board may also carry forward any profits which it may consider necessary not to divide, without setting them aside as a reserve.

131. (1) Subject to the rights of persons, if any, entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid or credited as paid on the shares in respect whereof the dividend is paid, but if and so long as nothing is paid upon any of the shares in the Company, dividends may be declared and paid according to the amounts of the shares. *Division of profits*
- (2) No amount paid or credited as paid on a share in advance of calls shall be treated for the purposes of this Article as paid on the share. *Payment in advance*
- (3) All dividends shall be apportioned and paid proportionately to the amounts paid or credited as paid on the shares during any portion or portions of the period in respect of which the dividend is paid; but if any share is issued on terms providing that it shall rank for dividend as from a particular date such share shall rank for dividend accordingly. *Dividends to be apportioned*
132. (1) The Board may deduct from any dividend payable to any member all sums of money, if any, presently payable by him to the Company on account of calls or otherwise in relation to the shares of the Company. *No member to receive dividend whilst indebted to the company and company's right to reimbursement therefrom*
- (2) The Board may retain dividends payable upon shares in respect of which any person is, under the Transmission Clause hereinbefore contained, entitled to become a member, until such person shall become a member in respect of such shares. *Retention of Dividends*
133. (1) Any dividend, interest or other monies payable in cash in respect of shares may be paid by electronic mode or by remitted cheque or warrant sent through the post directed to the registered address of the holder or, in the case of joint holders, to the registered address of that one of the joint holders who is first named on the register of members, or to such person and to such address as the holder or joint holders may in writing direct. *Dividend how remitted*
- (2) Every such cheque or warrant shall be made payable to the order of the person to whom it is sent. *Instrument of payment*
- (3) Payment in any way whatsoever shall be made at the risk of the person entitled to the money paid or to be paid. The Company will not be responsible for a payment which is lost or delayed. The Company will be deemed to having made a payment and received a good discharge for it if a payment using any of the foregoing permissible means is made. *Discharge to Company*
134. Where capital is paid in advance of calls, such capital may carry interest but shall not in respect thereof confer a right to dividend or participate in profits. *Capital paid up in advance at interest not to earn dividend*
135. All dividends shall be apportioned and paid proportionately to the amounts paid or credited as paid or dividend as paid on the shares during any portion or portions of the period in respect of which the dividend is paid; but if any share is issued on terms providing that it shall rank for dividend as from a particular date, such share shall rank for dividend accordingly. *Dividend in proportion to amount paid-up*
136. Any one of several persons who are registered as the joint-holder of any share may give effectual receipt for all dividends or bonus and payment on account of dividends or bonus or other moneys payable in respect of such shares. *Dividend etc. to joint-holders*

<i>No interests on Dividends</i>	137. No dividend shall bear interest as against the company.
<i>Waiver of dividends</i>	138. The waiver in whole or in part of any dividend on any share by any document (whether or not under the seal) shall be effective only if such document is signed by the member (or the person entitled to the share in consequence of the death or bankruptcy of the holder) and delivered to the company and if or to the extent that the same is accepted as such or acted upon by the Board.

ACCOUNTS

<i>Inspection by directors</i>	139. The books of accounts and books and papers of the company or any of them shall be open to the inspection of directors in accordance with the provisions of the Act and the Rules.
<i>Restriction on inspection by members</i>	140. No member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by law or authorized by the Board or by the company in general meeting.

WINDING UP

<i>Winding up of the company</i>	141. Subject to the applicable provisions of the Act and the Rules made thereunder - (a) If the Company shall be wound up, the liquidator may, with the sanction of a special resolution of the Company and any other sanction required by the Act, divide amongst the members, in specie or kind, the whole or any part of the assets of the Company, whether they shall consist of property of the same kind or not. (b) For the purpose aforesaid, the liquidator may set such value as he deems fair upon any property to be divided as aforesaid and may determine how such division shall be carried out as between the members or different classes of members. (c) The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the contributories if he considers necessary, but so that no member shall be compelled to accept any shares or other securities whereon there is any liability.
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INDEMNITY AND INSURANCE

<i>Director's and officer's right of indemnity</i>	142. (a) Subject to the provisions of the Act, every director, managing director, whole-time director, manager, company secretary and other officer of the Company shall be indemnified by the Company out of the funds of the Company, to pay all costs, losses and expenses (including travelling expense) which such director, manager, company secretary and officer may incur or become liable for by reason of any contract entered into or act or deed done by him in his capacity as such director, manager, company secretary or officer or in any way in the discharge of his duties in such capacity including expenses. (b) Subject as aforesaid, every director, managing director, manager, company secretary or other officer of the Company shall be indemnified against any liability incurred by him in defending any proceedings, whether civil or criminal in which judgment is given in his favour or in which he is acquitted or discharged or in connection with any application under applicable provisions of the Act in which relief is given to him by the Court.
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- (c) The Company may take and maintain any insurance as the Board may think fit on behalf of its present and/or former directors and key managerial personnel for indemnifying all or any of them against any liability for any acts in relation to the Company for which they may be liable but have acted honestly and reasonably.

Insurance

SECRECY

143. (a) Every Director, Manager, Auditor, Treasurer, Trustee, Member of Committee, office, servant, agent, accountant or other person employed in the business of the company shall, if so required by the Board, before entering upon his duties, sign a declaration pledging himself to observe strict secrecy respecting all transaction and affairs of the company with customers and the state of account with individuals and in matters relating thereto, and shall by such declaration pledge himself not to reveal any of the matters which may come to his knowledge in the discharge of his duties except when required so to do by the Board or by law or by the person to whom such matters relate and except so far as may be necessary in order to comply with any of the provisions in these presents contained.
- (b) No member shall be entitled to visit or inspect any works of the company without the permission of the Board or to require discovery of or any information respecting any details of the company's trading, or any matter which is or may be in the nature of a trade secret, mystery of trade, secret process or any other matter which may relate to the conduct of the business of the company and which in the opinion of the Board, it would be inexpedient in the interest of the company to disclose.

Secrecy clause

GENERAL POWER

144. Wherever in the Act, it has been provided that the Company shall have any right, privilege or authority or that the Company could carry out any transaction only if the Company is so authorized by its articles, then and in that case this Article authorizes and empowers the Company to have such rights, privileges or authorities and to carry out such transactions as have been permitted by the Act, without there being any specific Article in that behalf herein provided.
145. Subject to the provisions of the Act and so far as such provisions permits, no Director, Auditor or other Officer of the Company shall be liable for acts, receipts, neglects or defaults of any other Director or Officer, or for joining in any receipt or act for conformity, or for any loss or expenses happening to the Company through the insufficiency or deficiency or title to any property acquired by order of the Director for or on behalf of the Company or for the insufficiency or deficiency of any securities in or upon which any of the moneys of the Company shall be invested or for any loss occurred by any error of judgment, omission, default, or oversight on his part, or for any loss, damage or misfortune whatever which shall happen in the execution of the duties of his office or in relation thereto, unless the same happens through his own dishonesty.

General Power

*Individual
responsibility of
Directors/ Officers*

Names, description, occupation and addresses of each subscribers.	No. of and type of subscribed shares	Name, address, description, occupation and signatures of witness or witnesses.
Sushila B. Choudhari W/o Shri Bharat S. Choudhari E-15, Geetanjali Enclave, New Delhi Business Kamal H. Navani W/o Shri H.V. Navani C-35, Mayfair Garden, New Delhi Service	Sd/- Sd/-	I hereby witness the signatures of both the subscribers. Sd/- D.C. Jain S/o Late Shri Phool Chand Jain A-14/3, Jamna Bhawan, Asaf Ali Road, New Delhi – 2 Chartered Accountant M. No. 5123

PLACE: NEW DELHI

Dated 2nd day of February, 1986

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN BENCH AT JAIPUR

Company Petition No. 47/2000
Connected with
Company Application No. 94/2000

In the matter of:

Aksh Optifibre Limited
Having Its Registered Office At
F-1080, RIICO Industrial Area,
Phase – III, Bhiwadi- 301 019(Rajasthan)

.....Petitioner / The Transferee

AND

Company Petition No. 47/2000
Connected with
Company Application No.95/2000

In the Matter of:

Telecord (India) Private
Limited having Its
Registered Office At
F-141, RIICO Industrial Area,
Jaitpura, Jaipur (Rajasthan)

..... Petitioner / The Transferee

Date of Order : 25.10.2000

PRESENT

Hon'ble Mr. Justice P.P.Naolekar

ORDER ON PETITION

The above joint petition has come up for hearing on 23/10/2000. Upon reading the said joint petition, the orders dated 31.05.2000, whereby the above said petitioner companies were ordered to convene the Meetings of their Shareholders, Unsecured creditors, Secured Creditors for the purpose of considering and if, thought fit, approving with or without modification, the scheme of compromise/ arrangement proposed to be made between Telecords (India) Pvt. Ltd. (hereinafter referred to as the "Transferor Company") and Aksh optifibre Limited (herein after referred to as the "transferee company") and annexed to the affidavits of Mr. Chetan Choudhari, Whole Time Director in CA 95/2000 & Smt. Shobha Adlakha, Company Secretary in CA 94/2000 respectively filed on the 23rd day of May, 2000 and published in the "HINDUSTAN TIMES", "DAINIK NAVJYOTI" and "DAINIK BHASKAR", all dated 10/06/2000 and in the EXTRAORDINARY GAZETTE on 12/06/2000 in reference to CA 95/2000 and CA 94/2000, respectively, each containing the advertisement of said notices for convening the said meetings directed to be held by the said orders dated 31/05/2000, the affidavits of chairperson s in CA 94/2000 & 95/2000 showing the publication and dispatch of notices convening the said meeting. The report of the chairperson s in CA 94/2000 & CA 95/2000 as to result of said meetings and upon hearing Shri Anant Kasliwal, Advocate for the Petitioners, Shri O.P. Tiwari, Official Liquidator, it appears from the Report of the chairpersons that the proposed Scheme of Compromise/ Arrangement has been approved unanimously by the Shareholders, Secured Creditors and Unsecured Creditors of the Transferor Company and the Transferee Company present, and voting in person or by proxy. The affidavit dated 20th September, 2000 of Regional Director, Northern Region, Department of Company Affairs, Kanpur on behalf of the Central Govt., interalia, stating that the affairs of the Companies do not appear to have been conducted in a manner prejudicial to the interest of their members or public interest. The Official Liquidator also having filed the Report on 21st September, 2000 stating therein that the affairs of the Transferor company have not been conducted in the manner prejudicial to the interest of the shareholders or creditors or public interest and that the Transferor Company could be dissolved without following the process of winding up, and there being no proceedings pending against the petitioner Companies U/S 235-251 of the Companies Act, 1956.

THE COURT DOTH HEREBY SANCTION THE SCHEME OF COMPROMISE/ ARRANGEMENT as set forth in Schedule-1 hereto and DOTH HEREBY DECLARE the same to be binding on all the Shareholders, Secured and Unsecured Creditors of the Transferor Company and their all concerned and doth approve the said Scheme of Compromise/ Arrangement from the "Transfer Date", i.e. 01/04/2000 (as mentioned in the Scheme).

THIS COURT DOTH FURTHER ORDER:

1. That the property, rights and powers of the transferor Company specified in the first part of the Schedule II hereto and all other property, rights and powers of the Transferor company be transferred without further act or deed to the Transferee Company AND ACCORDINGLY THE SAME SHALL PURSUANT TO Section 394(2) of the Companies Act, 1956 be transferred to and vest in the Transferee Company therein but subject nevertheless to all charges now affecting the same; and
2. That all Liabilities and Duties of the Transferor Company be transferred without further act or deed to the Transferee company and accordingly the same shall pursuant to Section 394(2) of the Companies Act, 1956 be transferred to and become the liabilities and duties of the Transferee company; and
3. That all the proceedings now pending against the Transferor Company be continued by or against the Transferee Company; and
4. That the Transferee Company do without further application allot to such members of The Transferor company as have not given such notice of dissent as is required by clause given in the Scheme of compromise/ arrangement herein the shares in the Transferee Company to which they are entitled under the said Compromise/arrangement; and
5. That the Transferee Company do within 14 days after the order cause a certified Copy of this order to be delivered to the Registrar of companies for registration and on such certified copy being so delivered to the Transferor Company shall be dissolved, and the Registrar of Companies shall place all documents relating to the Transferor Company and registered with him on the file kept by him in relation to the Transferee Company and the files relating to the said two Companies shall be consolidated accordingly; and
6. That any person shall be at liberty to apply to the Court for any direction that may be necessary.

Sd/-
(PP NAOLEKAR)J.

SCHEDULE-1
SCHEME OF MERGER
TELECORDS (INDIA) PRIVATE LIMITED
WITH
AKSHOPTIFIBRE LIMITED (FORMERLY AKSH INDIA LIMITED)

1. In this Scheme, unless inconsistent with the subject or context, the following expressions shall be deemed to mean:
- (i) "Transferor Company" means Telecords (India) Private Limited, a Companies Act, 1956 and having its Registered Office at F-141 , RIICO Industrial Area, Jaitpura, Jaipur(Rajasthan).
 - (ii) "Transferee Company" means AKSH OPTIFIBRE LIMITED (FORMERLY AKSH INDIA LIMITED), a Company incorporated under the Companies Act, 1956 and having its Registered Office at F-1080, RIICO Industrial Area, Phase III, Bhiwadi (Rajasthan).
 - (iii) "The Act" means the Companies Act, 1956 and any amendment and modification thereto.
 - (iv) "Transfer Date" means 1st April, 2000.
 - (v) "Effective Date " means the day on which the last of the sanctions/ permissions Specified in the Scheme shall have obtained and a certified copy of the order of the Hon'ble Rajasthan High Court made under section 391(2) of the Companies Act, 1956 has been filed with the Registrar of Companies, Jaipur.
 - (vi) "The Scheme" means this Scheme as approved by the Board of Directors subject to such modification as the Hon'ble Rajasthan High Court may impose or the Transferor Company and Transferee Company may prefer and the hon'ble Rajasthan High Court may approve.
2. (i) The Authorised Share Capital of Telecords (India) Private Limited is Rs.10,00,000/- divided into 10,000 shares of Rs.100 (Rupees hundred) each of which the subscribed and paid up Share capital is Rs.9,92,200 divided into 9,922 shares of Rs.100 each.
- (ii) The Authorised Share Capital of AKSH OPTIFIBRE LIMITED (FORMERLY AKSH INDIA LIMITED) as on the Transfer date was Rs.15,00,00,000 (Rupees Fifteen Crores Only) divided into 2,80,00,000 (Two Crore Eighty lakhs only) Equity Shares of Rs.5/-(Rupees Five) each and 1,00,000 (One Lakh) Preference Shares of Rs.100 /- (Rupees One hundred) each of which subscribed and paid up share capital was Rs.7,02,15,000/-(Rupees Seven Crores Two lakhs and Fifteen Thousand Only) divided into 1,22,15,000 Equity Shares of Rs.5/- each and 91,400 Redeemable Preference Shares of Rs. 100/- each.

After the Scheme of Merger was approved by the Board of Directors in their Meeting held on 30th March , 2000, of the Transferee company , the following changes have been effected in the issued , subscribed and paid-up capital :

- (a) On 7th April, 2000, The Transferee Company allotted 3,65,000 Equity Shares of Rs.5/- each to the Aksh Employees Welfare Trust.
- (b) On 22nd April, 2000, the above said 91,400 Redeemable Preference Shares were converted into Equity Shares of Rs.5/- each, as each redeemable preference share was attached with the warrant entitling the holders to subscribe to twenty Equity Shares of Rs.5/- each.
- (c) The Transferee company came out with the Public Issue of 59,60,000 Equity Shares of Rs.5/- each for cash at premium of Rs.55/- per share (i.e. price of Rs.60/- per Equity Share) aggregating to Rs.3576 Lacs (The Issue included the Book Built Portion of 44,70,000 Equity Shares and Fixed

Price Portion of 14,90,000 Equity Shares). The Book Built Portion was opened on 28th June, 2000 and closed on 4th July, 2000 and fixed price Portion was opened on 18th July, 2000 and closed on 20th July, 2000. Accordingly, the Transferee Company made an allotment of 59,68,950 (including 8950 Equity Shares accepted due to over subscription of Fixed Price Portion) Equity Shares of Rs.5/- each for cash at a premium of Rs.55/- per share on 1st August, 2000.

As such as on 1st August, 2000, The subscribed, issued and paid up capital of the Transferee Company is Rs.10,18,84,750/- (Ten Crores Eighteen Lacs Eighty Four Thousand Seven Hundred & Fifty only) Equity Shares of Rs.5/- each.

3. The Merger shall take effect as and from 1st day of April, 2000.

4. **OBJECTS OF THE SCHEME**

AKSH OPTIFIBRE LIMITED (FORMERLY AKSH INDIA LIMITED) is engaged in the business of manufacturing of Optical Fibre Cables and Optical Fibre.

Telecords (India) Private Limited is engaged in the business of manufacturing, trading, processing, Finishing and making of Fibre Reinforced Plastic Rods (hereinafter collectively referred to as FRP Rods) and other plastics Rods. The new design of DoT requires additional strength in the cable which has been successfully developed by Telecords (India) Private Limited.

Fibre reinforced Plastic (FRP) Rods is an important part of raw material which provides the necessary tensile strength for the production and laying of Optical Fibre Cables. It consumes about 25% of the cable cost.

At present, the FRP is in scarcity and is manufactured in India only by two Companies i.e. Telecords India Private Limited and Indore Composite which has created a duopoly position in the market and the manufacturers of the OFC are required to import FRP due to this scarcity for meeting the supply commitment to DoT.

The new FRP shall constitute 27% of the cable cost. Merger of Telecords (India) Private Limited with AKSH OPTIFIBRE LIMITED (FORMERLY AKSH INDIA LIMITED). Rods produced by the Telecords (India) Private Limited are highly cost competitive and can be exported.

Further, Telecords (India) Private Limited has its own strong Research and Development facility.

5. All properties, rights and claims whatsoever of the Transferor Company and its entire undertaking trade marks, patents, authorities, privileges, licenses and rights in respect of property (movable and immovable), tenancies, fittings and fixtures, cash balances, stocks, investments of all kinds, licenses, contracts, agreements, benefit of any security arrangements, reversions, powers, authorities, allotments, approvals, consents, registrations, engagements of all kinds, rights, title, interest, benefits and advantages of whatsoever nature and wheresoever situate belonging to or in possession and in the control of or vested in or granted in favour of or enjoyed by the Transferor Company, including but without being limited to trade names and other intellectual property rights, of any nature whatsoever, permits, approvals, authorization, rights to use and avail of telephones, telexes, facsimile connections and other installations, utilities, electricity and other services, reserves, provisions, funds, benefits of all agreements and other interests and other rights and interest of all description in or arising out of such properties as may belong to or be in possession of the Transferor Company and all Books of Accounts and Documents and records relating thereto, all of which is here after called "the said Undertaking" shall, without further act or deed, be transferred to and vest in the Transferee Company pursuant to Sec.394 of the act with effect from the transfer date, so as to become the Assets and Properties of the Transferee Company which shall be subject to the approval of Scheme by the Hon'ble Rajasthan High Court.

Provided always that any reference in any security document/arrangement to which the Transferor Company is a party, to any assets of the Transferor Company offered as security for any financial obligation or assistance shall be construed as a reference to only the assets of the Transferor Company as are vested in the Transferee

Company under this Scheme and the Scheme shall not operate to enlarge the security for any loan, deposit or facility created by or available to the Transferor Company which shall vest in the Transferee Company by virtue of the Compromise/ arrangement and the Transferee Company shall not be obliged to create any further or additional security therefore after the compromise/ arrangement has been effective or otherwise.

6. In respect of such of the said assets as are moveable in nature or are otherwise capable of transfer by mutual delivery or by endorsement and delivery, the same may be so transferred by the Transferor Company and shall become the property of the Transferee Company in pursuance of the provisions of section 394 of the said Act as an integral part of the undertaking.
7. In respect of the said assets other than those referred to in clause 6 above, the Same shall, as more particularly provided in clause 5 above without any further act , instrument or deed, be transferred to and vested in and/ or be deemed to be transferred to and vested in the Transferee Company on the Transfer Date pursuant to the provision of section 394 of the said Act.
8. The Transferee Company may, at any time after the coming into effect of this Scheme in accordance with the provision hereof, if so required, under any law or otherwise, execute Deeds of confirmation, in favour of any party to any contract or arrangement to which the Transferee Company is a party or any writing as may be necessary to be executed in order to give formal effect to the above provision. The Transferee Company shall, under the provision of this Scheme, be deemed to be authorised to execute any such writings on behalf of the Transferor Company to carry out or perform all such formalities or compliance referred to above on the part of the Transferor Company to be carried out or performed.
9. All the Liabilities of the said undertaking of the Transferor Company shall also stand transferred to the Transferee Company with effect from the Transfer Date without further act or deed pursuant to section 394 of the Act so as to become liabilities of the Transferee Company.
10. The difference in the value of the net assets of the Transferor Company as on 31st March, 2000 over the paid up capital of the Transferor Company as on that date shall be accounted for in the books of the Transferee Company as on the Transfer Date, to the extent to which reserves of the Transferor Company are of a corresponding nature, as Investment Allowance Reserve, Share Premium reserve, Debenture Redemption Reserve, Capital Reserve and the balance difference shall be adjusted to the General reserves in the Balance Sheet of the Transferee Company.
11. Upon the Scheme becoming effective, if any suit, appeal or other proceedings of whatever nature (hereinafter called "proceeding") by or against the Transferor Company be pending, the same shall not abate or discontinue or be in any way prejudicially effected on the merger of the Transferor Company under the Scheme and the same will be continued, prosecuted or enforced by or against the Transferee Company in the same manner and to the same extent as if the Schedule has not been made. Any proceedings taken after the Effective Date shall also be taken by or against the Transferee Company.
 - (a) On the Scheme becoming effective, all the Transferor Company as on the Effective Date shall become the employees of the Transferee Company on terms not less favorable than the terms of employment which the said employees enjoyed as at that date and on the basis that their service shall have been interrupted by reason of such transfer.
 - (b) It is expressly provided that as far as the Provident Fund, Gratuity Fund, Superannuation Fund, or any other Special Fund created or existing for the benefit of the staff, workmen and employees of the Transferor Company are concerned, upon the Scheme becoming effective, the Transferee Company shall stand substituted for the Transferor Company for all purposes whatsoever related to administration or operation of such Schemes or Funds or in relation to the obligations to make contributions to the said Funds in accordance with the provisions of such Schemes or Funds according to the said respective Trust Deeds. It is the aim and intent that all rights, duties powers, and obligations of the Transferor Company in relation to such Schemes or funds shall become those of the Transferee Company. It is clarified that the services of the employees of the Transferor Company will be treated as having been continued for the purpose of the aforesaid Schemes or Funds.

13. On and from the Transfer Date, the Transferor Company shall carry and be deemed to carry on all its business and activities on behalf of the Transferee Company until such times as the merger becomes effective in terms of the Scheme. From the Transfer Date, the Transferor Company shall carry on its business with proper prudence and shall not without the concurrence of the Transferee Company vary the terms and conditions of Employment of its employees and alienate charge or otherwise deal with the undertaking or any part thereof except in the ordinary course of business. Income or Profit accruing to the Transferor Company or Losses incurred by it on and from the Transfer Date shall for all purposes of the income, profit or losses, as the case may be of the Transferee Company and the Transferor Company shall account to and be entitled to be indemnified by the Transferee Company.
- (a) Subject to the provision of the Scheme becoming effective, the Profit/ Losses of the Transferor Company for the period beginning from 1st April, 2000 shall belong to and the Profits/ Losses of the Transferee Company and will be available to the Transferee Company for being disposed of in any manner as it thinks fit including the declaration of dividend by the Transferee Company in respect of its year ending 31st March, 2001 or any year thereafter.
- (b) The Transferor Company shall not issue or allot any Right Shares or Bonus Shares out of its Authorised or Unissued Capital without the approval of the Transferee Company.
14. The Transfer and vesting of the said undertaking and the continuance of the proceedings mentioned above shall not effect transactions or proceedings already concluded by the Transferor Company on or after the Transfer Date at the end and intent that the Transferee Company accepts on behalf of itself all acts, deeds, bonds, agreements and other instruments of whatsoever nature done and executed by the transferor Company.
15. Subject to the other provisions contained in the Scheme, all contracts, deeds, bonds, agreements and other instruments of whatsoever nature subsisting or having effect immediately before merger to which the Transferor Company is a party, shall be and remain in full force and effect against or in favour of the Transferee Company and may be enforced as fully and effectively as if, instead of the Transferor Company, the Transferee Company had been a party thereto.
- (a) In consideration of the transfers in favour of the Transferee Company, every member of the Transferor Company holding Equity Shares in that Company, on such date as the Board of Directors of the Transferee Company may determine, shall in respect of every 1 (One) share of face value of Rs.100/- each held by him be entitled as of right to claim and receive from the Transferee Company, an allotment of 167.40 Equity Shares of Rs.5/- each credited as fully paid up.
- (b) No fractional certificates shall be issued in favour of any member of the Transferor Company holding Equity Shares, but the total no. of fractions shall be consolidated into equity Shares of Rs.5/- each of the Transferee Company and the Board of Directors of the Transferee Company shall make an allotment of such shares as fully paid up to such person or persons (including one or more of themselves or one or more of the officers of the Transferee Company) as such Board of Directors may in their absolute discretion select for the purpose of holding and selling the shares so allotted, provided that such Board of directors may without making an allotment of all or some of the said Equity Shares resulting from such consolidation as aforesaid direct the sale of any or all such Equity Shares. Every sale under this clause shall be at such price or prices and at such time or times as may be approved by Board of Directors approve of the purchaser or his nominee, the Board of Directors shall allot the Equity Shares covered by such sale to the approved Purchaser or nominee. The aggregate proceeds of all such shares, after deducting therefrom all costs, charges and expenses of and incidental to such sale, shall be distributed among members of the Transferor Company holding Equity Shares as would otherwise have been entitled to such fractions respectively in proportion to their respective entitlement in such fractions.
- (c) Upon coming into effect of this Scheme, the shareholders of the Transferor Company shall surrender their Share Certificates for cancellation thereof to the Transferee Company. Notwithstanding anything to the contrary, upon the new Shares in the Transferee Company being issued and allotted by it to the

eligible shareholders of the Transferor company whose names shall appear on the Register of Members of the Transferor Company on the Record Date fixed as aforesaid, the shares Certificate in relation to the shares held by them by the Transferor Company shall be deemed to have been cancelled and be of no effect, on and from such Record Date. The Transferor Company and the Transferee Company shall be entitled to declare and pay dividends, whether interim or final, to their respective shareholders in respect of the accounting period prior to the Effective Date. The dividend shall be declared by both the Transferor Company and the Transferee Company only by mutual Agreement between the Board of Directors of both the Transferor Company and the transferee Company.

16. (a) The Equity Shares of the Transferee Company to be issued and allotted to the shareholder of the Transferor Company shall rank *pari passu* in all respects with the Equity Shares of the Transferee Company including entitlements to dividends declared after the Effective Date. The holders of the Shares of the Transferor Company and the Transferee Company shall, save as expressly provided otherwise in this Scheme, continue to enjoy their existing rights under their respective Articles of Association including the right to receive Dividends from the respective Companies of which they are members till the Effective Date.
- (b) Notwithstanding anything to the contrary in the Articles of Association of the Transferee Company, members of the Transferee Company upon becoming members of the Transferee Company shall be entitled to dividend for the full year for the period commencing the day succeeding the last date (which shall in no event be prior to the Transfer Date) upto which the dividend had been declared by the Transferor Company till the Effective Date in addition to such dividend, if any, that may be declared after the Effective Date provided above. In case the Transferor Company has not declared dividend for the year ended 31st March, 2000, the Shares of the Transferee Company shall also carry the eligibility to dividend for the period commencing from the Transfer Date such dividend shall become due and payable simultaneously with the dividend declared after the effective date, as stated in clause (b) above.
18. This scheme is subject to such modifications as the Hon'ble Rajasthan High Court may impose or the Transferor Company may prefer and the Hon'ble Rajasthan High Court approve and the Board of Directors of the Transferor Company and the Transferee Company may consent on behalf of all concerned to any modification or addition to the Scheme and to agree to any condition which the Hon'ble Rajasthan High Court may think fit to impose.
19. The Scheme shall not in any manner affect the rights of any of the Creditors of the Transferor Company, in particular the Secured Creditors shall continue to enjoy to hold charge upon their respective securities.
20. The implementation of the Scheme is conditional upon and subject to:
 - (a) Approval by the requisite majority of the members of both the Transferor and Transferee Company
 - (b) Sanction of the Scheme by the Hon'ble Rajasthan High Court under section 391 of the Act and the appropriate orders being made by the said Hon'ble Rajasthan High Court pursuant to Section 394 of the Act for effecting the merger under the Scheme and the implementation of the Scheme.
 - (c) The approval of the Financial Institutions, wherever necessary under any agreement with them by the Transferor Company and the Transferee Company.
 - (d) The approval and consent of any authorities / Banks concerned and Debenture Trustees in respect of Debentures issued by the Transferor Company and the Transferee Company as may be required under any contract or statute being obtained and granted in respect of any of the matters in respect of which such approval and consent be required.
 - (e) The certified copies of the Order of the Hon'ble Rajasthan High Court being filed with the Registrar of Companies, Jaipur by both Transferor Company and the Transferee Company.

21. The Scheme although operative from the Transfer Date shall take effect final and from the date on which any of the aforesaid sanctions or approvals or orders shall be last obtained, which shall be the Effective Date for the purpose of the Scheme.
22. All cost, charges and expenses of the Transferor Company and the Transferee Company respectively in relation to or in connection with negotiations leading upto the Scheme and or carrying out and completing the terms and provisions of the Scheme and of and incidental to the completion of merger of the Transferor Company in pursuance of the Scheme shall be borne and paid by the Transferee Company.
23. Upon the Scheme becoming effective as aforesaid to an order being made by the Hon'ble Rajasthan High Court under section 394 of the Act, the Transferor Company shall stand dissolved without winding up as and from the Effective Date or such date as the said Hon'ble Rajasthan High Court may direct.
24. In case the Scheme is not sanctioned by the jurisdictional High Court for any reason whatsoever, the Scheme will become null and void and of no effect. In such an eventuality, no rights and /or liability shall accrue or be incurred by the Transferee and the Transferor Company who shall bear their respective costs and expenses incurred in relation to or in connection with Scheme.

SCHEDULE II
SCHEDULE OF PROPERTIES

PART I
SHORT DESCRIPTION OF THE LEASEHOLD PROPERTY OF THE TRANSFEROR COMPANY
(TELECORDS (INDIA) PVT.LTD.)

- ❖ Industrial Plot No. F-141, measuring 1801 Sq. Mtrs. Bounded on the North by Plot No. 140, on the South by Plot No. F-142, on the East by Plot No. G-130 and on the West by Road situated at the RIICO Industrial Area, Jaitpura, Distt. Jaipur, along with the construction standing thereon as also together with the pathways, passages, Trees, Boundary walls together with all Sanitary, Electrical and Water Fittings as also along with all easement, latent or patent, enjoyed as also rights appurtenant to the said property .

PART II
SHORT DESCRIPTION OF ALL STOCKS, SHARES AND OTHER CHARGES IN ACTION OF THE
TRANSFEROR COMPANY

Investment of Rs.9045 in NSC pledged with the Sales Tax Authorities.

Sd/-
Registrar

**IN THE HIGH COURT OF RAJASTHAN AT JAIPUR
ORIGINAL COMPANY JURISDICTION
COMPANY PETITION NO. 24 OF 2006
CONNECTED WITH
COMPANY APPLICATION NO. 51 OF 2006**

IN THE MATTER OF:

The Companies Act, 1956

AND

IN THE MATTER OF:

Sections 391 to 394 of the Companies Act, 1956

AND

IN THE MATTER OF:

Scheme of Amalgamation between Aksh Broadband Limited

(Transferor Company) and Aksh Optifibre Limited (Transferee Company)

AND IN THE MATTER OF:

Aksh Optifibre Limited, a Public Limited Company incorporated

under the Companies Act, 1956 and having its Registered Office

at F - 1080 RIICO Industrial Area, Phase III, Bhiwadi - 301 019 (Rajasthan)

.... Petitioner/ Transferee Company

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JAIPUR BENCH JAIPUR.**

ORDER

In

S.B. Company Petition No. 24 of 2006

IN THE MATTER OF THE COMPANIES

ACT 1956

AND

IN THE MATTER OF SECTION 391 OF THE

COMPANIES ACT 1956

AND

IN THE MATTER OF SCHEME OF SCHEME

OF AMALGAMATION BETWEEN AKSH

BROADBAND LIMITED (TRANSFEROR

COMPANY) AND AKSH OPTIFIBRE LIMITED

(TRANSFEE COMPANY)

Date of Order : February 23, 2007

PRESENT

HON'BLE MR. JUSTICE SHIV KUMAR SHARMA

Mr. Anant Kasliwal)

Mr. Vaibhav Kasliwal) for the petitioner.

M.R.C.Meena, Official Liquidator

BY THE COURT

1. The petitioner company Aksh Optifibre Limited, filed this petition under sections 391 to 394 of the Companies Act, 1956 (hereinafter shall be referred to as the Act of 1956) for sanctioning the Scheme of Amalgamation between petitioner Company (Transferee Company and Aksh Broadband Limited (Transferor company)
2. That the petitioner company was incorporated on March 19, 1986 under the name and style of Aksh India Private Limited with the Registrar of Companies, NCT of Delhi and Haryana and was converted into a Public Limited Company on March 13, 1994 vide Special Resolution passed on March 13, 1994. Thereafter w.e.f. 7th Feb., 2000 the transferee company shifted its registered office from the NCT of Delhi to the State of Rajasthan.
3. The position authorized issued, subscribed and paid up capital of the petitioner company as on date is detailed out in para No. 5 of the petition.
4. The main objects of the petitioner company as set out in the object clause of its Memorandum of Association, have been detailed out in para No-4 of the petition. The copy of the latest audited annual accounts of the petitioner company has been submitted as Annexure C to the petition.
5. The petitioner company in the meeting of the Board of Directors approved the scheme of amalgamation in the resolution marked as Annexure D with the petition.
6. The petitioner Company Filed company application No. 51 of 2006 and this court vide its order dated September 22, 2006 allowed the application and issued direction for holding separate meetings of the equity shareholders, unsecured creditors and the secured creditors of the petitioner company for the purpose of considering the proposed scheme of amalgamation between Aksh Broadband Limited (transferor Company and Aksh Optifibre Limited (Transferee Company) at Bhiwadi and Gurgaon. At the meeting of the secured creditors held at Gurgaon, out of 3 secured creditors, 2 secured creditors representing Rs. 10 crores secured debt voted in favour of the resolution of scheme of amalgamation. In the meeting of the 46 equity shareholders, 43 equity shareholders representing rupees one crore eleven lacs seventy two thousand ninty six voted in favour of the scheme of amalgamation. In the meeting of the 15 unsecured creditors representing Rs. 11,45,24,650 (rupees eleven crores forty five lacs twenty four thousand six hundred and fifty only voted in favour of the scheme of amalgamation. The petitioner companay submitted in the petition that the transferor company will file the requisite petition before the Delhi High Court for sanctioning the scheme of amalgamation and prayer has been made for sanctioning the above scheme in relation to the petitioner company.
8. On filing the above petition, this court on December 15, 2006 issued notice to the Regional Director, and Registrar Companies. The notices were also directed to be published in two News papers, one in English in Finance Express (Delhi Edition) and Hindi News paper Dainik Nav Jyoti (Jaipur Edition). The petitioner company filed Newspapers dated January 15, 2007 of the notices published in the respective news papers.
9. In response to the notice served, the Regional Director Northern Region. Ministry of Company Affairs, Noida, filed affidavit and submitted that as per clause 3(a) of Part III of the Scheme of Amalgamation all the employees of the Transferor company shall become the employees of the Transferee company without any break or interruption in their servcise upon sanctioning of the scheme of amalgamation by this court. As per para 2(b) of Part V of the scheme, the share capital of a company can be increased only after following the procedures prescribed under the relevant provisions of the Companies Act and payment of requisite fees to the Registrar of Companies and stamp duty to the State Government. It was prayed for considering this aspect of the matter. It was further submitted that certain creditors have filed winding up petitions (Company Petition Nos 60, 359 and 360 of 2005) against the Transferor company Aksh Broadband Ltd. before the Delhi High Court. Upon Scheme of Amalgamation becoming effective the transferor company shall vest with the transferee company and the transferor company shall stand liquidated without being wound up, and they shall not be able to challenge any of the legal proceedings of the transferor company on the grounds of the territorial jurisdiction only and the transferee company shall have all legal rights and remedies as are available in due course of law to defend such proceedings. The Bombay Stock Exchange vide its letter dated September 13, 2006 given approval subject to certain conditions and the transferee company may be directed to comply with the said conditions on approving ihc scheme.
10. The learned counsel for the petitioner company filed photostat copies of the orders passed by the Delhi High Court disposing the company petitions Nos. 359 and 360 of 2005 filed against the transferor company at Delhi High Court.
11. I have heard learned counsel for the parties and weighed contents of the petition, and affidavit filed by the Regional Director.
12. In Miheer H. Mafatlal (1997) 1 SCC 579 following broad contents of the jurisdiction of the Company Court have been laid down for sanctioning the scheme :

- (1) The sanctioning court has to see to it that all the requisite statutory procedure for supporting such a scheme has been complied with and that the requisite meetings as contemplated by section 391 (a) have been held.
- (2) The scheme put up for sanction of the Court is backed up by the requisite majority vote as required by Section 391 sub-section (2).
- (3) The meetings concerned of the creditors or members or any class of them had the relevant material to enable the voters to arrive at an informed decision for approving the scheme in question. That the majority decision of the concerned class is just and fair to the class as a whole so as to legitimately bind even the dissenting members of that class.
- (4) All necessary material indicated by Section 393(1)(a) is placed before the voters at the meetings concerned as contemplated by Section 391 sub-section (1).
- (5) All the requisite material contemplated by the provision of subsection (2) of Section 391 of the Act is placed before the Court by the applicant concerned seeking sanction for such a scheme and the Court gets satisfied about the same.
- (6) The proposed scheme of compromise and arrangement is not found to be violative of any provision of law and is not unconscionable, nor contrary to public policy. For ascertaining the real purpose underlying the scheme with a view to be satisfied on this aspect, the Court, if necessary, can pierce the veil of apparent corporate purpose underlying the scheme and can judiciously X-ray, the same.
- (7) The Company Court has also to satisfy itself that members or class of members or creditors or class of creditors, as the case may be, were acting bona fide and in good faith and were not coercing the minority in order to promote any interest adverse to that of the latter compromising the same class whom they purported to represent.
- (8) The scheme as a whole is also found to be just, fair and reasonable from the point of view of prudent men of business taking a commercial decision beneficial to the class represented by them for whom the scheme is meant.
- (9) Once the aforesaid broad parameters about the requirements of a scheme for getting sanction of the court are found to have been met, the Court will have no further jurisdiction to sit in appeal over the commercial wisdom of the majority of the class of persons who with their open eyes have given their approval to the scheme even if in the view of the Court there would be a better scheme for the company and its members or creditors for whom the scheme is framed. The Court cannot refuse to sanction such a scheme on that ground as it would otherwise amount to the Court exercising appellate jurisdiction over the scheme rather than its supervisory jurisdiction. It is the commercial wisdom of the parties to the scheme who have taken an informed decision about the usefulness and propriety of the scheme by supporting it by the requisite majority vote that has to be kept in view by the Court. The Court has neither the expertise nor the jurisdiction to delve deep into the commercial wisdom exercised by the creditors and members of the company who have ratified the scheme by the requisite majority. Consequently the Company Court's jurisdiction to that extent is peripheral and supervisory and not appellate. The Court acts like an umpire in a game of cricket who has to see that both the teams play their game according to the rules and do not overstep the limits. But subject to that how best the game is to be played is left to the players and not to the umpire. The supervisory jurisdiction of the Company Court can also be culled out from the provisions of Section 392. Of course this section deals with post-sanction supervision. But the said provision itself clearly earmarks the field in which the sanction of the Court operates. The supervisor cannot ever be treated as the author or a policy-maker. Consequently the propriety and the merits of the compromise or arrangement have to be judged by the parties who as sui juris with their open eye and fully informed about the pros and cons of the scheme arrive at their own reasoned judgment and agree to be bound by such compromise or arrangement.

13. In *Hindustan Lever vs. State of Maharashtra* (2004) 9 SCC 438, the Apex Court indicated that the jurisdiction of the Company Court while sanctioning the scheme is supervisory only. While exercising its power in sanctioning the scheme of amalgamation the court is to satisfy itself that the provisions of statute have been complied with, that the class was fairly represented by those who attended the meeting, that the statutory majority was acting bona fide and not in an oppressive manner and that the arrangement is such as which a prudent, intelligent or honest man or a member of the class concerned and acting in respect of the interest might reasonably take. While examining as to whether the majority was acting bona fide, the court would satisfy itself to the effect that the affairs of the company were not being conducted in a manner prejudicial to the interest of its members or to public intent. The basic principle underlying such a situation is none other than the broad and general principle

inherent in any compromise or settlement entered into between the parties, the same being that it should not be unfair, contrary to public policy and unconscionable or against the law-once these things are satisfied the scheme has to be sanctioned as per the compromise arrived at between the parties. The court would have no further jurisdiction to sit in appeal over the commercial wisdom of the class of persons who with their eye open give their approval, even if, in the view of the court a better scheme could have been framed.

14. Bearing the above principles in mind I proceed to weigh the scheme as well as the objections raised by the Regional Director in his affidavit regarding pendency of company petition for winding up of transferor company. Out of the three company petitions for winding up of the transferor company two petitions have already been disposed by the Delhi High Court as per the photostat copies of the orders produced by the learned counsel for the petitioner company. As per the law laid down by the Apex Court that while exercising its power in sanctioning the scheme of amalgamation the court is to satisfy itself that the provisions of statute have been complied with, that the class was fairly represented by those who attended the meeting, that the statutory majority was acting bonafide and not in an oppressive manner and that the arrangement is such as which a prudent, intelligent or honest man or a member of the class concerned and acting in respect of the interest might reasonably take. While examining as to whether the majority was acting bonafide, the court would satisfy itself to the effect that the affairs of the company were not being conducted in a manner prejudicial to the interest of its' members or to public intent. The basic principle underlying such a situation is none other than the broad and general principle inherent in any compromise or settlement entered into between the parties, the same being that it should not be unfair, contrary to public policy and unconscionable or against the law-once these things are satisfied scheme has to be sanctioned as per the compromise arrived at between the parties. In the instant matter in the separate meetings of the equity share holders, unsecured creditors and secured creditors voted in favour of the scheme of amalgamation and this court does not have jurisdiction to sit in appeal over the commercial wisdom of the majority of the class of persons who with their open eyes have given their approval to the scheme.
15. Having closely scrutinised the Scheme of Amalgamation, I find that it is not unjust and unfair to the creditors or any class of creditors. The scheme appears to be reasonable, according to law and in the interest of the shareholders.
16. For these reasons the petition stands allowed and the scheme of Amalgamation is sanctioned in terms of prayer clauses (i) to (iii). Costs of Rs. 2500/- (Two Thousand Five Hundred Only) to the Official Liquidator to be paid by the petitioner within two weeks from today. The copy of the order be sent to the Registrar Companies as per Rules.

Sd/-

(Shiv Kumar Sharma) J.

IN THE HIGH COURT OF DELHI AT NEW DELHI
(ORIGINAL JURISDICTION)
IN THE MATTER OF THE COMPANIES ACT, 1956
AND
IN THE MATTER OF SCHEME OF AMALGAMATION
OF
COMPANY PETITION NO 296/2006
CONNECTED WITH
COMPANY APPLICATION (IN) NO 163/2006

IN THE MATTER OF

Aksh Broadband Ltd.,
having its Regd. Office at 101,
Sita Rain Mansion, 718/21,
Joshi Road, Karol Bagh,
New Delhi-110005

Petitioner/Transferor Company
(Within the jurisdiction of this Court)

WITH

IN THE MATTER OF

Aksh Optifibre Ltd.,
having its Regd Office at
F-1080, RIICO Industrial Area, Phase-III,
Bhiwadi-301019 (Rajasthan)

Transferee Company
(Outside the jurisdiction of this Court)

BEFORE HON'BLE MR. JUSTICE ANIL KUMAR

DATED THIS THE 29TH DAY OF MAY, 2007

ORDER UNDER SECTION 394 OF THE COMPANIES ACT, 1956

The above petition coming up for hearing on 29/5/2007 for sanction of scheme of amalgamation proposed to be made of Aksh Broadband Ltd. (hereinafter referred to as the Transferor Company) (Within the jurisdiction of this Court) with Aksh Optifibre Ltd. (hereinafter referred to as the Transferee Company) (Outside the jurisdiction of this Court), upon reading the said petition, the order dt. 29/9/2006 whereby the meetings of the shareholders, secured and unsecured creditors of the Transferor Company was ordered to be convened for the purpose of considering, and if thought fit, approving, with or without modification, the Scheme of amalgamation, annexed to the affidavit of Sh. Yogendra Dwivedi, authorized representative of the Transferor Company filed on the 28 day of September, 2006 and the publication in the newspapers namely (1) Statesman (English) and (2) Jansatta (Hindi) both dt. 2/11/2006 each containing the advertisement of the said notice convening the said meetings directed to be held by the said order dt 29/9/2006, the affidavit of Sh Chandra Sbekhar Yadav, Chairperson filed on 15/11/2006 showing the publication and despatch of the notices convening the said meetings, the report of the Chairperson of the said meetings as to the result of the said meetings and upon hearing Sh Sandeep Sethi, Sr Advocate with Mr Ashish. Midha, Advocate for the petitioner, Ms. Manisha Tyagi, Advocate for the Official Liquidator and Mr. R. D. Kashyap, Dy Registrar of Companies in person and it appearing from the reports that the proposed scheme of amalgamation has been approved unanimously without any modification by the said shareholders, secured and unsecured creditors of the Transferor Company present and voting either in person or by proxy and upon reading the affidavit dated 21/2/2007 of Sh. Rakesh Chandra, Regional Director, Northern Region, Ministry of Company Affairs, Noida on behalf of Central Government stating that the authorized share capital of the company can be increased only after following the procedure prescribed under the relevant provisions of the Companies Act, 1956 and after payment of requisite fee to the Registrar of Companies and the stamp duty to the State Government It has been stated by the Regional Director that three winding up company petitions [CP Nos. 60/2005, 359/2005 and 360/2005] filed against the Transferor Company are pending awaiting final order in this Court and that under the scheme of amalgamation it has been provided that the Transferee Company shall not challenge any of the legal proceedings of the Transferor Company on the grounds of territorial jurisdiction and that the transferee Company shall have all the legal rights and the remedies as are available in due course of law to defend such proceedings The Regional Director has further stated that the shares of Transferee Company are listed with the National Stock Exchange and Bombay Stock Exchange It has also

been pointed out by the Regional Director that letter dt. 13/9/2006 granting approval was issued by the Bombay Stock Exchange subject to certain conditions The Regional Director has sought a compliance of those conditions by the Transferee Company The Regional Director has referred to the Chairman's report of the meeting of the unsecured creditors for the Transferor Company and contended that out of 24 unsecured creditors who participated in the meeting 6 unsecured creditors representing 25% in number and 0.13% in value however, not appearing in the books of accounts of the company as per the certificate of the statutory auditors were allowed to participate and vote at the meeting and all of them voted against the scheme The objections of the Regional Director have been opposed by the Transferor Company and an affidavit has been filed in reply to the objections taken on behalf of Regional Director the Transferor Company has also filed an undertaking in reply to the objections taken on behalf of the Regional Director The objection of the Regional Director is that the authorized share capital can be increased only after following the procedure prescribed and payment of requisite fees to the Registrar of Companies and stamp duty to the State Government It is inferable that combined authorized capital of the amalgamated company does not exceed the authorized capital of the two companies calling for any further fees or stamp duty or to follow separate procedure for such merger of authorized share capital Consequently, the objection of the Regional Director cannot be sustained and the Transferee Company shall be entitled for increase of its authorized share capital on the amalgamation without following the procedure as contemplated under the Companies Act Regarding certain winding up petitions lying pending against the Transferor Company, it has been submitted that the disclosure regarding pendency of litigations against the Transferor Company was made in the explanatory statement and that the scheme has been approved by shareholders of both the companies after considering the same It has been further pointed out that the two Company Petitions i. e. CP No 359 and 360 of 2005 were disposed of by order dt. 6/12/2006 in terms of which the company petitions were referred to arbitration and the Transferor Company agreed to furnish an unconditional bank guarantee of Rs. 34,76,500/- in favour of the Registrar General, High Court of Delhi which bank guarantee was submitted by the Transferor Companies on 2/1/2007 and that the same is valid for a period of six months However, pursuant to amalgamation since all the undertakings, assets and liabilities of the Transferor Company shall vest with the Transferee Company and that the Transferor Company would stand liquidated without being wound up thus the bank guarantee furnished by the transferor Company may not stand and therefore, the petitioner/Transferee Company has undertaken to substitute and furnish a fresh unconditional bank guarantee of Union Bank of India, Industrial Finance branch, M-11, M Block, Middle Circle, Connaught Place, New Delhi for Rs 34,76,500, in favour of the Registrar General, High Court of Delhi on or before and latest by 2 July, 2007 Regarding the CP No. 60/ 2005 the Transferor Company has stated that the reconciliation talks are going on between the petitioner and the Transferor Company An affidavit has been filed undertaking that upon amalgamation the Transferee Company would continue the process to resolve and compromise the dispute with the petitioner in CP No 60/2005 and that if the compromise talks could not be concluded successfully than in such a case the Transferee Company would abide by the orders of the Court in CP 60/2005 and would not dispute its liability, if any, imposed by the Court on the ground of not being a party to the proceedings, it has been further pointed out that a similar objection raised by the Regional Director in CP No 24/2006 filed by the transferee Company at the High Court of Judicature for Rajasthan at Jaipur Bench which was allowed by the Court by order dt. 23/2/2007 approving the scheme Therefore, in view of the undertaking and order dt. 23/2/2007 of the High Court of Judicature for Rajasthan at Jaipur Bench the objection raised by the Regional Director does not survive. Regarding the compliance of the conditions imposed by the Bombay Stock Exchange on the Transferee Company in its approval, it was asserted that the objections relates to the Transferee Company and that by order dt. 23/2/2007 the High Court of Judicature for Rajasthan at Jaipur in CP No 24/2006 filed by the Transferee Company has granted sanction to the scheme It has been further pointed out that the conditions imposed by the Bombay Stock Exchange relates to lock in period on the shares to be issued to the shareholders of the Transferor Company pursuant to the scheme becoming effective It has been stated on behalf of the Transferee Company and has undertaken to lock in 100% of the new issue of shares i.e. 2,02,10,400 equity shares of Rs 5/- each for a period of one year from the date of listing at the Bombay Stock Exchange and 25% of such capital i. e. 50,52,600 equity shares of Rs. 5/- each for a period of 3 years from the date of listing of BSE which undertaking has been acknowledged by the BSE in its approval letter dt. 13/9/2006. In view of the undertaking given by the Transferee company and the sanction to the scheme granted by the High Court of Rajasthan, the objection raised by the Regional Director is rejected Regarding the objection of the meeting of the unsecured creditors where six creditors voted against the scheme it has been stated on behalf of the petitioners that the six persons who voted against the scheme were not appearing as unsecured creditors in the books of the Transferor Company and that even after considering the negative votes of the six persons who represent only 0.13% in the terms of value the scheme stands passed by the requisite statutory majority The Court did not find any merit this objection and rejected the same, and considering the affidavit of Sh. A. K. Chaturvedi, Official liquidator filed on 9/5/2007 stating therein that the affairs of the Transferor Company have not been conducted in a manner prejudicial to the interest of its shareholders or creditors or to public interest, and there being no investigation proceedings pending in relation to the petitioner companies under Section 235 to 251 of the Companies Act, 1956 The scheme of amalgamation in respect of the Transferee Company has been sanctioned by High Court of Rajasthan at Jaipur vide order dt 23/2/2007.

THIS COURT DOTH HEREBY SANCTION THE SCHEME OF AMALGAMATION setforth in Schedule-I annexed hereto subject to undertaking given regarding bank guarantee and DOTH HEREBY DECLARE the same to be binding on all the shareholders and creditors of the Transferor and Transferee Companies and all concerned and doth approve the said scheme of amalgamation with effect from the appointed date i.e. 1.4.2006.

AND THIS COURT DOTH FURTHER ORDER:

1. That all the property, rights and powers of the Transferor Company specified in the First, Second and Third parts of the Schedule-U hereto and all other property, rights and powers of the Transferor Company be transferred without further act or deed to the Transferee Company and accordingly the same shall pursuant to Section 394 (2) of the Companies Ad, 1956 be transferred to and vest in the Transferee Company for all the estate and interest of the Transferor Company therein but subject nevertheless to all charges now affecting the same; and
2. That all the liabilities and duties of the transferor Company be transferred without further act or deed to the Transferee Company and accordingly the same shall pursuant to Section 394 (2) of the Companies Act, 1956 be transferred to and become the liabilities and duties of the Transferee Company; and
3. That all the proceedings now pending by or against the Transferor Company be continued by or against the Transferee Company; and
4. That the Transferee Company do without further application allot to such members of the Transferor Company as have not given such notice of dissent as is required by Part-TV given m the scheme of amalgamation herein the shares in the Transferee Company to which they are entitled under the said amalgamation; and
5. That the Transferor Company do within five weeks after the date of this order cause a certified copy of this order alongwith the copy of order of Rajasthan High Court at Jaipur in respect of the Transferee Company to be delivered to the Registrar of Companies for registration and on such certified copy being so delivered, the transferor Company shall be dissolved without the process of winding up and the Registrar of Companies shall place all documents relating to the Transferor Company and registered with him on the file kept by him in relation to the Transferee Company and the files relating to the said 'transferor and Transferee Companies shall be consolidated accordingly; and
6. That any person interested shall be at liberty to apply to the Court in the above matter for any directions that may be necessary.
7. That the scheme of amalgamation has been sanctioned and it has been ordered that the cost of Rs. 20,000/- has to be paid by the petitioner to the Official Liquidator, which will be deposited in the Common Pool Fund of the Official Liquidator.

**SCHEME OF AMALGAMATION
BETWEEN**

Aksh Broadband Limited

Transferor Company

AND

Aksh Optifibre Limited

Transferee Company

AND

THEIR RESPECTIVE SHAREHOLDERS

PART- I

A Definitions

In this Scheme unless repugnant to the meaning or context thereof, the following expressions shall have the meaning as given to them below:-

- (i) **“Act”** means the Companies Act, 1956 and any amendments and/ or re-enactment or modifications thereof for the time being in force.
- (ii) **“The Appointed Date”** means 1.4.2006
- (iii) **“The Effective Date”** means the date on which the last of the approvals/ events specified in Clause 5 of Part V of the Scheme are obtained/ have occurred.
- (iv) **Transferor Company** or ABL means “Aksh Broadband Limited”, a Company incorporated under the Act and presently having its Registered Office at 101, Sita Ram Mansion, 718/21, Joshi Road, Karol Bagh, New Delhi 110 005.
- (v) **Transferee Company** or AOL means “Aksh Optifibre Limited”, a Company incorporated under the Act and having its Registered Office at F -1080, RIICO Indl. Area, Phase III, Bhiwadi - 301 019, Rajasthan.
- (vi) **“Transferred Undertaking of Transferor Company”** means and include all of the undertakings of Transferor Company as illustratively listed out and marked in **Part A of Schedule -1** hereto and shall mean and include:-
 - (a) all the present and future assets including freehold and/ or leasehold assets and movable assets together with all investments, all present and future liabilities and debts and undertakings of the Transferor Company, as per the records of Transferor Company;
 - (b) All the present and future licenses, approvals, permissions, consents, registrations, and certifications, rights, entitlements, agreements and all other rights and facilities of every kind, nature and description whatsoever of Transferor Company,
 - (c) all application monies, advance monies, earnest monies and/or security deposits paid, payments against other entitlements of the Transferor Company;
 - (d) all the debts, liabilities, duties, responsibilities and obligations of Transferor Company;
 - (e) All present and future immovable assets including all freehold, leasehold and any other title, interest or right in such immovable assets, of the Transferor Company including those comprised in the Transferred Undertaking of the Transferor Company as per the Records of the Transferor Company including those illustratively listed out and marked in Part B of Schedule - II;
 - (f) All present and future investments including long term, short term, quoted, unquoted investments in different instruments including Shares, debentures, units, warrants, bonds etc. as per the Records of the Transferor Company including those illustratively listed out and marked in **Part B of Schedule -I**;
- (xiii) **“Scheme”** means this Scheme of Amalgamation as set out herein and approved by the Board of Directors subject to such modifications as the Hon'ble High Court of Delhi, at New Delhi and the Hon'ble High Court of Rajasthan at Jaipur may impose or the Transferor Company and Transferee Company may prefer and the Hon'ble High Court of Delhi at New Delhi and the Hon'ble High Court of Rajasthan at Jaipur may approve.

B. THE SCHEME

Transferee Company - Aksh Optifibre Limited

Aksh Optifibre Limited (the Transferee Company herein) was incorporated as a Private Limited Company on March 19, 1986 under the name and style of "Aksh India Private Limited" with the Registrar of Companies, NCT of Delhi & Haryana and was converted into a Public Limited Company on March 13, 1994 vide special resolution passed on March 8, 1994.

Thereafter, w.e.f 7th February, 2000, the Transferee Company shifted its Registered Office from the NCT of Delhi to the State of Rajasthan after seeking confirmation of the Hon'ble Company Law Board (Northern Region Bench). At present the Registered Office of Transferee Company is situated at F-1080, RIICO Industrial Area Phase - III, Bhiwadi, in the State of Rajasthan, within the jurisdiction of Hon'ble High Court of Rajasthan, at Jaipur.

Subsequently, the Company changed its name from "Aksh India Limited" to "Aksh Optifibre Limited" w.e.f 17th April, 2000 to properly reflect the then core activities of the Company i.e. drawing of optical fibre and manufacturing of optical fibre cable.

The Transferee Company came out with its maiden IPO (Initial Public offering) in July, 2000 and thereafter its Shares were listed on Jaipur as well as Bombay & National Stock Exchange Limited

Pursuant to SEBI (Delisting of Securities) Guidelines 2003, Company has got its Equity Shares delisted from Jaipur Stock Exchange Limited on 15.05.2004. The Shares of the Transferee Company are presently listed at The Stock Exchange, Bombay and The National Stock Exchange Limited.

Transferor Company - Aksh Broadband Limited

Aksh Broadband Limited (hereinafter referred to as "the Transferor Company") was incorporated on 4.12.2001, under the name and style of "Aksh Broadband Limited" with the Registrar of Companies, NCT of Delhi & Haryana and received Certificate of Commencement of Business on 08.01.2002.

Thereafter, the Transferor Company had twice vide special resolution(s) passed at the Extra ordinary General Meeting of its Shareholders altered the Object Clause of its Memorandum of Association and received Certificate of registration of special resolution(s) confirming alteration of object clause(s) from Registrar of Companies, NCT of Delhi & Haryana on 09.04.2003 and 16.02.2006.

The Registered Office of the Transferor Company is situated at 101, Sita Ram Mansion, 718/21, Joshi Road, Karol Bagh, New Delhi - 110 005, which is within the jurisdiction of Hon'ble High Court of Delhi at New Delhi.

Amalgamation of all undertakings of Transferor Company with Transferee Company

Transferee Company is presently engaged in the manufacturing of Optical Fibre Cables and is one of the few manufacturers who have integrated their operations backwards into production of fibre as well as FRP Rods and the Transferor Company is in the business of providing /operating voice and Broadband Networks to deliver a whole range of services in the field of telecommunications & information.

The Transferor Company is setting up an optical fiber network for providing various broadband-based services in the State of Andhra Pradesh.

The entire network rolled out by Transferor Company is based on optical fiber cables, which are manufactured by the Transferee Company. There is a total synergy in the business of Transferor as well as Transferee Company.

Upon this Scheme becoming effective and on subsequent transfer of Transferred Undertaking of Transferor Company into Transferee Company, the Transferee Company will move into forward integration and shall become an integrated telecom service provider in addition to being an Optical Fibre Manufacturer.

The Transferee Company will be able to provide single window integrated networking/telecom solutions as well as acquire the existing subscribers base of Transferor Company.

The amalgamation of all Undertakings of Transferor Company into the Transferee Company shall facilitate consolidation of all the undertakings in order to enable effective management and unified control of operations.

The amalgamation would create economies in administrative and managerial costs by consolidating operations and will substantially reduce duplication of administrative responsibility and multiplicity of records and legal and regulatory compliances.

The amalgamation will also improve the financial structure and cash flow management of the merged entity.

PART-II

SHARE CAPITAL

The present capital structure of the Transferor Company and the Transferee Company is as under: -

The present capital structure of the Transferor Company as at 31.3.2006 is as follows:

Share Capital	As at 31.3.2006 (Amount in Rs.)
Authorized Capital	
1,00,00,000 Equity Shares of Rs. 5/- each	5,00,00,000
Issued Subscribed and Paid Up Capital	
79,78,400 Equity Shares of Rs.5/- each, fully paid up	3,98,92,000

The present capital structure of the Transferee Company as at 31.3.2006 is as follows:

Share Capital	As at 31.3.2006 (Amount in Rs.)
Authorized Capital	
3,00,00,000 Equity Shares of Rs. 5/-each	15,00,00,000
Issued Subscribed and Paid Up Capital	
22,037,892 Equity Shares of Rs.5/- each, fully paid up	11,01,89,460

IN CONSIDERATION OF THE RECIPROCAL PROMISES AND AMALGAMATION, THE TRANSFEROR COMPANY **AND** ITS SHAREHOLDERS AND THE TRANSFEE COMPANY AND ITS SHAREHOLDERS HAVE PROPOSED THE SCHEME OF AMALGAMATION AS SET OUT IN PARTS III TO V BELOW.

PART - III

TRANSFER OF TRANSFERRED UNDERTAKINGS OF TRANSFEROR COMPANY

1. (a) With effect from the Appointed Date the Transferor Company shall dissolve without winding-up and merge with the Transferee Company and all of the assets, investments, licenses, rights, title and interests comprised in the Transferred Undertaking of Transferor Company shall pursuant to Section 394(2) of the Act and without any further act or deed be transferred to and vested in or deemed to have been transferred to and vested in the Transferee Company so as to become as and from the Appointed Date, the estate; assets, license,"rights, title and iriteresrbf the Trans^feree Company subject to Clause 5, Part V of the Scheme.
- (b) In respect of such of the assets of the Transferred Undertaking as are movable in nature or incorporeal property or are otherwise capable of transfer by manual delivery or by endorsement and delivery, or transfer by vesting and recordal pursuant to this Scheme the same shall stand transferred and vested with effect from the Appointed Date and shall become the property of the Transferee Company.
2. (a) Upon the coming into effect of this Scheme all permits, registrations, approvals, consents, statutory licences, licences to set-up and operate any business including providing any kind of telecom and other services and quotas, rights, entitlements, any other licenses including those relating to Trademarks, Designs, Drawings, Tenancies, Patents, Copy Rights, Privileges, Powers, facilities of every kind and description of whatsoever nature in relation to the Transferred Company including those illustratively listed out in **Schedule - II, Part A** hereto, to which the Transferor Company is a party or to the benefit of which the Transferor Company may be eligible and which are subsisting or having effect immediately before the Effective Date, shall be & remain in full force and effect in favour of or against the Transferee Company, as the case may be and may be enforced as fully and effectually as if, instead of the Transferor Company the Transferee Company had been a party or beneficiary or obligee thereto.
- (b) Upon the coming into effect of this Scheme and subject to the provisions of this Scheme, all contracts, agreements, arrangements and other instruments of whatsoever nature in relation to the Transferred

Company to which the Transferor Company is a party or to the benefit of which the Transferor Company may be eligible and which are subsisting or have effect immediately before the Effective Date, shall be in full force and effect against or in favour of the Transferee Company and may be enforced as fully and effectually as if, instead of the Transferor Company, the Transferee Company had been a party or beneficiary or obligee thereto.

- (c) Any inter se contracts between the Transferor Company and the Transferee Company shall stand merged and vest in the Transferee Company upon the sanction of the Scheme and upon the Scheme becoming effective. Any statutory licenses, authorizations, statutory rights, permissions, approvals, Sales Tax, Service Tax, Excise, Provident Fund, ESI, DGFT, DoT Reserve Bank of India, Importer-Exporter Code, local municipal permissions, right of way permissions, etc. or other registrations, no-objection certificates or consents to carry on the operations in the Transferred Undertakings of Transferor Company shall stand transferred and vested in the Transferee Company without any further act or deed and shall be appropriately mutated by the statutory authorities concerned therewith in favour of the Transferee Company upon the vesting and transfer of the Transferred Undertakings of Transferor Company pursuant to this Scheme so as to empower and facilitate the continuation of operations of the Transferred Undertakings of Transferor Company in the Transferee Company without any hindrance or let from the Appointed Date.
3. (a) Upon the coming into effect of this Scheme, the debts, advances, liabilities and obligations of the Transferor Company shall, without any further act or deed be and stand transferred to the Transferee Company and shall become the debts, liabilities and obligations of the Transferee Company which it undertakes to meet, discharge and satisfy.
- (b) All liabilities and obligations including those arising out of any guarantees executed by Transferor Company will stand transferred and vested in the Transferee Company as part of the continuing contractual obligations vested in the Transferee Company.
- (c) With effect from the Appointed Date and upto and including the Effective Date, All legal or other proceedings by or against Transferor Company under any statute, or otherwise whether pending on the Appointed Date or which may be instituted in future in respect of any matter arising before the Effective Date shall be continued and enforced by or against Transferee Company after the Effective Date. Further, upon the Scheme becoming effective the Transferee Company shall not challenge any proceedings initiated against the Transferor Company on account of territorial jurisdiction only and the Transferee Company shall have all legal rights and remedies as are available in due course of law to defend such proceedings. If proceedings are taken against Transferor Company after the Appointed Date but before the Effective Date, the Transferor Company shall defend the same in accordance with the advice of Transferee Company in respect thereof.
4. With effect from the Appointed Date and upto and including the Effective Date:
- (i) Transferor Company shall be deemed to have been carrying on all operations and activities relating to the Transferred Undertakings of Transferor Company on behalf of Transferee Company and stand possessed of the properties so to be transferred for and on account of and in trust for Transferee Company; and
 - (ii) all profits accruing to Transferor Company (including taxes, if any, thereon) or losses arising or incurred by it relating to the Transferred Undertakings of Transferor Company shall for all purposes, be treated as the profits, taxes or losses as the case may be of Transferee Company, provided that the Board of Directors of Transferor Company may declare final dividend for the shareholders of Transferor Company for the financial year 2005-06 only after seeking approval of the Board of Directors of Transferee Company and such dividend shall be paid only to shareholders of Transferor Company other than Transferee Company itself.
 - (iii) The Transferee Company, being a listed Company, if it so desires, shall be allowed to consolidate and declare its periodical financial results including quarterly, half yearly, yearly results after taking into consideration the financial results of Transferor Company for the respective period, provided that the Transferee Company shall also separately declare its financial results without consolidation for the said period as per the format prescribed by the Stock Exchanges in terms of the Listing Agreement.
5. The transfer and vesting of the Assets/ Investments and liabilities of the Transferred Undertakings of Transferor Company to the Transferee Company and the continuance of any proceedings by or against the Transferee Company hereof shall not affect any transaction or proceedings already completed by the Transferor Company on and from the Appointed Date to the end and intent that the Transferee Company accepts all acts, deeds and

things done and executed by and/or on behalf of the Transferor Company as acts, deeds and things done and executed by and on behalf of the Transferee Company. For the consolidation of the accounts of Transferor Company with the Transferee Company after the Scheme becoming effective the opening balances under various head of the Transferor Company, as on Appointed Date shall be considered by the Transferee Company.

6. (a) All employees of the Transferor Company as on the Effective Date, shall as from such date, become employees of the Transferee Company with the benefit of continuity of service on same terms and conditions being not unfavorable with the terms and conditions applicable to such employees and without any breach or interruption of service. In regard to Provident Fund, Gratuity Fund, Supp«rannuation fund or any other special fund created or existing for the benefit of such employees of the Transferor Company upon the Scheme becoming effective, the Transferee Company shall stand substituted for the Transferor Company for all purposes whatsoever relating to the obligation to make contributions to the said funds in accordance with the provisions of such schemes or funds, and applicable acts in the respective Trust Deeds or other documents.

It is the aim and intent of the Scheme that all the rights, duties, powers and obligations of the Transferor Company in relation to such schemes or funds shall become those of the Transferee Company. It is clarified that the services of the employees of the Transferor Company will be treated as having been continuous for the purpose of the aforesaid schemes, fund, Trusts etc.
- (b) In the event that the Trustees are constituted as holders of any securities, Trust funds or Trust monies, in relation to any Provident Fund Trust, Gratuity Trust or Supper annuation Trust of the Transferor Company, such funds shall be transferred by such Trustees of the Trusts of the Transferor Company to Trusts managed by the Trustees of the Transferee Company set up for the same purpose and object and shall be deemed to be a transfer of trust property from one set of Trustees to another set of Trustees in accordance with the provisions of the relevant labour laws, Indian Trust Act, and the Indian Income Tax Act 1961 and relevant Stamp Legislations as applicable. Appropriate Deeds of Trustsand/ or documents for transfer of Trust properties shall be simultaneously executed upon the sanction of the Scheme in accordance with the terms hereof by the Trustees of such Trusts in favour of the Trusts of the Transferee Company so as to continue the benefits of the employees. The Provident Fund Trust, Gratuity Trustor Supper annuation Trusts of the Transferor Company shall continue to hold such securities, Trust Funds and/or Trust monies as hitherto fore, till such time as the transfer to the Trustees of the Transferee Company Employee's Trusts is made.
- (c) The Transferee Company undertakes to continue to abide by any agreement(s)/settlement(s) entered into by the Transferor Company with any Labour union(s) /employees of the Undertakings of the Transferor Company. The Transferee Company agrees that for the purpose of payment of any retrenchment, compensation, gratuity and other terminal benefits, the past services of such employees with the Transferor Company shall also be taken into account, and agrees and undertakes to pay the same as and when payable.
7. Upon the coming into effect of the Scheme, all Motor Vehicles of any nature whatsoever comprised in or relatable to the Transferred Undertakings of Transferor Company shall vest in the Transferee Company and the appropriate Governmental and Registration Authorities shall mutata and register the said vehicles in the name of the Transferee Company as if the vehicles had originally been registered in the name of the Transferee Company without levying or imposing any fees, charges, taxes or levy whatsoever.
8. In accordance with the Modvat/Cenvat/VAT Rules framed under the Central Excise Act, 1944, or the Service Tax Credit Rules framed under the Finance Act, 1994 as are prevalent at the time of the sanction of the Scheme, the unutilised credits relating to Excise duties paid on inputs/capital goods lying to the account of the Transferred Undertakings of Transferor Company in the RG23A and RG23C Registers as well as the unutilised credits relating to Service Tax paid on input services consumed by the Transferor Company shall be permitted to be transferred to the Credit of the Transferee Company, as if, all such Modvat/ Cenvat/VAT Service Tax Credits were lying in the RG 23A and RG 23C Registers of the Transferee Company. The Transferee Company shall be entitled to. set off all such unutilised Modvat/ Cenvat/ Service Tax Credits, as aforesaid, against the Excise duty / Service Tax payable by it.
9. The Transferee Company shall be entitled to use all packaging material relating to the Transferred Undertakings of Transferor Company lying unused and which Transferor Company is entitled to use under any statutes/ Regulations as on the Appointed Date and implemented from the Effective Date till such time as all of such packaging material are exhausted. The Transferee Company is authorised to advise the statutory authorities of the sanction of the Scheme, even prior to its becoming effective for enabling the change to be made/ noted with effect from the Effective Date.

10. The Transferor Company is entitled to various benefits under Incentive Schemes and Policies relating to the Transferred Undertakings of Transferor Company and pursuant to this Scheme it is declared that the benefits under all of such Incentive Schemes and Policies shall be transferred to and vested in the Transferee Company.
11. The Transferor Company is entitled to various benefits under Vendor Approvals from various clients enabling the Transferor Company to do business with such clients pursuant to such Vendor Approvals and pursuant to this Scheme it is declared that the benefits under Vendor Approvals from various clients enabling the Transferor Company to do business with such clients pursuant to such Vendor Approvals stand and be transferred to and vested in the Transferee Company as if all such Vendor Approvals were in fact issued/given to the Transferee Company instead of the Transferor Company by such clients.
12. The Transferor Company formulated a consortium and thereafter bid for Development, Implementation, Operation & Maintenance of Andhra Pradesh (AP) Broadband Network for and in collaboration with Government of Andhra Pradesh. The Transferor Company won the bid and thereafter has entered into a formal agreement with AP Technology Services Limited on behalf of Information Technology & Communications Department, Government of Andhra Pradesh for implementing the above project. Upon the Scheme of Amalgamation becoming effective all the rights and obligations arising out of the said Agreement shall flow to the Transferee Company without any further act or deed and it shall have the effect as if Transferee Company had originally entered into the said Agreement instead of Transferor Company.

PART IV

PAYMENT OF CONSIDERATION / ISSUE & CANCELLATION OF EQUITY SHARES

Upon coming into effect of the Scheme and upon the vesting and transfer of the Transferred Undertaking of the Transferor Company into the Transferee Company herein, the Transferee Company shall fix a record date for completion of allotment to the Shareholders of the Transferor Company with effect from the Effective Date, as may be applicable, existing as on the record date as provided herein and without any further act or deed, issue and allot 7 (Seven) Equity Shares of the face value of Rupees 5/- each at par credited as fully paid up as on the Effective Date for every 2 (Two) fully paid Equity Shares of the face value of Rs.5/- each held by the Shareholders of Transferor Company;

The total paid up capital of Transferor Company as on 31st March 2006 is Rs,3,98,92,000/- comprising of 79,78,400 Equity Shares of Rs.5/- each.

Out of the above stated total Paid up Capital of Transferor Company, the Transferee Company is holding 22,04,000 Equity Shares of Rs.5/- each aggregating to Rs.1,10,20,000/- amounting to 27.62% of the total paid up capital of Transferor Company as on 31st March, 2006.

Since the provisions of the Act do not permit a Company to hold its own Shares, upon dissolution of the Transferor Company under the terms of this Scheme, all the afore-stated 22,04,000 Equity Shares of the face value of Rs.5/- each aggregating to Rs.110.20 Lacs held by the Transferee Company in the Transferor Company shall stand cancelled upon this Scheme becoming effective without any further act or deed.

The new Equity Shares of the Transferee Company to be issued and allotted in lieu of the Equity Shares of the Transferor Companies, shall rank pari-pasu and in all respects with the existing Equity Shares of the Transferee Company including entitlement for dividend for the complete financial year 2006-07 with effect from the Appointed Date.

Upon this Scheme becoming effective and subject to the above provisions, the Transferee Company shall fix a record date for determining the Shareholders of Transferor Company who shall get Shares of Transferee Company in lieu of their holding in Transferor Company. The Transferee Company shall give option to the Shareholders of Transferor Company to get new Equity Shares of Transferee Company either in physical form or in electronic form and according to the option as exercised and notified by the Shareholders of Transferor Company, along with the details of their respective D-mat Account, the Transferee Company shall issue new Equity Shares either in physical form or in electronic form to the Shareholders of Transferor Company.

In case of Shareholders opting for getting the Equity Shares in electronic form, their respective Demat accounts will be credited with new Equity Shares of Transferee Company as per the exchange ratio mentioned above.

At present the existing Equity Shares of Transferor Company are held in physical form and upon the scheme becoming effective all the existing Share Certificates issued by the Transferor Company shall stand cancelled and be of no effect, on and from such record date fixed by Transferee Company.

Upon the Scheme becoming effective and after the issue and allotment of new Equity Shares by the Transferee Company to the Shareholders of Transferor Company, the Transferee Company shall make an application for listing of these new Equity Shares with The Stock Exchange, Bombay as well as the National Stock Exchange Limited, in due compliance of Securities and Exchange Board of India (Disclosure and Investor Protection) Guidelines, 2000 and both these Stock Exchanges shall list the new Equity Shares issued by Transferee Company after due compliance of the Listing Agreement.

PART V

GENERAL TERMS AND CONDITIONS

- 1
 - (a) The amalgamated Transferee Company shall draw up and finalise a consolidated Balance Sheet post-amalgamation as on the Appointed Date (hereinafter the "Consolidated Balance Sheet") which shall be the opening Balance Sheet of the amalgamated Transferee Company as on the Appointed Date.
 - (b) The Transferee Company shall, upon this Scheme becoming effective, record the assets including reserves and liabilities comprised in the Transferor Company at the respective book values thereof as appearing in the books of the Transferor Company at the close of the business of the day immediately preceding the Appointed Date. Similarly any Balance in the Profit and Loss Account of the Transferor Company shall be aggregated with such balance in Profit and Loss Account of the Transferee Company. Any Balance shown as Miscellaneous Expenditure to the extent not written off or adjusted, if any, in the books of Transferor Company shall be similarly aggregated with such balance in the books of the Transferee Company.
 - (c) Upon this Scheme becoming effective, the Transferee Company shall credit to Share Capital account in its books of account, the aggregate face value of the new shares issued by it to the members of the Transferor Company pursuant to this Scheme.
 - (d) The excess, if any, of the value of the assets over the value of the liabilities of the Transferred Undertakings of Transferor Company vested in the Transferee Company upon this Scheme becoming effective as recorded in the books of accounts of the Transferee Company shall, after adjusting the aggregated face value of the new shares issued by the Transferee Company to the members of the Transferor Company (pursuant to this Scheme) be credited to the Reserve Account in the books of the Transferee Company. However, if there is any deficit in the value of the assets over the value of liabilities, the same shall be debited to the Reserve Account in the books of the Transferee Company.
 - (e) Notwithstanding the above, the Transferee Company, in consultation with their Statutory Auditors, is authorised to account any of these balances in any manner whatsoever as may be deemed fit by them.
 - (f) The accounts of the Transferee Company as on the Appointed Date, as reconstructed in accordance with the terms of the Scheme shall be finalized on the basis of the Consolidated Balance Sheet as on the Appointed Date pursuant to this Scheme.
 - (g) The Transferee Company is expressly permitted to revise its Income Tax & loss returns and related TDS certificates and to claim refunds, advance tax credits etc., on the basis of the combined accounts of the companies as reflected in the Consolidated Balance Sheet as on the Appointed Date pursuant to the terms of this Scheme and its right to make such revisions in the Income Tax & loss returns and related Tax Deducted at Source (TDS) certificates and the right to claim refunds, adjustments, credits, set-offs, advance tax credits pursuant to the sanction of this Scheme and the Scheme becoming effective is expressly reserved.
- 2
 - (a) Upon coming into effect of the Scheme, all permissions, licenses including service provider licenses, approvals, incentives, remissions, tax-incentives, licence fee, incentives, licences, consents, sanctions and other authorizations to which the Transferor Company is entitled to and also which are comprised in the Transferred Undertaking (s), shall stand vested and permitted or continued by the order of sanction of the Hon'ble High Court of Delhi at New Delhi as well as Hon'ble High Court of Rajasthan at Jaipur in the Transferee Company, therefore the Transferee Company shall file the Scheme, for the record of the statutory authorities who shall take it on file, pursuant to the sanction orders of the Hon'ble High Court of Delhi at New Delhi as well as Hon'ble High Court of Rajasthan at Jaipur.
 - (b) Upon the Scheme becoming effective the Authorised Share Capital of Transferor Company comprising of 1,00,00,000 (One Crore) Equity Shares of Rs.5/- each aggregating to Rs.5,00,00,000/- (Rupees Five Crores) shall stand carried forward and merged with the Authorized Share Capital of Transferee Company without any further act or deed and without any levy of fees, duty or charge. Accordingly, upon the Scheme becoming effective the Authorized Share Capital of the Transferee Company shall stand enhanced/ increased from Rs.15,00,00,000 (Fifteen Crores) divided into 3,00,00,000 (Three Crores only) Equity Shares of Rs.5/- to Rs.20,00,00,000 (Twenty Crores) divided into 4,00,00,000 (Four Crores only) Equity Shares of Rs.5/-. Upon the Scheme becoming effective, the office of Registrar of Companies, Rajasthan at Jaipur shall immediately take effect of consolidation of Authorised Share Capital of Rs.5 Crores of Transferor Company into the books of Transferee Company and enhance the Authorized Share Capital of Transferee Company from Rs.15 crores to Rs. 20 Crores in it's records and software as per the detailed break up mentioned hereinabove. The Transferee Company shall make

suitable amendments to its Memorandum and Articles of Association to reflect the increase of the Authorised Share Capital. Upon the Scheme becoming effective the Transferee Company shall file the requisite applications/forms with the Registrar of Companies, Rajasthan, Jaipur for the increase of its Authorised Capital from Rs.15 Crores to Rs.20 Crores and the Registrar of Companies shall permit the Transferee Company to take credit of the entire fees already paid by the Transferor Company in this regard.

- (c) At present the existing name of Transferee Company purely reflects it's existing manufacturing activities, the name of Transferor Company reflects the manufacturing activities of Transferee Company as well as the services provided by the Transferor Company. Further the Transferee Company being an optical fibre cable manufacturer has to deal with limited number of clients and the Transferor Company being a service provider deals with a large no. of service utilizers and has got a lot of brand and goodwill attached to its name.

Therefore upon the Scheme becoming effective and to enable the Transferee Company to conveniently and effectively carry on its business as well as carry on the business of Transferred Undertaking of Transferor Company and also to benefit from the branding and goodwill attached to the name of Transferor Company and the existing name of the Transferee Company i.e. Aksh Optifibre Limited shall be changed to the name of Transferor Company's name, which is Aksh Broadband Limited. The change of name will be in the interest of Transferee Company as well as all its stakeholders and will also allow the Transferee Company to conveniently carry on its existing business of Optical Fibre Cable as well as to carry on the business of providing various broadband services based on optical fibre network.

- (d) The Transferee Company is authorised to take all such steps and do all such acts and deeds for and on behalf of the Transferor Company or on its own behalf, as may be necessary to give effect to the provisions contained in sub-clause (a) to (c) above.

3. The Transferor Company and the Transferee Company shall file the necessary applications/ petitions before the Hon'ble High Court of Delhi at New Delhi as well as before the Hon'ble High Court of Rajasthan, at Jaipur, respectively for sanction of this Scheme under the provisions of Sections 391 and 394 of the Act. All disputes and differences arising out of this Scheme shall be subject to the jurisdiction of the Hon'ble High Court of Delhi at New Delhi with respect to Transferor Company and Hon'ble High Court of Rajasthan at Jaipur with respect to Transferee Company only.
4. Upon the Scheme being sanctioned Transferor Company shall stand dissolved without being wound up as on the Appointed Date and all their Undertakings shall vest with Transferee Company.
5. This Scheme shall be deemed to be effective upon the occurrence of the last of the following events: -
 - (a) The approval of the Scheme by the requisite majority of the members and creditors of the Transferor Company and the Transferee Company, as the case may be, as required under Sections 391-394 of the Act.
 - (b) The sanction of the Scheme by the Hon'ble High Court of Delhi at New Delhi under Sections 391 to 394 of the Act and other applicable provisions of the Act, Rules and Regulations, as the case may be.
 - (c) The sanction of the Scheme by the Hon'ble High Court of Rajasthan at Jaipur under Sections 391 to 394 of the Act and other applicable provisions of the Act, Rules and Regulations, as the case may be.
 - (d) Certified copies of the orders being filed with the Registrar of Companies, NCT of Delhi and Haryana for registration thereof.
 - (e) Certified copies of the orders being filed with the Registrar of Companies, Rajasthan for registration thereof.

SCHEDULE I

Part-A

Illustrative (and not exhaustive) descriptive list of the Transferred Undertaking(s) of the Transferor Company

A All of the business and undertakings of the Transferor Company including and relating to the Telecommunication and IT industry, Internet, Network, Technology Provider, EPC Contractor, Cable TV. On Demand TV, E-governance, along with all rights, title and interest in all immovable, movable and incorporeal assets, whether free-hold, leasehold or licensed and also all rights and entitlements comprised in the businesses of the Transferor Company including all statutory licenses, approvals and registrations (as may be necessary to operate the businesses or otherwise) and all rights in any licences/permissions issued by any Governmental authority/regulatory bodies including the Department of Telecommunication (DoT) to set up and operate any of the businesses of the Transferor Company either directly or indirectly through its subsidiary or group companies or through any other person or entity and also all rights of ownership, whether owned or licensed in relation to any tradename, trading style and any other intellectual property of any nature whatsoever.

SCHEDULE I

PART B

Illustrative (and not exhaustive) list of all investments comprised in the Transferor Company

Investments

Rupees (as on 31.3.2006)

- >- Government Securities - National Saving Certificate
(lodged with Government Department as Security) 25,000
- > Investment in Subsidiary Company
#22,59,50,000 Equity Shares of Rs.5/- each partly paid #33,89,25,000
- # The Transferor Company has also paid Rs.54.25 Crores as call money in advance on the above Equity Shares.

SCHEDULE II

Part A

Illustrative (and not exhaustive) descriptive list of licenses, approvals, permissions, consents, registrations, and certifications, rights, entitlements, agreements etc. of the Transferor Company

1. Registration Certificate No. 48/2002 for Infrastructure Provider Category - I (IP-I) dated 12.02.2002 issued by Ministry of Communication, Government of India.
2. Certificate of Importer Exporter Code issued by Ministry of Commerce, Government of India date of Issue 27* May 2002 IEC Code 0502013737.
3. Order No.JPD/CE(C)/C.II/F.4(138)/Pt.II/D.291 dated 20th February 2003 issued by Jaipur Vidyut Vitran Nigam Limited; Office of the Chief Engineer (Commercial) for laying of coaxial T.V. cables/Optical Fibre Cables on Discom's electric poles & also erection of separate poles.
4. ISP License No.820-612/2002-LR dt. 14.02.2002 issued by Ministry of Communication, Department of Telecommunication, Government of India.
5. All permissions and approvals received from statutory and municipal bodies in respect of the carrying on of the business of providing Internet, IT industry, Network, Technology Provider, EPC Contractor, Cable TV., on demand TV, E-governance, Telecommunication Services in terms of the aforesaid licenses or any other services as may be provided by the Transferor Company.
6. All registrations, permissions, recognitions received from statutory and regulatory authorities including from the Trade Mark Registry, Sales Tax Department, Income Tax Department, VAT, Entry Tax, Excise and Service Tax Departments, The Labour Departments, Shop and Commercial Establishment Department of various States and any registration/ recognition under any local sales tax act of Andhra Pradesh, Rajasthan or any other state of India or any other local By-Laws, Orders, Rules, Regulations, Stipulations or Acts.

SCHEDULE II

Part - B

Illustrative (and not exhaustive) descriptive list of all immovable assets including any other title, interest or right in such immovable assets, of the Transferor Company

DETAILS OF LEASEHOLD PROPERTIES

Sr. No.	Place	Property Address	Area Sqm
1.	Jaipur	Plot No. E-1007, Sitapura Industrial Area Phase - III, Jaipur allotted by Rajasthan State Industrial Development & Investment Corporation Limited vide their Letter No.U(25)-3(2-1007)/2002/3759 dated 31st March 2002	3990

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH JAIPUR
ORIGINAL JURISDICTION
COMPANY PETITION No. 11 OF 2012
IN THE MATTER OF THE COMPANIES ACT, 1956
AND
IN THE MATTER OF SECTIONS 391 AND 394
OF THE COMPANIES ACT, 1956
AND**

**IN THE MATTER OF SCHEME OF AMALGAMATION OF
AKSH TECHNOLOGIES LIMITED, F-1080, RIICO INDUSTRIAL AREA, PHASE-III, BHIWADI -301019,
RAJASTHAN, THROUGH COMPANY SECRETARY, GAURAV MEHTA**

..... TRANSFEROR/PETITIONER COMPANY-I

WITH

AKSH OPTIFIBRE LIMITED, F-1080, RIICO INDUSTRIAL AREA, PHASE-III, BHIWADI -301019, RAJASTHAN,
THROUGH COMPANY SECRETARY, GAURAV MEHTA

..... TRANSFeree/PETITIONER COMPANY-II

(Collectively referred to as the Petitioner Companies)

PETITION UNDER SECTION 391 AND 394 OF THE COMPANIES ACT, 1956

In the High Court of Judicature for Rajasthan
Jaipur Bench

**

Company Petition No. 11/2012

For sanction (2nd Motion) of amalgamation of
Aksh Technologies Ltd (**Transferor Company**)
With Aksh Optifibre Ltd (**Transferee Company**)

/Reportable/

Date of Order::: 08/11/2012

Hon'ble Mr. Justice Ajay Rastogi

Mr. Sudhir Gupta Sr. Advocate with Mr. Sachin Mehta)

Mr. Sunil Nath, Mr. Parikshit Singh &

Mr. Vikas Goyal, for petitioners – (Transferor & Transferee- Cos.)

Mr. Amod Kasliwal, for OL

Mr. Amol Vyas, for respondents

Mr. Rajendra Salecha, for Objector (M. Gupta & Sons)

Instant Company petition has been jointly filed by Transferor & Transferee Cos. U/s 391 to 394 of Companies Act, 1956 ("Co. Act") praying for sanction to be accorded to the Scheme of Amalgamation of Aksh Technologies Ltd (Transferor Co.) with Aksh Optifibre Ltd (Transferee Co.) on the terms contained in the Scheme (Ann. P-1).

Registered Office of both Transferor & Transferee Companies are situated in Rajasthan within territorial jurisdiction of this Court. As alleged, the Scheme of amalgamation is to amalgamate Aksh Technologies Ltd (Transferor Co.) with Aksh Optifibre Ltd (Transferee Co.). Salient features alongwith object of the Scheme besides circumstances necessitating amalgamation of the Companies are explained in details in SB Company Application No. 24/2012 at

paras 16 & 17 and this Court finds no reason to disagree with the expectations of Petitioner –Cos. As alleged, balance sheets of both the Transferor & Transferee Cos., are placed on record alongwith resolutions of their respective Board of Directors approving the Scheme of Amalgamation.

Vide order dt. 12/04/2012 in Company Appl. No. 24/2012, it has come on record that the Transferor Co., is having seven equity share holders who have given their unconditional consent to the proposed Scheme vide letters (Ann. A) while there are no secured creditors of Transferee Co., as is evident from document (Ann. E). Thus, meetings of equity share holders of Transferor Co., and of secured creditors of Transferee Co., were dispensed with and accordingly meetings of secured & unsecured creditors of Transferor Co., and equity shareholders & unsecured creditors of Transferee Co., were directed to be convened and which were duly convened on 18/05/2012. The reports as regards result of afore-directed meetings were submitted by Chairpersons duly verified by their affidavits annexed thereto (Ann. 12, 14, 16 & 18). Counsel for the petitioner – cos., submits that all the equity share holders, secured & unsecured creditors of both the Transferor & Transferee Cos., as the case may be, present at the meetings have unanimously approved the scheme of amalgamation . Hence instant company petition has been filed.

It has come on record that authorized share capital of Transferor Company as on 29/03/2012 was of One Crore & One lakh fully paid up equity shares each of Rs. 5/- having net worth of Rs. Five Crores & Five lakh which was the issued, subscribed & paid up capital; whereas authorized share capital of Transferee company was 16,00,00,000/- (sixteen Crore) fully paid up equity shares each of Rs. 5/- having net worth of Rs. 80,00,000,000/- Eighty Crores while its issued , subscribed & paid up capital was of 14,29,24,871 (Fourteen Crore Twenty Nine Lacs Twenty Four Thousand & Eight Hundred Seventy One) fully paid up equity shares each of Rs. 5/- having net worth of Rs. 71,46,24,355 /- (Seventy One Crore Forty Six lacs Twenty four thousand three hundred & fifty five only).

It has also come on record that pursuant to the proposed Scheme having become effective & consequent upon amalgamation of Transferor Co., into Transferee Company, the authorized share capital of Transferee Company as on 31/03/2011 will be of 17,01,00,000/- equity shares each of Rs.5/- having net worth of Rs. 85,05,00,000/- .

Vide order dt.31/05/2012, in addition to the issuance of notices to the Official Liquidator and Regional Director (Northern west Region) Ministry of Corporate Affairs, Ahmedabad this Court also directed for publication of the notices in Rajasthan Patrika (Rajasthan Edn.) & Financial Express (English / N.Delhi Edn). These have been duly carried out. Despite public notice of the company petition in the news papers, no one has filed any objection to the grant of sanction to the proposed scheme and there has also been no appearance before this Court with the exception of Mr. M. Gupta & Sons (HUF) to oppose the prayers contained in the instant petition or to the proposed scheme.

In response to the notice issued vide order dt. 31/05/2012, the Regional Director has filed an affidavit inter-alia averring in para 2 (c) that there appears no objection to the proposed scheme of amalgamation between the petitioner- companies and the scheme does not prima facie appear to be prejudicial to the interest of the share holders and and public at large. At the same time, the Official Liquidator has also filed an affidavit along with report of Chartered Accountant, who examined the accounts Books for Three Financial years & other records of Transferor Co. and in the reports, the CA finally concluded that the affairs of the Transferor Co. and in the reports, the CA finally concluded that the affairs of the Transferor Company has not been conducted in a manner prejudicial to the interest of its members & creditors. Similarly, the OL has no objection, if , upon sanction of scheme of Amalgamation , Transferor Co. is ordered to be dissolved without winding up U/s 394(1)(iv) of Co. Act; however , nobody else raised any objection for the Scheme of Amalgamation. Rejoinder to the affidavit of the Official Liquidator has been filed clarifying about the observations made in the report of Chartered Accountant.

Before dealing with objections raised by M. Gupta & Sons (HUF), claiming to be one of unsecured creditor of Transferee Co., it would be relevant to record that the objector earlier filed company petition No. 60/2005 before the High Court of Delhi seeking winding up of Transferee Co., U/s. 439 read with 433(e) & 434 of the Co. Act and in para 9 of the petition, it was averred ad infra:

“9. That, as on 31/01/2005, the respondent company (Aksh Broadband Ltd) is indebted & indebted to the petitioner HUF, the creditor of respondent company in the total aggregate sum of Rs.14,41,898/- comprising of an outstanding principal balance amount of Rs. 11,89,400/- besides the costs and interest accrued thereon upto 31/01/2005 in the sum of Rs. 2,52,498/-.”

However, from the reply filed in Company petition before the High Court of Delhi, the Transferee Co. denied its alleged indebtedness to the objector (HUF) which ultimately withdrew winding up petition -60/2005 with the liberty to file recovery proceedings in appropriate forum in accordance with law and accordingly winding up petition No. 60/2005 came to be dismissed as withdrawn with the liberty as prayed for vide order dt. 06/03/2012 (Ann.0.6) of the Delhi High Court.

Thereafter, the objector (HUF) served statutory legal notice dt. 20/07/2012 (Ann.0.7) invoking arbitration clause obviously for settlement of their dispute, which at one stage was agitated for settlement in winding up petition No. 60/2005 before High Court of Delhi. However, this Court has been apprised of the proceedings thereafter having been initiated.

Counsel for the Objector submits that there was complete defiance of mandatory directions given by this court vide order dt. 12/04/2012 in Co-Appl.- 24/2012 for holding of the meetings of unsecured creditors and that apart, meeting of 19270 unsecured creditors holding debts of Rs. 117.17 lacs as on 29/02/2012 as is evident from list of unsecured creditors (Ann. E) was required to be held; whereas in respect of Seven Creditors, a sum of Rs. 88.59 Crores have been shown while against 19025 security deposit holders, no balance is shown but total sum shown is of 94.22 Crores as against total taken note of by the court as of 117.17 Crores and that apart, the list does not relate to 19270 unsecured creditors and thus it cannot be considered to be exhaustive list of unsecured creditors.

Further objection raised by Objector was that the notice was to be served by ordinary post to the unsecured creditors under the supervision of the Chairperson of the meetings; however, it does not reveal from the record or from the affidavit of Chairpersons of the directed meetings that notices have been sent under their supervision and in absence of proper service of notices in compliance of directions vide order dt. 12/04/2012 it defeats the very purpose of holding of the directed meetings particularly of the unsecured creditors to which the Objector is also one of the members.

Next objection raised by Objector is that as per order of the Court, meeting was called upon of unsecured creditors but it did not provide for participation of the proxy in course of holding the directed meetings; and according to the objector, there has been non compliance of stock exchange requirement and that apart, pendency of the winding up petition (No. 13/2011) before the High Court of Rajasthan was suppressed from this Court and that was in violation of S. 391 of Co. Act.

Counsel for Objector has tried to convince that reports of the Official Liquidator are not in conformity with S. 391 & 394 of Co. Act. Counsel also submits that cardinal contours for considering sanction of the scheme based on anvil of public interest being made subjective with relation to the specific aspects of procedural compliance as has been enlightened by Apex court in *Miheer H. Mafatlal V/s. Mafatlal Industries Ltd* (AIR 1997 SC 506), have been completely given go-bye and a procedural requirement could not have been conducted in such a manner; and it prima facie defeats the public interest.

All the objections pointed out by the Objector have meted out by petitioner- Cos. Counsel for petitioner Cos. Submits that apart from going into technicalities having been pointed out by the objector, it is suffice to say that after statutory notice being served for initiation of objector that Transferee Co. is indebted to the objector, he has no *locus standi* to question the scheme and that apart from the material on record, the financial status of Transferee Co. after proposed Scheme being effective is much strengthened and the indebtedness of Transferee Co., as being claimed by Objector, even after judicial determination, can always be meted out and according to the petitioner- Cos., the Objector is using instant proceedings as money recovery mechanism which is not permissible under the law and as regards alleged recovery pursuant to statutory notice served, the Objector has a legal remedy & liberty to claim before Arbitral Tribunal; and moreover, the Objector has failed to show in any manner that the proposed scheme is against the interest of stake holders or public at large.

Counsel for Petitioner- Cos. Further submits that meetings of Transferee Co., were held of unsecured creditors of the value of Rs. 117.17 Crores as on 29/02/2012 and its list was placed on record as Ann.E which gives out complete details of unsecured creditors of Transferee Co., except subscribers having made small deposits towards refundable security for accessing Internet protocol television service which is the basic business of Transferee Co, and details of unsecured creditors were made available on record and there was no error committed in holding the meetings of unsecured creditors of Transferee Co.

As regards objection in respect of service of the notices through ordinary post to the unsecured creditors under supervision of Chairperson, Counsel for petitioner- Cos., submits that apart from the name of objector being included in the category of unsecured creditors, mere absence of the address against Objector's name cannot be considered to be fatal more so when the Objector had dragged the Transferee Co. into litigation in one forum or the other; and the Transferee Co, did not owe any amount to the objector while basic reason for misconception on the part of Objector was due to non-encashment of a cheque of Rs. 85,50/- by the Objector – as a consequence whereof, reverse entry was required to be made in the books of Transferee Co., which being the position, the Transferee Co., always denied any liability towards the objector. That apart, notice was sent to the objector on its last known address having been taken note of by the Chairpersons in their report and merely because expression “under my supervisions” having not been mentioned by Chairpersons in their reports, it is wholly inconsequential and it does not affect the validity either of the report or of the notices being sent and meetings being convened.

As regards objection of the Objector in respect of participation of proxy in the directed meetings of unsecured creditors, Counsel for petitioner Cos, submits that the court's order nowhere restricted or prohibited that the meeting cannot be participated through proxy; however, attendance of meeting by stake holders through proxy is well

recognized under the Co. Act and Rules made there under. That apart, the disclosure was made without prejudice to all rights & contentions of the petitioner qua the merit of any claim of the objector if raised before a forum of competent jurisdiction and such objection regarding falsification of documents is wholly misconceived.

As regards non compliance of stock exchange requirement, Counsel submits that the petitioner Cos. Have obtained approval of the proposed Scheme from National Stock Exchange & Bombay Stock Exchange, which was duly mentioned in the notices served to all the stake holders including unsecured creditors as is evident from copy of approval given by both, NSE & BSE prior to filing of Co. Appl. 24/2012 vide document dt. 26/03/2012 filed along with additional affidavit dt. 25/09/2012.

As regards objection in respect to suppression of the fact of pendency of winding up petition (No. 13/2011); Counsel submits that requirements provided U/s. 391 of Co. Act were duly complied with by petitioner- Cos., and that apart, winding up proceedings have been amicably settled after being resolved through process of mediation and are likely to be closed shortly based on the amicable settlement.

Counsel for petitioner –Cos. further submits that as a result of amalgamation, financial status of Transferee Co. would certainly strengthen increasing its net worth as on 30/06/2012 to the extent Rs. 33,515.66 lacs and its revenue would increase by 6,021.22 lacs, and net worth by Rs. 1,519.91 lacs.

This court has considered the submissions made by Counsel for petitioner – Cos., Regional Director, Ministry of Corporate Affairs & Official Liquidator; Counsel for the Objector and with their assistance, examined the material placed on record.

The Apex Court in *Miheer H. Mafatlal Vs. Mafatlal Industries Ltd* (supra) has examined scheme of compromise & arrangement U/s 391 & 394 of co. Act; and observed that the Company Court is not holding jurisdiction like an appellate authority to minutely scrutinize the Scheme and arrive at an independent conclusion whether the Scheme should be permitted to go through or not when majority of creditors or members or their respective classes have approved the Scheme as required by S. 391(2) of co. Act and this court certainly would not act as a court of appeal and sit in judgment over the informed view of the concerned parties to the compromise as the same would be in the realm of corporate and commercial wisdom of the concerned parties obviously because the Court has neither expertise nor the jurisdiction to delve deep in to the commercial wisdom exercised by creditors and members of the company who have ratified the Scheme by the requisite majority. However, jurisdiction of Company Court is peripheral and supervisory and not appellate.

Taking note of the scheme of s. 391 & 394 of Co. Act, the Apex Court laid down certain broad contours for being kept in mind as infra:

“In view of the aforesaid settled legal position, therefore, the scope and ambit of jurisdiction of the company court has certainly got ear- marked. The following broad contours of such jurisdiction have emerged:

1. The sanctioning court has to see to it that all the requisite statutory procedure for supporting such a scheme has been complied with and that the requisite meeting as contemplated by Section 391(1)(a) have been held.
2. That the scheme put up for sanction of the Court is backed up by the requisite majority vote as required by Section 391 sub-section (2).
3. That the concerned meetings of the creditors or members or any class of them had the relevant material to enable the voters to arrive at an informed decision for approving scheme in question. That the majority decision of the concerned class of voters is just fair to the class as a whole so as to legitimately blind even the dissenting members of that class.
4. That all the necessary material indicated by Section 393(1)(a) is placed before the voters at the concerned meetings as contemplated by Section 391 sub-section (1).
5. That all the requisite material contemplated by the provision of sub-section (2) of Section 391 of the Act is placed before the Court by the concerned applicant seeking sanction for such a scheme and the Court gets satisfied about the same.
6. That the Proposed Scheme of compromise and arrangement is not found to be violative of any provision of law and is not contrary to public policy. For ascertaining the real purpose underlying the Scheme with a view to be satisfied on this aspect, the Court, if necessary, can pierce the veil of apparent corporate purpose underlying the scheme and can judiciously X-ray the same.
7. That the Company Court has also to satisfy itself that members or class of members or creditors or class of creditors as the case may be, were acting bona fide and in good faith & were not coercing the minority in order to promote any interest adverse to that of the latter comprising of the same class whom they purported to represent.
8. That the scheme as a whole is also found to be just, fair and reasonable from the point of view of prudent men of business taking a commercial decision beneficial to the class represented by them for whom the scheme is meant.

9. Once aforesaid broad parameters about requirements of a scheme for getting sanction of the Court are found to have been met, court will have no further jurisdiction to sit in appeal over the commercial wisdom of the majority of the class of persons who with their open eyes have given their approval to the scheme even if the view of the Court would be a better scheme for the company and its members or creditors for whom the scheme is framed. The court cannot refuse to sanction such a scheme on that ground as it would otherwise amount to the court exercising appellate jurisdiction over scheme rather than its supervisory jurisdiction.”

The aforesaid parameters of the scope and ambit of the jurisdiction of the Company Court which is called upon to sanction a Scheme of Compromise and Arrangement are not exhaustive but only broadly illustrative of the contours of court's jurisdiction.”

On a bare reading of relevant scheme of the compromise or to make arrangement with creditors & members as referred to in s. 391 of Co. Act and from contours laid down by Apex Court(supra) it clearly envisaged that if a compromise or arrangement is proposed between a company and its creditors, the Court may, on an application of the company or of any creditor or its member, order a meeting of the creditors or class of members, as the case may be, to be called and conduct in such manner as the court directs and it is thereafter that the Company shall send a notice calling the meeting to a creditor or member, duly accompanied by a statement setting forth the terms of the compromise or arrangement explaining its effect. Such a notice should also mention the place at which & manner in which creditors or members entitle to attend the meeting on obtaining copies of the aforesaid statement. Such notice is also issued through publication in a newspaper as ordered by the Court. It is only thereafter, if in the meeting convened for the purpose, the said scheme is approved by requisite statutory majority of the share holders and creditors of the Company; the question of according sanction for such a scheme by the court arises.

However, merely because if notice has not been issued to one of the creditors U/s 391 of Co. Act, it would not be fatal to the resolution passed in such meeting convened. In the instant case, material has been placed on record that notice came to be issued and that apart objecting member of the Company has always been vigilant as is evident from the fact brought on record that Objector (M.Gupta & Sons) earlier initiated winding up proceedings and issued statutory legal notice raising dispute invoking arbitration clause for recovery of its dues.

The whole object behind statutory requirement of issuing notice to the share holder and creditor of the Company is to hear all the affected persons as the proposed scheme if accepted by Court would affect their rights. Therefore, before sanctioning of the scheme sought from the Court such a scheme is to be placed before creditors & share holders so as to afford an opportunity to have their say in the matter. Further safeguard is made under law by insisting that such a scheme has to be approved by 3/4th majority so that interest of class of share holders and class of creditors is sought to be protected. In order to find out whether non-issuance of a notice to a particular member/ creditor of the company is fatal or not, what is to be seen is what is the value of debt the company owes to him and whether if he was present in such a meeting and voted against the resolution, would it have made any difference or having adverse effect? If such meeting notice in advance is given as required under law, not only he has a right to object to the passing of resolution but can also mobilize requisite support among a class of creditors. Therefore, the law required not only personal service of notice to the creditors & shareholders but there should also be a publication of notice in newspaper. But s. 391 does not make it obligatory either upon the Court or Company to serve a notice of the creditor's meeting on each & every creditor of the company, failure whereof the law does not declare such a meeting invalid and any resolution passed in such a meeting as void.

In the event of such a shareholder or creditor not served with personal notice, he can appear in such a meeting by virtue of the meeting having been made known to him through news paper publication of notice.

However, in the instant case, if a creditor is not issued with a notice, as alleged for the meeting convened to consider the scheme, overwhelming majority of the creditors approve the proposed scheme then it cannot be said that the meeting itself is invalid and the resolution approving the scheme becomes void. It is not the case herein complaining that large number of creditors/ share holders were not given notice of the meeting with a malafide intention and by such exclusion in the meeting held, 3/4th majority is obtained out of creditors present and voting; and if such creditors may request the Court to take note of the fact of requirement of notice being not serves. But this is not the case before this Court.

From the material having come on record, it is not possible to hold that a meeting conducted pursuant to permission granted by the court when there is substantial compliance of s. 391(2) of Co. Act is invalid or void merely on the ground that one of the creditors (Objector) has not been served with a notice. The Court has to take note of all the attendant circumstances, the intention and conduct of the Company, the intention of the creditors, terms of the scheme and then come to the conclusion whether to grant the sanction sought for or not.

In the instant case, debt as alleged by Objector has not been admitted by Transferee Co. and the claim of objecting creditor being disputed and is subject matter of arbitral proceedings. However, no hard & fast rule can be laid down in a case whether the person complaining for lack of notice is a creditor in the strict sense or not. But if a debt is disputed

and is the subject matter of litigation and if total value of such debt makes no significant difference to the total amount of debt due by the company and at the same time, if a substantial/ overwhelming majority of creditors approve a scheme, non-issuance of notice to a salutary creditor would not affect the meeting held or resolutions approved in such meeting.

However, in order to get relief, the objecting creditor must show that there is debt due to him and the debt is either admitted by the Company or the court prima facie comes to the conclusion that the debt is due or that the scheme is unjust & unfair to the creditors or any class of creditors to whom the objecting creditor belongs or that the scheme is either malafide or fraudulent and is likely to adversely affect him or the interest of creditors or any class of them is likely to be adversely affected if the scheme being sanctioned without securing him or any or all the creditors. Thus, what came to be examined by Bombay High Court in Mayfair Ltd in Re. Zodiac Clothing Co. Ltd (2004 (Vol.122)) Co. Cases 748) indicates that for sanctioning the scheme , S. 391 of Co. Act is not a tool in the hands of the creditor to pay, especially when the debt was not admitted.

Nothing has been pointed out by the Objector regarding the scheme being fraudulent or mala fide or in any manner adversely affecting him or any member of Transferee Co. or their debt has to be secured. Nothing has been shown, how proposed scheme is unjust & unfair to the objecting creditor or class of creditors either of the Transferor or Transferee Company.

It has always to be kept in mind that provision of S.391 & 394 of Co. Act is not a tool in the hands of a creditor to recover money or coerce the company to pay money as the objecting creditor can seek remedy to recover the dues if any, which in the instant case, has already been restored to by objecting creditor through statutory legal notice invoking arbitration clause in terms of the agreement. However, it cannot be a condition precedent for sanctioning of the proposed scheme. Therefore, in the opinion of this Court, there appears to be no locus at least for the present objecting creditor to oppose the sanction of the proposed Scheme of amalgamation on any of the grounds in the attending circumstances (supra).

All that to be seen for sanctioning of the Scheme, is whether the interest of creditor is protected and the Scheme provides for any reasonable mode made for discharge of that liability and in case of amalgamation whether Transferee Co. is acknowledging and able to discharge the said liability . when a Statutory majority of creditors cannot be permitted to veto the majority view and block the approval of the proposed scheme, that being precisely the reason that the petition is filed before court for sanction; and once sanction is granted the majority view is respected, and by the order of sanction; the minority is bound by such scheme. Therefore non-issuance of a notice to a creditor would not vitiate a meeting convened with the permission of the Court U/s 391(2) of Co. Act.

In view of settled legal position as taken note of (supra), from the material placed on record before this Court for sanction of proposed Scheme of amalgamation, it clearly depicts that the Company has complied with all statutory requirements as envisaged in S. 391 of Co. Act; and from the appointed day, petitioner-Cos., without any further act or deed together with all its properties, assets , rights, benefits or interest therein transfers to and vest in the transferee company all debts, liabilities, duties & obligations, secured & unsecured, and whether or not provided in the books of account, whether or not provided in the books of account, whether disclosed or undisclosed in the balance sheet shall be the debts, liabilities, duties & obligations of the Transferee Company which acknowledges all those liabilities. The proposed Scheme of amalgamation of Transferor Company into Transferee Company is in line with the global trends to achieve, size, scale, integration & greater financial strength, flexibility, in the interest of maximizing share value. Resultant entity is likely to achieve higher long –term financial returns than what could be achieved by both the Companies individually. Restructuring would enable focused business approach for the maximization of benefits to all stakeholders & opportunity for future consolidation There is no legal impediment for sanctioning the proposed scheme. None of the provisions Scheme offends any law and it is snot against public interest. Taking note of what has been considered (supra) this Court is satisfied that the Scheme of amalgamation/ arrangement proposed by petitioner cos., is in the interest of share holders, creditors, workmen & public at large and considers appropriate to accord sanction the Scheme of Amalgamation with the observations that the Transferee Co. will comply with requirement of AS- 14 & maintain their Accounts Books as per Accounting Standards notified by Central Govt. u/s 211(3A) of Co. Act.

Consequently, instant company petition is allowed. This Court do hereby approve/ sanction Scheme of Amalgamation (Ann. P-1) appended to the Company petition, as a result whereof, Transferor Co., is ordered to be dissolved without winding up u/s. 394(1) (iv) of the Co. Act and do hereby declare the same to be binding on creditors & share holders of the petitioner- Transferor/ amalgamating Co. w.e.f. 01/04/2011 appointed day.

The parties to this arrangement or other persons interested shall be at liberty to apply to this court for any directions that may be necessary regarding the working of compromise / arrangement. The order in prescribed Dorm no. 42 be issued separately by the Registrar as per R. 84 of Companies (Court) Rules,. 1959.

The said Companies may file with the Registrar of Companies a certified copy of this order within 30 days. Official Liquidator shall be entitled to Rs. 5,000/- (Rupees Five Thousand) each from the Transferor ad Transferee Companies towards misc. expense.

Sd/-
(Ajay Rastogi), J

**SCHEME OF ARRANGEMENT
BETWEEN
AKSH TECHNOLOGIES LIMITED – Transferor Company
AND
AKSH OPTIFIBRE LIMITED – Transferee Company
AND
THEIR RESPECTIVE SHAREHOLDERS AND CREDITORS**

This Scheme of Arrangement (“**Scheme**”) is proposed for Amalgamation of Aksh Technologies Limited (“**the Transferor Company**”) with Aksh Optifibre Limited (“**the Transferee Company**”), pursuant to Sections 391 to 394 and other applicable provisions of the Companies Act, 1956.

PREAMBLE

(A) Background and Description of the Transferor Company and the Transferee Company

1. Aksh Technologies Limited, the Transferor Company, is a Public Unlisted Company incorporated on March 13, 2008, under the Companies Act, 1956. The registered office of the Transferor Company is situated at F-1080, RIICO Industrial Area, Phase – III, Bhiwadi – 301 019, Rajasthan. The Transferor Company is a wholly owned subsidiary of Aksh Optifibre Limited, the Transferee Company. The main objects of the Transferor Company, as per Main Objects Clause of its Memorandum of Association is to:
 - a. manufacture, refine, roll, re-roll, draw, melt, import-export and to deal in all kinds of rods including FRP (Fibre Re-enforced Plastic) Rods, strips, wires, circles, tubes, squares, cables, alloys, iron and steel ferrous and non-ferrous metals, machinery, machine parts, tools and implements of all kinds based on various technologies.
 - b. To carry on manufacture, trade, sale import and export of all types of optical fibres such as step index, graded index and mono mode and other types of Fibres required for use in fibre optic systems and cables, for use in industrials applications, medical use, instrumentation, in defence systems, signaling, telecommunication, multi channel video communication, data communication and other communication and electronic applications.
 - c. To carry on the manufacture, trade, sale, import and export of equipment used for Fibre Optic Network such as Line Terminal, Equipment, Multi Plexers, Opto-Electronic Instruments, Line Repeaters, Joining and Terminating Equipment, Materials and Accessories, Laser Device, Light Emitting Device, Testing and Measuring Equipments.
2. Aksh Optifibre Limited, the Transferee Company, is a Public Listed Company incorporated on March 19, 1986 under the Companies Act, 1956. The registered office of the Transferee Company is situated at F-1080, RIICO Industrial Area, Phase – III, Bhiwadi – 301 019, Rajasthan. The shares of the Transferee Company are listed on the Bombay Stock Exchange Limited and the National Stock Exchange Limited. The main objects of the Transferee Company, as per Object clause of its Memorandum of Association amongst others, is:
 - a. to design, develop, install erect, seek right of way, lay, write software, deploy, operate, maintain and provide consultancy and management services or undertake turnkey projects for manufacturing, installing, laying, commissioning, operating of all or any type of networking and communication systems based on either Fibre Optic, Wireless, Satellite, Non-Fibre Optic systems or hybrid of any of these systems/solutions providing bandwidth in various forms, in India or elsewhere.
 - b. to carry on the business of content provider (including video, audio and gaming based contents) through voice or broadband network or otherwise in India or abroad.

(B) Purpose of the Scheme

1. This Scheme of Amalgamation is presented under Section 391 to Section 394 of the Companies Act, 1956 for the Amalgamation of Transferor Company with the Transferee Company.
2. This Scheme also provides for various other matters consequential or otherwise integrally connected therewith.

(C) Rationale of the Scheme

The circumstances that have necessitated the Scheme are as under:

The Transferor Company is engaged in the manufacture and sale of business of all types of Optical Fibres, Optical Fibre Cables, and all kinds of rods, including FRP (Fibre Re-enforced Plastic) Rods and the Transferee Company is

engaged in the business of providing Internet Protocol Television (IPTV), Voice over Internet Protocol (VoIP) and Fibre To Home solution (FTH), using the products manufactured by the Transferor Company.

In order to derive further operational benefits, there is a need to consolidate the operations of the Transferor Company with the Transferee Company so as to derive optimal administrative, management and synergy benefits and consequently achieve cost savings, pooling of managerial skills and utilization of valuable resources by carrying out the operations in the Transferee Company.

The Amalgamation of the Transferor Company with the Transferee Company would, *inter alia*, have the following benefits:

- a. The Transferee Company will be able to provide single window integrated networking/telecom solutions as well as acquire the existing business of the Transferor Company.
- b. The Amalgamation will enable creation of larger entity and derive optimal management and synergy benefits. The proposed Scheme is expected to result in business synergies besides economies in cost by combining all the functions, related activities and operations resulting in higher profitability and benefits in the form of financial resources, managerial and technical expertise. The Scheme is to enable the business of the Transferee Company to be carried out more conveniently and advantageously in a manner that will enhance its shareholder value.
- c. The Amalgamation would create economies in administrative and managerial costs by consolidating operations and will substantially reduce duplication of administrative responsibility and multiplicity of records and legal and regulatory compliances.
- d. The Amalgamation will also improve the financial structure and cash flow management of the Transferee Company.
- e. Greater efficiency in cash management of the Transferee Company and unfettered access to cash flow generated by the combined business which can be deployed more efficiently to fund organic and inorganic growth opportunities, to maximize shareholders' value of the Transferee Company.
- f. Improved organizational capability and leadership arising from the pooling of human capital, which have diverse skills, talent and vast experience to compete successfully in an increasingly competitive industry.
- g. Benefit of operational synergies to the Transferee Company which will translate into better rewards to its stakeholders.
- h. Cost savings are expected to flow from more focused operational efforts, rationalization, standardization and simplification of business processes, productivity improvements, improved procurement, and the elimination of duplication, and rationalization of administrative expenses.
- i. Strengthened leadership in the industry, in terms of the asset base, revenues, product range, production volumes. The Transferee Company will have the ability to leverage on its large asset base, diverse range of products and services, and vast pool of intellectual capital, to enhance shareholder's value.

In view of the aforesaid, the Board of Directors of the Transferor Company as well as the Board of Directors of the Transferee Company have considered and proposed the amalgamation of the entire undertaking and business of the Transferor Company with the Transferee Company in order to benefit the stakeholders of the Transferee Company. Accordingly, the Board of Directors of both the companies have formulated this Scheme of Amalgamation for the transfer and vesting of the entire undertaking and business of the Transferor Company with and into the Transferee Company pursuant to the provisions of Section 391 to Section 394 and other relevant provisions of the Act.

(D) Parts of the Scheme

The Scheme is divided into the following parts:

- (a) PART I deals with the Definitions and Share Capital;**
- (b) PART II deals with the Amalgamation;**
- (c) PART III deals with the Accounting Treatment; and**
- (d) PART IV deals with Other Terms.**

PART I - GENERAL

1. GENERAL:

This Scheme of Arrangement provides for the amalgamation of AKSH TECHNOLOGIES LIMITED with AKSH OPTIFIBRE LIMITED.

2. DEFINITIONS:

2.1 In this Scheme, unless inconsistent with the context or subject, the following expressions shall have the meanings assigned to them respectively below:

“**Act**” means the Companies Act, 1956 and any statutory modification or re-enactment thereof for the time being in force;

“**Appointed Date**” means 1 April 2011;

“Effective Date” shall mean the date on which certified copies of the orders of the High Court under Section 394 of the Act are filed with the Registrar of Companies. References in this Scheme to the date of “coming into effect of this Scheme” or “effectiveness of the Scheme” shall mean the Effective Date;

“Scheme” means this Scheme of Arrangement in its present form or as may be modified in accordance with the order of the Hon’ble High Court of Jaipur;

“Transferee Company” means Aksh Optifibre Limited, a company incorporated under the Act and having its registered office at F-1080, Phase III, RIICO Industrial area, Bhiwadi, Rajasthan-301019;

“Transferor Company” means Aksh Technologies Limited, a Company incorporated under the Act and having its registered office at F-1080, Phase III, RIICO Industrial area, Bhiwadi, Rajasthan-301019;

“Undertaking” shall mean and include:

- (i) All the assets and property, tangible or intangible of the Transferor Company, as at the Appointed Date (hereinafter referred to as the **“Assets”**); and
- (ii) All the secured and unsecured debts, liabilities, duties, contingent liabilities and obligations of the Transferor Company, as at the Appointed Date (hereinafter referred to as the **“Liabilities”**).

Without prejudice to the generality of Clause (i) and (ii) above, the Undertaking of the Transferor Company shall include all the Transferor Company’s reserves, movable and immovable properties, assets including leasehold rights and tenancy rights, the manufacturing facility along with all its assets, plant and machinery, furniture and fixtures, vehicles, industrial and other licenses, permits, authorization, unutilized tax credits, quota, claims, current assets, bank balances, investments, powers, authorities, allotments, approvals, consents, registrations, contracts, insurance policies, engagements, arrangements, rights, titles, interests, benefits, advantages, trademarks, rights to trade name and corporate name, patents and other industrial and intellectual properties, import quotas, rights and benefits of all agreements and all other interests, rights and powers of every kind, nature and description whatsoever, privileges, liberties, easements, advantages, benefits and approvals of whatsoever nature and wherever situate, belonging to or in the ownership, power or possession or control of the Transferor Company as at the Appointed Date.

2.2. Expressions not defined in this Scheme:

The expressions which are used in this Scheme and not defined in this Scheme, shall, unless repugnant or contrary to the context or meaning hereof, have the same meaning ascribed to them under the Act, the Securities Contracts (Regulation) Act, 1956, the Depositories Act, 1996 and other applicable laws, rules, regulations, bye-laws, as the case may be, or any statutory modification or re-enactment thereof from time to time. In particular, wherever reference is made to the High Court in the Scheme, the reference would include, if appropriate, reference to the National Company Law Tribunal (**“NCLT”**) or such other forum or authority as may be vested with the powers of the Hon’ble High Court under the Act.

3. SHARE CAPITAL:

3.1 The Authorized, Issued, Subscribed and Paid-up capital of Transferor Company as on March 31, 2011 is as under:

Authorised

1,01,00,000 Equity Shares of Rs.5/- each	Rs.5,05,00,000
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Issued

1,01,00,000 Equity Shares of Rs.5/- each	Rs. 5,05,00,000
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Subscribed and Paid-up

1,01,00,000 Equity Shares of Rs.5/- each	
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Fully Paid-up	Rs. 5,05,00,000
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Total Paid-up share capital	Rs. 5,05,00,000
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3.2 The Authorized, Issued, Subscribed and Paid-up capital of Transferee Company as on March 31, 2011 is as under:

Authorized

16,00,00,000 Equity Shares of Rs.5/- each	Rs. 80,00,00,000
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Issued, Subscribed and Paid-up

14, 29,24,871 Equity Shares of Rs.5/- each	Rs. 71,46,24,355
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Total paid-up share capital	Rs. 71,46,24,355
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PART II - AMALGAMATION

4. TRANSFER OF UNDERTAKING

Subject to the occurrence of the Effective Date, the Undertaking of the Transferor Company shall be transferred to the Transferee Company in the following manner:

- 4.1 With effect from the opening of business as on the Appointed Date, the entire Undertaking of the Transferor Company shall, pursuant to Sections 391-394 and other applicable provisions of the Act, and without any further act, instrument or deed, be and stand transferred to and vested in and/or be deemed to have been and stand transferred to and vested in the Transferee Company as a going concern, so as to become as and from the Appointed Date, the estate, assets, right, title, interests, authorities, liabilities or obligations, as the case may be, of the Transferee Company. As regards transfer of specified movable assets, the same shall be effected in the manner set forth in Clauses 4.2 and 4.3 below.
- 4.2 It is expressly provided that in respect of such of the assets of the Undertaking as are moveable in nature or are otherwise capable of transfer by physical delivery or by endorsement and delivery, the same shall be so transferred or deemed to be transferred by the Transferor Company, and shall become the property of the Transferee Company pursuant to the provisions of Sections 391-394 and other applicable provisions of the Act, as an integral part of the Undertaking.
- 4.3 In respect of moveable assets other than those specified in Clause 4.2 above, including sundry debtors, outstanding loans, advances recoverable in cash or in kind or for value to be received and deposits with Government, Semi-Government, local and other authorities and bodies the following procedure shall be followed:
- (i) The Transferee Company may give notice wherever required, in such form as it may deem fit and proper that pursuant to the Hon'ble High Court of Jaipur having sanctioned this Scheme under Sections 391-394 and other applicable provisions of the Act, the said debt, loan, advances etc. be paid to or made good to or held on account of the Transferee Company as the person entitled thereto to the end and intent that the right of the Transferor Company to recover or realise the same stands extinguished and that appropriate entry should be passed in their respective books to record the aforesaid change; and
 - (ii) The Transferor Company may give notice in such form as it may deem fit and proper, that pursuant to the Hon'ble High Court of Jaipur having sanctioned this Scheme under Sections 391-394 and other applicable provisions of the Act, the said person, debtor, or deposit shall pay the debt, loan or advance or make good the same on account of the Transferee Company and the right of the Transferor Company to recover or realize the same stands extinguished.
- 4.4 With effect from the Appointed Date, and subject to the provisions of this Scheme, the Liabilities shall be and stand transferred or deemed to have been transferred, without any further act, instrument or deed, to the Transferee Company, pursuant to the provisions of Sections 391-394 and other applicable provisions of the Act, so as to become as and from the Appointed Date, the debts, liabilities, duties and obligations of the Transferee Company 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 the Liabilities have arisen, in order to give effect to the provisions of this Clause.
- 4.5 The transfer and vesting of the Undertaking of the Transferor Company as aforesaid, shall be subject to the existing securities, charges and mortgages, if any, subsisting over or in respect of the property and assets or any part thereof of the Transferor Company.
- Provided however that reference in any security documents or arrangements (to which the Transferor Company is a party) to the assets of the Transferor Company offered or agreed to be offered as security for any financial assistance or obligations, shall be construed as reference only to the assets pertaining to the Undertaking of the Transferor Company as are transferred and vested in the Transferee Company by virtue of the aforesaid Clauses, to the end and intent that such securities, charges and mortgages shall not extend or be deemed to extend, unless agreed otherwise by the Transferee Company, to any of the other assets of the Transferee Company.
- Provided further that the securities, charges and mortgages (if any subsisting) over and in respect of the assets or any part thereof of the Transferee Company shall continue with respect to such assets or part thereof and this Scheme shall not operate to enlarge such securities, charges or mortgages to the end and intent that such securities, charges and mortgages shall not extend or be deemed to extend, unless agreed otherwise by the Transferee Company, to any of the assets of the Transferor Company vested in the Transferee Company.
- 4.6 Insofar as the various rights, quality certifications, licences, registrations, incentive schemes including those under Duty Entitlement Pass Book Scheme, licenses and customs duty drawback benefits, unutilized tax

credits, subsidies, rehabilitation schemes, special status and other benefits or privileges (granted by any Government body, local authority or by any other person) enjoyed or availed by the Transferor Company are concerned (whether as on the Appointed Date or subsequently, till the Effective Date), the same shall vest with and be available to the Transferee Company on the same terms and conditions as were applicable to the Transferor Company.

4.7 Loans or other obligations, if any, due between the Transferor Company and the Transferee Company shall stand discharged or extinguished and there shall be no further liability in that behalf.

4.8 The Transferor Company shall have taken all steps as may be necessary to ensure that vacant, lawful, peaceful and unencumbered possession, right, title and interest of its immovable property, if any, is given to the Transferee Company.

5. OPERATION OF THE SCHEME

5.1 The Scheme, though operative from the Appointed Date, shall become effective only on the occurrence of the Effective Date, as provided in the Scheme. On the Scheme becoming effective, the Transferor Company shall stand dissolved without winding up, pursuant to the provisions contained in Section 394 of the Act.

5.2 The transfer of the Undertaking of the Transferor Company to the Transferee Company and the continuance of proceedings by or against the Transferee Company, as envisaged in the Scheme, shall not affect any contract or proceedings already concluded by the Transferor Company on or after the Appointed Date to the end and intent that the Transferee Company accepts and adopts all acts, matters and things done and/or executed by the Transferor Company in respect thereto as having been done or executed on behalf of the Transferee Company.

5.3 Subject to the occurrence of the Effective Date, on and from Appointed Date and up to the Effective Date:

5.3.1 The Transferor Company shall carry on and shall be deemed to have carried on all its business and activities and shall hold and stand possessed of and shall be deemed to have held and stood possessed of the Undertaking on account of, and for the benefit of and in trust for the Transferee Company;

5.3.2 All the profits or income accruing or arising to the Transferor Company, or expenditure or losses or unabsorbed depreciation or MAT Credit Entitlement, arising or incurred (including the effect of taxes, if any, thereon) by the Transferor Company shall, for all purposes, be treated and be deemed to be the profits or incomes or expenditure or losses or unabsorbed depreciation or MAT Credit Entitlement of the Transferee Company and the Transferee Company can utilize such MAT Credit Entitlement for the payment of Income Tax on its Profits.

6. CONDUCT OF BUSINESS OF THE TRANSFEROR COMPANY FROM THE APPOINTED DATE AND UPTO AND INCLUDING THE OCCURRENCE OF THE EFFECTIVE DATE

6.1 The Transferor Company shall carry on its business with proper prudence and shall not (without prior written consent of the Transferee Company, which consent may be given by the Board of Directors of the Transferee Company or any person authorised by the Board of Directors of the Transferee Company) alienate, charge or otherwise deal with or dispose of its assets or any part thereof (except in the ordinary course of business, or pursuant to any pre-existing obligation undertaken by the Transferor Company prior to the Appointed Date).

6.2 The Transferor Company shall not take any decision for utilization of its profits or reserves or such other amounts, if any, for the purposes of (i) declaring or paying any dividend on its equity share capital, (ii) declaring any bonus shares; (iii) distributing the same in any other manner to its shareholders, unless prior written consent of the Transferee Company (which consent may be given by the Board of Directors of the Transferee Company or any person authorised by the Board of Directors of the Transferee Company) is obtained.

6.3 Save and except as may be otherwise permitted or required under the provisions of the Scheme the Transferor Company shall not make any change in its capital structure, (i) by issue of new equity or preference shares or bonus shares; or (ii) by issue of any other instrument convertible into equity shares; or (iii) otherwise by sub-division, reduction, reclassification, consolidation, buy-back, or in any other manner, except with the prior written authorisation of the Board of Directors of the Transferor Company and the Board of Directors of the Transferee Company.

7. CONTRACTS, DEEDS AND OTHER INSTRUMENTS

7.1 Subject to the provisions of this Scheme, all contracts, licenses, arrangements, deeds, bonds, agreements, insurance policies and other instruments of whatsoever nature, to which the Transferor Company is a party, or to the benefits of which the Transferor Company may be eligible, and which are subsisting or operative or having effect immediately before the Effective Date shall be in full force and effect in favour of or against the Transferee Company, and may be enforced as fully and effectively as if instead of the Transferor Company, the Transferee Company had been a party thereto or beneficiary thereto.

- 7.2 All agreements entered into by the Transferor Company with its bankers, distributors, stockists, agents, canalizing agencies, etc. if any, shall, unless terminated by the Transferor Company in the ordinary course of business or with the consent of the Transferee Company, and which are subsisting or operative or having effect immediately before the Effective Date shall be in full force and effect and may be enforced by or against the Transferee Company.
- 7.3 All subsisting agreements/arrangements of the Transferor Company relating to the use of patents, patent applications, designs, trade-marks (including logos), trade names, brands, copyrights and/or technology and all other intellectual property and rights shall accrue same as above to and for the benefit of the Transferee Company.
- 7.4 Subject to the other provisions contained in the Scheme, all contracts, deeds, bonds, agreements and other instruments of whatever nature to which the Transferor Company is a party subsisting or having effect immediately before the Effective Date shall remain in full force and effect against or in favour of the Transferee Company, as the case may be, and may be enforced as fully and as effectually as if, instead of the Transferor Company, the Transferee Company had been a party thereto.

8. ISSUE OF SHARES BY THE TRANSFEE COMPANY

The Transferor Company is a wholly owned (100%) subsidiary of the Transferee Company and on amalgamation no separate consideration shall be paid by the Transferee Company to the Shareholders of the Transferor Company and no shares shall be issued by the Transferee Company to any person in consideration of or consequent upon the amalgamation and the paid up share capital of the Transferor Company shall be extinguished upon the Scheme becoming effective.

9. COMBINATION OF AUTHORISED CAPITAL

- 9.1 Upon this Scheme becoming effective, the authorized share capital of the Transferee Company shall automatically stand increased without any further act, instrument or deed on the part of the Transferee Company including payment of stamp duty and fees payable to the Registrar of Companies, by the authorized share capital of the Transferor Company amounting to Rs. 5,05,00,000 (Rupees Five Crore Five Lac) and the Memorandum of Association (relating to the Authorized Share Capital) shall, without any further act, instrument or deed, be and stand altered, modified and amended, and no further resolution(s) under Sections 16, 94 and 394 and other applicable provisions of the Act would be required to be separately passed, as the case may be and for this purpose the stamp duties and fees paid on the authorized share capital of the Transferor Company shall be utilized and applied to the increased Authorized Share Capital of the Transferee Company and there would be no requirement for any further payment of stamp duty and/or fee by the Transferee Company for increase in the Authorized Share Capital to that extent.
- 9.2 Pursuant to the Scheme becoming effective and consequent Amalgamation of the Transferor Company into the Transferee Company, the Authorized Share Capital of the Transferee Company will be as under (based on the Authorized Share Capital of the Transferee Company as on March 31, 2011):

Particulars	Amount (Rs.)
Authorized Share Capital	
17,01,00,000 Equity Shares of Re.5/- each	85,05,00,000
TOTAL	85,05,00,000

Clause V of the Memorandum of Association of the Transferee Company shall stand substituted by virtue of the Scheme to read as follows:

"The Authorised Share Capital of the Company is Rs. 85,05,00,000 (Rupees Eighty Five Core Five Lac) divided into 17,01,00,000 (Seventeen Crore One Lac) Equity Shares of Re. 5/- each."

- 9.3 During the pendency of the Scheme and up to the Effective Date, in case the Authorised Share Capital of the Transferee Company has been enhanced, then, provisions of Clause 9.1 above shall be applied to the Authorized Share Capital so enhanced, and the quantum of shares and share capital stated in Clause 9.2 above shall stand modified accordingly.

10. LEGAL PROCEEDINGS

Upon the Scheme coming into effect, any suit, appeal, arbitration and other legal proceeding (together the "**Proceedings**") by or against the Transferor Company (i) pending at the Appointed Date, or (ii) initiated thereafter until the Effective Date, shall not abate, be discontinued or be in anyway prejudicially, affected by reason of the transfer of the Undertaking of the Transferor Company or of anything contained in the Scheme, but such Proceedings shall be continued, prosecuted or enforced by or against the Transferee Company in the same

manner and to the same extent, as it would or might have been continued, prosecuted or enforced by or against the Transferor Company if the Scheme had not been made.

11. Staff, Workmen and Other Employees

Upon the coming into effect of this Scheme:

- 11.1 All the staff, workmen and other employees (together the “**Employees**”) of the Transferor Company, who are in service on the Effective Date, shall, become the staff, workmen and employees of the Transferee Company on such date, without any break or interruption in service and on terms and conditions as to remuneration not less favourable than those subsisting with reference to the Transferor Company on the said date.

From the Appointed Date till the Effective Date, the Transferor Company shall continue to pay the remuneration to its Employees as per the terms/conditions/rules/regulations between the Transferor Company and such Employees and the Transferee Company shall not be required to take any permission/approval from any Statutory Authority(ies) towards the remuneration paid by the Transferor Company to its Employees till the Effective Date.

- 11.2 In so far as the Provident Fund, Gratuity Fund, Superannuation Fund, Pension Fund or any other Special Scheme(s), fund(s) created or existing for the benefit of the Employees of the Transferor Company are concerned (together “**Funds**”), on and from the Effective Date, the Transferee Company shall stand substituted for the Transferor Company for all purposes whatsoever related to the administration or operation of such Funds or in relation to the obligation to make contributions to such Funds in accordance with the provisions of such Funds as per the terms provided in the applicable law, rule, regulation or respective trust deeds. It is clarified that the services of the Employees of the Transferor Company will be treated as having been continuous for the purpose of the aforesaid Funds and other employee benefits and entitlements.

12. GENERAL TERMS

- 12.1 Upon the Scheme coming into effect, the Transferee Company shall be entitled to use all packaging, labels, point of sale material, signboard, samples, closures, other publicity material, etc. lying unused and which the Transferor Company is entitled to use under any statutes/regulations, till such time as all of such packaging, labels, closures, etc. are exhausted.

- 12.2 It is clarified that, subject to the occurrence of the Effective Date, all (i) taxes, cess, fees and other charges payable by the Transferor Company (hereinafter referred to as the statutory liabilities); (ii) claims or refunds of taxes, unutilized tax credits (including cenvat credit balances and input tax credit balances), cess, fees and other charges, that may be available with or due to the Transferor Company (hereinafter referred to as the statutory assets), shall for all purposes, be merged with the respective statutory liabilities and statutory assets, as the case may be, of the Transferee company. Further, post merger of the said statutory liabilities and statutory assets, wherever the statutory liability is capable of being set off or adjusted against any of the available statutory asset, the same shall be set off.. Accordingly, upon the Scheme becoming effective, the Transferee Company shall be expressly permitted to take the steps as required to reflect and record the merged statutory liabilities and statutory assets, as the case may be, and if required to revise all or any of its direct tax (including income tax) returns and indirect tax (including sales tax, excise, service tax and MODVAT/CENVAT) returns, as may be appropriate, and to claim refunds/credits, or pay the taxes due, as the case may be, pursuant to the provisions of this Scheme.

PART III - ACCOUNTING TREATMENT

13. ACCOUNTING TREATMENT

- 13.1 The Transferee Company shall, upon the Scheme coming into effect, record the Assets and Liabilities of the Transferor Company, vested in it pursuant to this Scheme, at the respective book values thereof as appearing in the books of the Transferor Company at the close of business of the day immediately preceding the Appointed Date. Investments by the Transferee Company in the equity share capital (including share premium) of the Transferor Company as appearing in its books of accounts shall stand cancelled.
- 13.2 Upon the Scheme coming into effect, the balances in the Profit and Loss Account of the Transferor Company shall be similarly aggregated with the balance in the Profit and Loss Account of the Transferee Company.
- 13.3 Upon the Scheme coming into effect, the unabsorbed Losses and General Reserve of the Transferor Company shall be adjusted against the unabsorbed Losses, and General Reserve of the Transferee Company.
- 13.4 In case of any differences in accounting policy between the Companies, the impact of the same till the Appointed Date will be quantified and adjusted in the Reserves of the Transferee Company to ensure that the financial statements of the Transferee Company reflect the financial position on the basis of its consistent accounting policies.

- 13.5 Upon the Scheme coming into effect, to the extent that there are inter-corporate loans or balances between the Transferor Company and the Transferee Company, the obligations in respect thereof shall come to an end and corresponding effect shall be given in the books of account and records of the Transferee Company for the reduction of any assets or liabilities, as the case may be.
- 13.6 For the removal of doubts, it is hereby clarified that there would be no accrual of interest or other charges in respect of any inter-company loans or balances between the Transferor Company and Transferee Company during the period between the Appointed Date and the Effective Date. It is also clarified that there would be no accrual of income or expense on account of any other transactions, including, inter alia any transactions in the nature of sale or transfer of any goods or services between the Transferor Company and Transferee Company, during the period between the Appointed Date and the Effective Date.
- 13.7 Notwithstanding the above, the Board of Directors of the Transferee Company is authorized to account any of these balances in any other manner, if such accounting treatment is considered more appropriate.

PART IV – OTHER TERMS

14. CONDITIONALITY OF THE SCHEME

- 14.1. This Scheme is conditional upon and subject to:
- (i) The approval of the Scheme, with or without any modifications, by the requisite majority of the shareholders and creditors of the Transferor Company and the Transferee Company;
 - (ii) The sanction of the Scheme being obtained from the Hon'ble High Court of Jaipur, as may be required, under Sections 391 to 394 of the Act;
 - (iii) Filing of certified or authenticated copy of the Order of the Hon'ble High Court of Jaipur sanctioning this Scheme, with the Registrar of Companies, Rajasthan at Jaipur;
 - (iv) The sanctions or approvals of appropriate Government and other authorities that may be required for giving effect to any of the provisions of the Scheme having been obtained.

If the conditions referred to in Clause 14.1 above are not fulfilled or waived, and the Scheme has not become effective then the same shall cease to have any effect and the provisions of Clause 18 shall be applicable.

15. APPLICATION TO THE HIGH COURT

- 15.1 The Transferee Company and the Transferor Company shall, with all reasonable dispatch, make applications to the High Court of Jaipur, under Section 391 of the Act, seeking orders for dispensing with or convening, holding and conducting of the meetings of the members and/or creditors of each of the Transferor Company and the Transferee Company as may be directed by the High Court of Jaipur.
- 15.2 Upon complying with the Orders of the High Court of Jaipur on the applications mentioned in Clause 15.1, the Transferor Company and the Transferee Company shall, with all reasonable dispatch, after the Scheme is duly approved by the requisite statutory majority of their respective shareholders and creditors, apply to the Hon'ble High Courts of Jaipur under Sections 391-394 and other applicable provisions, of the Act for sanctioning this Scheme and for an Order dissolving the Transferor Company without winding up.

16. MODIFICATIONS TO AND IMPLEMENTATION OF THE SCHEME

- 16.1 The Transferor Company and the Transferee Company by their respective Board of Directors may consent (which consent may be given by a Committee of the respective Boards of Directors, or any other person authorized by the respective Boards or Committee, as the case may be) to any modification or amendment of the Scheme or agree to any terms or conditions, which the Hon'ble High Court of Jaipur and/or any other Authority under any law may deem fit to direct, or impose or which may otherwise be considered necessary, desirable or appropriate by the Board of the Directors. The Transferor Company and the Transferee Company by their respective Board of Directors shall be entitled to give such directions or take such steps (which directions may be given or steps may be taken by a Committee of the respective Boards of Directors, or any other person authorized by the respective Boards or Committee, as the case may be) 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 authorities or otherwise howsoever arising out of or under or by virtue of this Scheme and/or any matter concerned therewith.
- 16.2 The expression "any other Authority" in the preceding Clause 16.1 shall include Securities and Exchange Board of India (SEBI) and the stock exchanges with which the shares of the Transferee Company are listed and with which the Transferee Company has filed a copy of this Scheme in terms of the Listing Agreement.

16.3 Notwithstanding any other provisions in the Scheme, if at any time after the Scheme has become effective, it is found that some action that was required to be taken by the Transferor Company before such date, was either not taken or not given full effect to, then the Board of Directors of the Transferee Company shall have the powers to take such further action as may be required to be taken and any such action or decision taken by the Board of Directors of the Transferee Company shall be considered valid and effectual, as if it were taken at the appropriate time by the Transferor Company.

16.4 If any part of the Scheme is found to be unworkable for any reason whatsoever, at any point of time, whether before or after receiving the consent of shareholders, creditors, Hon'ble High Court of Jaipur or any other applicable authority, the same shall not, subject to the decision of the Board of Directors of the Transferee Company or a Committee thereof, effect the adoption or implementation or validity or interpretation of the order, parts and/or provisions of this Scheme, and the approval of this Scheme by shareholders, creditors and Honb'le High Court of Jaipur shall be deemed to include the aforesaid authority to the Board of Directors of the Transferee Company. It is hereby clarified that the Board of Directors of the Transferee Company or a Committee thereof may in its absolute discretion, adopt any part of this Scheme or declare any part of the Scheme to be null and void and in that event, no rights and liabilities whatsoever shall accrue to or be incurred inter se by the parties or their shareholders or creditors or employees or any other person, in respect of that part of the Scheme, which has been so declared by the Board of Directors.

17. COMPLIANCE WITH TAX LAW

This Scheme has been drawn up to comply with the conditions relating to "Amalgamation" as specified under the tax laws, including Section 2(1B) and other relevant sections of the Income Tax Act, 1961. If any terms or provisions of the Scheme are found to be or interpreted to be inconsistent with any of the said provisions at a later date, whether as a result of any amendment of law or any judicial or executive interpretation or for any other reason whatsoever, the aforesaid provisions of the tax laws shall prevail. The Scheme shall then stand modified to the extent determined necessary to comply with the said provisions. Such modification will, however, not affect other parts of the Scheme.

18. EFFECT OF NON-RECEIPT OF APPROVAL/SANCTION

In case, the Scheme is not sanctioned by the High Court of Jaipur, or in the event any of the approvals or conditions enumerated in Clause 14 is not received or for any other reason, the Scheme cannot be implemented, the Scheme shall become null and void, revoked and cancelled, save and except in respect of any act or deed done prior thereto as is contemplated hereunder, or as to any rights and/or liabilities, which might have arisen or accrued, pursuant hereto, as is specifically provided in the Scheme or as may otherwise arise in law and each party shall bear and pay its respective costs, charges and expenses in connection with the Scheme.

19. COSTS AND EXPENSES

Subject to the provisions of Clause 18, all the costs, charges and expenses, including any taxes and duties of the Transferor Company and the Transferee Company respectively, in relation to or in connection with this Scheme and incidental to the implementation of this Scheme shall be borne and paid by the Transferee Company, which shall be treated as expenses of amalgamation.

20. SANCTION OF THE SCHEME

The sanction of this Scheme by the Hon'ble High Court of Jaipur will be considered as intimation to Shareholders, Creditors, Debtors, Employees and other concerned about the provisions of the Scheme to the extent they relate to such person/body/authority.

Dated this 4th day of December, 2012

Sd/-
Registrar(Admn.)
Rajasthan High Court Bench,
Jaipur

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
NEW DELHI**

Present: SHRI R.VARADHARAJAN, MEMBER (JUDICIAL)

CAA-149/ ND/2017

CONNECTED WITH

COMPANY APPLICATION (CAA) 42 (PB) 2017

IN THE MATTER OF SECTIONS 230-232 OF THE COMPANIES ACT, 2013

AND

IN THE MATTER OF SCHEME OF AMALGAMATION

BETWEEN

APAKSH BROADBAND LIMITED

Having its registered office at
F-1080, RIICO Industrial Area, Phase-III,
Bhiwadi (Rajasthan) -301019, India

Transferor Company/ Applicant Company No.I

WITH

AKSH OPTIFIBRE LIMITED

Having its registered office at
F-1080, RIICO Industrial Area, Phase-III,
Bhiwadi (Rajasthan) -301019, India

Transferee Company/ Applicant Company No.2

AND

Their respective Shareholders and Creditors

ADVOCATE FOR THE PETITIONERS: Mr. Pankaj Jain, Advocate

ORDER

Order Delivered on: 08.11.2017

1. This petition filed by the companies above named is coming up finally before us on 23.10.2017 for the purpose of the approval of the scheme of arrangement, as contemplated between the companies and its shareholders by way of amalgamation of the Transferor Company/ Applicant Company No. 1 with the Transferee Company /Applicant Company No.2. A perusal of the petition discloses that initially the application seeking the dispensation/ convening of the meetings of equity shareholders, secured and unsecured creditors were filed before the Tribunal in Company Application CAA 42 (PB) /2017. The Tribunal vide its order dated 09.05.2017, was pleased to dispense with the requirement of convening the meetings of the unsecured creditors of the Transferor Company/ Applicant Company No. 1 in view of their consents having been obtained and produced before it or there was none therefore the necessity of convening the meeting did not arise as the case may be.

In relation to Equity shareholders, Secured Creditors of Applicant Companies and unsecured creditors of the Applicant Company No.2, the Tribunal directed the Applicant Companies to convene the respective meetings.

2. Under the circumstances, the petitioners have filed their joint petitions for sanction of the Scheme of Amalgamation before the Tribunal, subsequent to the order of dispensation and/or convening of the meeting ordered by the Tribunal on 09.05.2017.
3. On 08.08.2017 the Tribunal ordered Notice in the Second Motion petition in CAA-149(ND) 2017 moved by the petitioners under Sections 230-232 of the Companies Act, 2013 read with Rules in connection with the scheme of amalgamation, to the Registrar of Companies, Regional Director and the Official Liquidator, DOTE, SEBI and stock exchanges. The Petitioners were also directed vide said order to carry out publication in the newspapers "Business Standard" in English (Delhi Edition) and "Jansatta" in Hindi (Delhi Edition).
4. The petitioners, it is seen from the records have filed an affidavit dated 1st September, 2017 in relation to the compliance of the orders passed by the Tribunal dated 08.08.2017 and a perusal of the same discloses that the petitioners have effected the paper publication as directed by the Tribunal in one issue of the 'Business Standard' in English edition on 30.08.2017 and 'Jansatta' Hindi edition on 31.08.2017. Further, it has also been stated by the Learned Counsel for the Petitioner Companies that notices have been issued to the Regional Director, Ahmedabad on 12.08.2017, Registrar of Companies, Jaipur by hand on 11.08.2017, Deputy Commissioner of Income Tax on 12.08.2017 and to the Official Liquidator by hand on 11.08.2017 and to the DOTE, BSE and NSE and as well as SEBI on 12.08.2017 in compliance with the order dated 08.08.2017 and in proof of the same acknowledgement made by the respective offices have also been enclosed.
5. The representative of the Official Liquidator has filed an affidavit dated 08.09.2017 stating that the office of Official Liquidator does not have any objection to the scheme being approved.
6. Further, Regional Director, Northern Region has also filed the Affidavit dated 22.07.2017 before the Tribunal and have stated that there is no objection to the sanction of the Scheme. However, the Regional Director has stated in its report that the transferee company is listed with BSE and NSE and their approval is required to be taken.
7. In response to this observation the petitioner companies have filed affidavit dated 11th September, 2017 stating that the Transferee Company has already taken necessary approvals from the BSE and NSE and their no objection letter has already been annexed to the first motion application.
8. Further a perusal of the affidavit of service filed by the Applicants shows that notice to the Deputy Commissioner of Income Tax, Income Tax Department had been duly served as given under the provisions of section 230 (5) of Companies Act, 2013 and that no specific comments/ observation have been received raising any objections.
9. That the Petitioner Companies have complied with proviso to Section 230 (7) proviso/ Section 232 (3) by filing the certificate of the Company's Auditor's in relation to compliance with the Accounting Standards under section 133 of the Companies Act, 2013.
10. The counsel for Petitioners have filed an affidavit dated 11th September, 2017 stating that they have not received any objections from third party and public at large for the purpose of sanction to the present Scheme of Amalgamation. The above statement is taken on record. In view of absence of any other objections having been placed on record before this Tribunal and since all the requisite statutory compliances having been fulfilled, this Tribunal sanctions the scheme of amalgamation annexed as Annexure —A-I with the Company Petition as well as the prayer made therein.
11. Notwithstanding the above, if there is any deficiency found or, violation committed qua any enactment, statutory rule or regulation, the sanction granted by this court will not come in the way of action being taken, albeit, in accordance with law, against the concerned persons, directors and officials of the petitioners.
12. While approving the Scheme as above, it is clarified that this order should not be construed as an order in any way granting exemption from payment of stamp duty, taxes or any other charges, if any payment in accordance with law or in respect to any permission/compliance with any other requirement which may be specifically required under any law.

THIS TRIBUNAL DO FURTHER ORDER

- (1) That all the property, rights and powers of the Transferor Company be transferred without further act or deed to the Transferee company and accordingly the same shall pursuant to section 232 of the Act, be transferred to and vest in the Transferee company for all the estate and interest of the Transferor Company therein but subject nevertheless to all charges now affecting the same; and
- (2) That all the liabilities and duties of the Transferor Company be transferred without further act or deed to the Transferee company and accordingly the same shall pursuant to section 232 of the Act, be transferred to and become the liabilities and duties of the Transferee company; and
- (3) That all proceedings now pending by or against the Transferor Company be continued by or against the Transferee company; and
- (4) That as per clause 13 of the scheme, all the employees of the Transferor Company in service on date immediately preceding the date on which the scheme finally take effect shall become the employees of the Transferee company without any break or interruption in their service.
- (5) That the Transferee Company do without further application allot to the persons entitled of the Transferor Company, as have not given such notice of dissent, as is required by clause 5 of the SCHEME OF AMALGAMATION herein the shares in the transferee company to which they are entitled under the said SCHEME OF AMALGAMATION;
- (6) That Applicant Companies shall within thirty days of the date of the receipt of this order cause a certified copy of this order to be delivered to the Registrar of Companies for registration and on such certified copy being so delivered the Transferor Company shall be dissolved and the Registrar of Companies shall place all documents relating to the Transferor Company and registered with him on the file kept by him in relation the Transferee company and the files relating to the said both companies shall be consolidated accordingly;
- (7) That any person interested shall be at liberty to apply to the Tribunal in the above matter for any directions that may be necessary.

U.D Mehta

**Sd-
(R.VARADHARAJAN)
MEMBER (JUDICIAL)**

**Sd-
NIRMALA VINCENT
Court Officer
National Company Law Tribunal
Govt. of India, New Delhi**

**SCHEME OF AMALGAMATION
BETWEEN
APAKSH BROADBAND LIMITED**

(Transferor Company)

AND

AKSH OPTIFIBRE LIMITED

(Transferee Company)

AND

THEIR RESPECTIVE SHAREHOLDERS

**UNDER SECTIONS 391 TO 394 OF THE COMPANIES ACT, 1956 AND SECTIONS 230-236 OF THE
COMPANIES ACT, 2013 AND OTHER APPLICABLE PROVISIONS OF THE COMPANIES ACT, 1956
AND THE COMPANIES ACT, 2013**

PART I – PREAMBLE, RATIONALE, DEFINITIONS & INTERPRETATION

1.1 PREAMBLE

- 1.1.1 This Scheme of Amalgamation (hereinafter referred to as the “**Scheme**”) provides for the amalgamation of APAKSH Broadband Limited (hereinafter referred to as “**Transferor Company**” or “**APAKSH**”) with Aksh Optifibre Limited (hereinafter referred to as “**Transferee Company**” or “**AKSH**”). The Scheme is made pursuant to the provisions of Sections 391 to 394 and other relevant provisions of the Companies Act, 1956 including the corresponding provisions of section 230 to 236 of the Companies Act, 2013, if applicable or any statutory modifications or re-enactment thereof.
- 1.1.2 Aksh Optifibre Limited is a public limited company incorporated under the Companies Act, 1956 having CIN L24305RJ1986PLC016132 is listed on BSE and NSE and is presently engaged in the business of manufacturing and selling optical fibres, optical fibre cables, and fibre reinforced plastic (FRP) rods.
- 1.1.3 APAKSH Broadband Limited is an unlisted public limited company incorporated under the Companies Act, 1956 having CIN U92111RJ2005PLC 056369 to carry on the business of optical fibre network and providing broadband network connectivity to government and other offices across the State of Andhra Pradesh.
- 1.1.4 **This Scheme is divided into the following parts:**
- Part I: Preamble, Rationale, Definitions & Interpretation
 - Part II: Share Capital
 - Part III: Transfer and vesting of APAKSH into AKSH
 - Part IV: Other conditions applicable to the Scheme

1.2 RATIONALE OF THE SCHEME

Both the companies are in similar line of business and consolidation is expected to bring strengths that each company may not necessarily possess individually. In order to optimally utilize the available resources and to achieve synergies in the combined business entity, the Board of Directors of the Transferor Company and the Transferee Company decided to amalgamate the Transferor Company into the Transferee Company. The amalgamation will result in better, efficient and economical management, achieve cost savings, pooling of resources, reduction in administrative and operational expenses and greater control. Without prejudice to the generality of the above, the proposed amalgamation is expected to achieve the following objectives in particular:

- (a) To economize on administrative and other expenses;
- (b) To increase the efficiency of combined business by pooling of resources and their optimum utilization, thereby availing synergies from combined resources;

- (c) The Transferee Company would have diversified product portfolio and merger would facilitate expansion of business offerings;
- (d) Improve management focus to respective businesses and facilitate the unified control over operations;
- (e) Leverage the operational, capital and corporate synergies and help optimal utilization of resources viz business promotion, managerial pool, etc.;
- (f) Reduce overheads, administrative, managerial and other expenditure; and
- (g) Facilitate greater integration, provide greater financial strength, tax savings and stronger balance sheet of the amalgamated entity, which would result in maximizing overall shareholder value and will improve the competitive position of the combined entity.

2. DEFINITIONS AND INTERPRETATION

2.1 In this Scheme, unless repugnant to the meaning or context thereof, the following expressions shall have the meanings given below;

- (a) **“Act”** or **“the Act”** means the Companies Act, 1956 and/or the Companies Act, 2013 (as the context may require) or any statutory amendments thereto or re-enactment thereof for the time being in force;
- (b) **“Accounting Standards”** means accounting standards prescribed under the Companies (Accounting Standards) Rules, 2006 or the Companies Indian Accounting Standards Rules, 2015 as applicable to the Companies.
- (c) **“Appointed Date”** for the purposes of this Scheme means April 1, 2016, or such other date as the Hon’ble Tribunal may direct;
- (d) **“Board”** or **“Board of Directors”** means the board of directors of the Transferor Company or the Transferee Company, as the case may be, and shall, unless it is repugnant to the context or otherwise, include a committee of directors or any person authorized by the Board of Directors or such committee of directors;
- (e) **“Effective Date”** shall mean the last of the dates on which the conditions referred to in Clause 18 of the Scheme have been fulfilled. References in this Scheme to the date of the “coming into effect of this Scheme” or “effectiveness of this Scheme” shall mean the Effective date;
- (f) **“Merged Undertaking”** shall mean and include the whole of the businesses and undertakings of APAKSH on a going concern basis, being carried on by APAKSH as on the Appointed Date and shall include (without limitation):
 - all the properties and assets whether movable or immovable, real or personal, in possession or reversion, corporeal or incorporeal, tangible or intangible, present or contingent and including but without being limited to land and building, all fixed and movable plant & machinery, broadband infrastructure providing broadband access services, customer network equipment, the network connection and broadband access services, bandwidth permissions, factory, sheds, offices, truck, car, material handling equipments, earth moving equipments, construction equipment and machinery, all other kinds of machinery, tools, equipments and spares, weight machine, leasehold or freehold, including all computers and accessories, software and related data, leasehold improvements, capital work-in-progress, vehicles, furniture, fixtures, fittings, office equipment, telephone, facsimile and other communication facilities and equipments, electricals, fibre optic cables, appliances, accessories, deferred tax assets and investments;
 - all liabilities, present and future, including the contingent liabilities;
 - all rights and licenses including contract for development, implementation, operation and maintenance of AP broadband network, right of way permission for provision of broadband infrastructure issued by the Government of Andhra Pradesh, all assignments and grants thereof, all permits, clearances and registrations whether under Central, State or other laws, rights (including rights/ obligations under any agreement, contracts, applications, letters of intent, or any other contracts), subsidies, grants, tax credits (including MODVAT/ CENVAT, Service Tax credits), incentives or schemes of central/ state/ local governments, certifications and approvals, regulatory

approvals, entitlements, other licenses, environmental clearances, municipal permissions, approvals, consents, tenancies, investments and/ or interest (whether vested, contingent or otherwise), cash balances, bank balances, bank accounts, reserves, deposits, advances, recoverable, receivables, benefit of insurance claims, easements, advantages, financial assets, hire purchase and lease arrangements, assets or equipment rental agreements, the benefits of bank guarantees issued by APAKSH, funds belonging to or proposed to be utilised by APAKSH, privileges, all other claims, rights and benefits (including under any powers of attorney issued by APAKSH or any powers of attorney issued in favour of APAKSH or from or by virtue of any proceeding before a legal, quasi judicial authority or any other statutory authority to which APAKSH was a party), powers and facilities of every kind, nature and description whatsoever, rights to use and avail of telephones, telexes, facsimile connections and installations, utilities, electricity, water and other services, provisions, funds; benefits, duties and obligations of all agreements, contracts and arrangements and all other rights and interests;

- all employees on rolls of APAKSH on the date immediately preceding the Effective Date;
- all deposits and balances with Government, Semi-Government, local and other authorities and bodies, customers and other persons, share application money, earnest moneys and/ or security deposits paid or received by APAKSH;
- all books, records, files, papers, product specifications and process information, records of standard operating procedures, computer programs along with their licenses, manuals and backup copies, designs and drawings, other manuals, data catalogues, quotations, sales and advertising materials, and other data and records whether in physical or electronic form;
- all intellectual property rights including all trademarks, trademark applications, trade names, right of way permission, patents and patent applications and all other interests exclusively relating to APAKSH.

It is intended that the definition of Merged Undertaking under this Clause would enable the transfer of entire business and undertakings including all properties, assets, rights, duties and liabilities of APAKSH into AKSH pursuant to this Scheme.

- (g) **“Record Date”** means the date to be fixed by the Board of the Transferor Company in consultation with the Transferee Company, with reference to which the eligibility of the shareholders of the Transferor Company for the purposes of issue and allotment of New Equity Shares of the Transferee Company in terms of the Scheme shall be determined.
- (h) **“Registrar of Companies”** means Registrar of Companies, Jaipur, having jurisdiction over the transferor and transferee companies.
- (i) **“Scheme”** or **“the Scheme”** or **“this Scheme”** means this Scheme of Amalgamation in its present form, with any amendment/modifications approved or imposed or directed by the Board and/or shareholders and/or creditors and/or by the Tribunal;
- (j) **“Share Exchange Ratio”** means the ratio in which the New Equity Shares of the Transferee Company are to be allotted to the equity shareholders of the Transferor Company by the Transferee Company as per Clause 5.1 of the Scheme.
- (k) **“Stock Exchanges”** shall mean and include the Bombay Stock Exchange Limited (“BSE”) and/or National Stock Exchange of India Limited (“NSE”).
- (l) **“Transferor Company”** means APAKSH Broadband Limited, a unlisted public limited company incorporated under the provisions of the Companies Act, 1956 and having its registered office at F-1080, RIICO Industrial Area, Phase-III, Bhiwadi (Rajasthan)-301019, India.
- (m) **“Transferee Company”** means Aksh Optifibre Limited, a listed public limited company incorporated under the Companies Act, 1956 and presently having its registered office at F-1080, RIICO Industrial Area, Phase-III, Bhiwadi (Rajasthan)-301019, India.

- (n) **“Tribunal”** means the Hon’ble National Company Law Tribunal, New Delhi Bench or such other Bench having jurisdiction in respect to the Transferee Company and the Transferor Company or any other appropriate forum or authority or Court empowered to approve the Scheme as per the law for the time being in force.

2.2 INTERPRETATION

All terms and words not defined in this Scheme shall, unless repugnant or contrary to the context or meaning thereof, have the same meaning ascribed to them under the Act and other applicable laws, rules, regulations, bye-laws, as the case may be including any statutory amendments thereto or re-enactment thereof. Reference to Companies Act, 1956 shall also mean corresponding provisions of Companies Act, 2013 as applicable.

2.3 COMPLIANCE WITH TAX LAWS

The Scheme proposes to meet the commercial and business interest of the parties as specified hereinbefore. This Scheme, in so far as it relates to the merger and has been also drawn-up to comply with the conditions relating to “Amalgamation” as specified under the tax laws, including section 2(1B), section 47 and section 72A (if applicable) and all other relevant Sections of the Income Tax Act, 1961 or any amendment or reenactment thereto. If any terms or provisions of the Scheme are found to be or interpreted to be inconsistent with any of the said provisions at a later date, whether as a result of any amendment of law or any judicial or executive interpretation or for any other reason whatsoever, the Scheme shall then stand modified to the extent determined necessary to comply with the said provisions. Such modification will however not affect other parts of the Scheme, and the power to make any such amendments shall vest with the Board of Directors of APAKSH and AKSH.

PART II – SHARE CAPITAL

3. CAPITAL STRUCTURE

- 3.1 The position of the authorized, issued, subscribed and paid up capital of the Transferor Company and the Transferee Company as on March 31, 2016 is as follows:

Name of the Company	Authorized Share Capital	Issued Subscribed and Paid Up Capital
APAKSH Broadband Limited ("Transferor Company")	Rs. 175,00,00,000/- (Rupees One Seventy Five Crores only) consisting of 35,00,00,000 (Thirty Five Crores) equity shares of Rs. 5/- each.	Total issued and subscribed capital- Rs. 150,00,00,000/- (Rupees One Fifty Crores only) consisting of 30,00,00,000 (Thirty Crores) equity shares of Rs. 5/- each. Total Paid-up share capital- Rs. 1,352,250,000/- (Rupees One Thirty Five Crores Twenty Two Lakh Fifty Thousand only) consisting of 226,125,000 (Twenty Two Crores Sixty One Lakh Twenty Five Thousand) equity shares of Rs. 5/- each and 73,875,000 (Seven Crore Thirty Eight Lakh Seventy Five Thousand) equity shares forfeited of Rs. 3/- each.
Aksh Optifibre Limited ("Transferee Company")	Rs. 85,05,00,000/- (Rupees Eighty Five Crores Five Lakhs only) consisting of 17,01,00,000 (Seventeen Crores One Lakhs) equity shares of Rs. 5/- each.	Rs. 81,33,25,350/- (Rupees Eighty One Crores Thirty Three Lakhs Twenty Five Thousand and Three Hundred Fifty only) consisting of 16,26,65,070 (Sixteen Crores Twenty Six Lakhs Sixty Five Thousand and Seventy only) equity shares of Rs. 5/- each.

- 3.2 It is provided that till the Scheme becomes effective both the companies i.e. Transferor Company and the Transferee Company are free to alter their share capital as required by respective businesses subject to the necessary approvals from their respective Board of Directors and/or shareholders, if required.

PART III –TRANSFER AND VESTING OF APAKSH INTO AKSH

4. TRANSFER OF UNDERTAKING

- 4.1 With effect from the Appointed Date, the whole of the Merged Undertaking, comprising inter-alia all assets and liabilities of whatsoever nature and wheresoever situated, shall, under the provisions of Section 391 read with Section 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 AKSH as a going concern so as to become as and from the Appointed Date the assets and liabilities of AKSH and to vest in AKSH all the rights, title, interest or obligations of APAKSH therein. With effect from the Effective Date, the Transferee Company shall be liable for ground rent and municipal taxes in relation to such properties subject to such taxes, if any. The mutation of title to the immovable properties shall be made and duly recorded by appropriate authorities pursuant to the sanction of the Scheme and upon the Scheme becoming effective in accordance with terms hereof in favour of the Transferee Company.
- 4.2 All assets acquired by APAKSH after the Appointed Date and prior to the Effective Date shall also stand transferred to and vested in AKSH upon the coming into effect of the Scheme. Where any of the assets of APAKSH as on the Appointed Date deemed to be transferred to AKSH have been sold or transferred by APAKSH after the Appointed Date and prior to the Effective Date, such discharge shall be deemed to have been for and on account of AKSH. As regards transfer of specified movable assets, Clauses 4.3 and 4.4 below provide for the physical mode of effecting transfer.
- 4.3 In respect of such of the assets of the Merged Undertaking as are movable in nature or are otherwise capable of transfer by manual delivery, by paying over or by endorsement and delivery, the same may be so delivered, paid over, or endorsed and delivered, by APAKSH shall become the property of AKSH as an integral part of the Merged Undertaking transferred to it. The aforesaid transfer shall be deemed to take effect from the Appointed Date without requiring any deed or instrument of conveyance for the same. Such transfer may not be liable to stamp duty in accordance with law. Such delivery shall be made on a date mutually agreed upon between the Board of Directors of AKSH and the Board of Directors of APAKSH.
- 4.4 All debts, advance tax, loans and advances recoverable in cash or in kind or for value to be received, deposits, outstanding and receivables of Merged Undertaking/ APAKSH other than the movable assets specified in Clause 4.3 shall on and from the Appointed Date stand transferred to and vested in AKSH without any further actions or deed (although AKSH may, if it deems appropriate, give notice to the third party that the debts, outstanding and receivables do stand transferred to and vested in AKSH), and the debtors shall be obliged to make payments to AKSH on and after the Effective Date.
- 4.5 With effect from the Appointed Date, all debts payable, liabilities, contingent liabilities, duties and obligations of every kind, nature and description of Merged Undertaking/ APAKSH shall also, under the provisions of Sections 391 to 394 of the Act, without any further act or deed, be transferred to or be deemed to be transferred to AKSH so as to become as and from the Appointed Date the debts payable, liabilities, contingent liabilities, duties and obligations of AKSH.
- 4.6 Where any of the liabilities and obligations, if any, of the Merged Undertaking/ Transferor Company, as on the Appointed Date, transferred to the Transferee Company has been discharged by the Transferor Company after the Appointed Date and prior to the Effective Date, such discharge shall be deemed to have been for and on account of the Transferee Company.
- 4.7 All loans raised and utilized and all debts, duties, undertakings, liabilities and obligations, if any, incurred or undertaken by the Merged Undertaking/ Transferor Company, after the Appointed Date and prior to the Effective Date shall be deemed to have been raised, used, incurred or undertaken for and on behalf of the Transferee Company and to the extent they are outstanding on the Effective Date, shall, upon the coming into effect of this Scheme, pursuant to the provisions of section 394(2) of the Act, without any further act, instrument or deed be and stand transferred to or vested in or be deemed to have been transferred to and vested in the Transferee Company and shall become the debt, duties, undertakings, liabilities and obligations of the Transferee Company.

- 4.8 The transfer and vesting of the Merged Undertaking as aforesaid, shall be subject to the existing securities, charges and mortgages, if any, subsisting over or in respect of the property and assets or any part thereof of APAKSH.

Provided however that any reference in any security documents or arrangements (to which APAKSH is a party) to the assets of APAKSH offered or agreed to be offered as security for any financial assistance or obligations, shall be construed as reference only to the assets pertaining to the Merged Undertaking of APAKSH as are vested in AKSH by virtue of this Scheme, to the end and intent that such security, charge and mortgage shall not extend or be deemed to extend, to any of the other assets of APAKSH or any of the assets of AKSH.

Provided further that the securities, charges and mortgages (if any subsisting) over and in respect of the assets or any part thereof of AKSH shall continue with respect to such assets or part thereof and this Scheme shall not operate to enlarge such securities, charges or mortgages to the end and intent that such securities, charges and mortgages shall not extend or be deemed to extend, to any of the assets of APAKSH vested in AKSH.

Provided always that this Scheme shall not operate to enlarge the security for any loan, deposit or facility created by APAKSH which shall vest in AKSH by virtue of merger of APAKSH into AKSH and AKSH shall not be obliged to create any further or additional security after the Scheme has become operative.

5. CONSIDERATION AND RE-ORGANISATION OF SHARE CAPITAL

- 5.1 Upon Scheme becoming effective and without any further application, act or deed, the Transferee Company, in consideration of the transfer and vesting of the Merged Undertaking (with all its assets, liabilities, rights and obligations) of the Transferor Company in the Transferee Company, the Transferee Company shall issue and allot on the proportionate basis to all the members of the Transferor Company as on the Record Date ("**Members**"), or to such of their respective heirs, executors, administrators or other legal representatives or other successors in title as may be recognized by the Board of Transferor Company in the following manner:

25 fully paid up equity shares of Rs. 5/- each of the Transferee Company for every 133 fully paid up equity shares of Rs. 5/- each of the Transferor Company held by the Members (other than its holding company - Aksh) whose names appear in the Register of Members of the Transferor Company ("**New Equity Shares**")

In the event of any increase in the issued, subscribed or paid up share capital of the Transferor Company or the Transferee Company or issuance of any instruments convertible into equity shares or restructuring of its equity share capital including by way of share split/consolidation/issue of bonus shares, free distribution of shares or instruments convertible into equity shares or other similar action in relation to share capital of the Transferor Company or the Transferee Company at any time before the Record Date, the Share Exchange Ratio shall be adjusted appropriately to take into account the effect of such issuance or corporate actions and assuming conversion of any such issued instruments convertible into equity shares.

- 5.2 Upon coming into effect of this Scheme all the equity shares held by Aksh in APAKSH shall stand cancelled in accordance with law without the need to issue any New Equity Shares.
- 5.3 The New Equity Shares unless otherwise requested by the Members to be issued in depository /physical form, shall be credited in the demat account of the Members of the Transferor Company provided that the Members shall be required to have an account with a depository participant and shall provide details thereof and such other confirmations as may be required.
- 5.4 The fractional entitlement arising in terms of Clause 5.1 above in the hands of the shareholder(s) of the Transferor Company (with reference to their holding as on the date of approval of the Scheme by the Board of the Transferor Company and the Transferee Company) shall be rounded up to the next number. The decision of the Board of Directors of the Transferee Company shall be considered final in this regard. .
- 5.5 The New Equity Shares to be issued in terms hereof shall be subject to the Memorandum and Articles of Association of the Transferee Company.

- 5.6 The New Equity Shares of the Transferee Company to be issued and allotted in lieu of the equity shares of the Transferor Company shall rank, for dividend, voting rights and for all other benefits and in all other respects, pari-passu with the existing equity shares of the Transferee Company with effect from the date of allotment of New Equity Shares.
- 5.7 All the New Equity Shares and allotted by the Transferee Company shall be listed and/or admitted to trading on the Stock Exchange(s). The Stock Exchanges shall list the said New Equity Shares, the issuance of which shall be considered as due compliance of the provisions of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009, to the extent applicable and other applicable provisions of law. The Transferee Company will enter into such arrangements and give such confirmations and/or undertakings and/or file such necessary applications, as may be necessary in accordance with applicable laws or regulations for complying with formalities of the said Stock Exchanges/SEBI.
- 5.8 The New Equity Shares allotted pursuant to this Scheme shall remain frozen in the depositories system till relevant directions in relation to listing/trading are provided by the relevant Stock Exchange(s).

6. ACCOUNTING TREATMENT

- 6.1 Upon the Scheme becoming finally effective, the Transferee Company shall incorporate the assets and liabilities of the Transferor Company in accordance with the Accounting Standards and more particularly as specified hereunder:
- a) Upon the Scheme becoming effective, AKSH shall record the Merged Undertaking vested in it pursuant to the Scheme, at their respective book values as appearing in the financial statements of APAKSH constituting Merged Undertaking at the close of business of the day immediately preceding the Appointed Date in accordance with the Accounting Standards prescribed under section 133 of the Companies Act, 2013 or any other applicable provisions of the Act.
 - b) To the extent that there are inter-corporate loans, investments or balances between and amongst APAKSH and AKSH, the obligations in respect thereof shall come to an end and corresponding effect shall be given in the books of account and records of AKSH for the reduction of any assets or liabilities or other appropriate treatment, as the case may be. It is agreed by APAKSH and AKSH that all the requirements of the Act and any other applicable law with respect to such amounts shall be deemed to have been duly complied with.
 - c) In so far as the balances in "Reserves and Surplus" of APAKSH is concerned, AKSH shall record the balances, if any, in the Profit and Loss Account or any other reserves in the same form and at the same values as they appear in the financial statements of APAKSH at the close of business of the day immediately preceding the Appointed Date.
 - d) The aggregate of the excess of the value of the assets over the value of the liabilities and reserves of Merged Undertaking vested in AKSH pursuant to this Scheme including value of New Equity Shares issued under the Scheme and as recorded in the books of accounts of AKSH, shall be credited to the Capital Reserve Account of AKSH. In case of excess of the value of liabilities and reserves over value of assets transferred in the Scheme including value of New Equity Shares issued under the Scheme the same shall be adjusted firstly against the Securities Premium Account and then against Capital Reserve. The reduction of the Securities Premium Account, (if any) of the Transferee Company as per the terms of this Scheme, shall be deemed to be in compliance with Section 100 to 103 of Companies Act, 1956 (including the corresponding applicable provisions of the Companies Act, 2013) and the Transferee Company shall not be required to add "and reduced" as part of its name.
 - e) In case of any differences in accounting policy between APAKSH and AKSH, the impact of the same till the Appointed Date will be quantified and adjusted in the balance sheet of AKSH in accordance with the Accounting Standards prescribed under section 133 of the Companies Act, 2013 or any other applicable provisions of the Act, to ensure that the financial statements of AKSH reflect the financial position on the basis of consistent accounting policy.
- 6.2 For the removal of doubts, it is hereby clarified that there would be no accrual of income including interest or other expenses/ charges in respect of any inter-company loans or balances between AKSH and APAKSH during the period between the Appointed Date and Effective Date. It is also clarified that there would be no

accrual of income or expense on account of any other transactions, including inter alia any transactions in the nature of sale or transfer of any goods or services between AKSH and APAKSH, during the period between the Appointed Date and the Effective Date.

- 6.3 It is hereby clarified that, all transactions during the period between the Appointed Date and Effective Date relating to the Merged Undertaking would be duly reflected in the financial statements of AKSH, upon the coming into effect of this Scheme.
- 6.4 Notwithstanding anything contained in this Clause 6, the Board of Directors of AKSH is authorized to account for any of these transaction/ balances in any manner whatsoever, as may be deemed fit, in accordance with the Accounting Standards prescribed under Section 133 of the Companies Act, 2013 or any other applicable provisions of the Act.

7. BUSINESS AND PROPERTY IN TRUST FOR TRANSFeree COMPANY

As and from the Appointed Date and upto and including the Effective Date:

- 7.1 The Transferor Company shall carry on and be deemed to have carried on its business and activities and shall stand possessed of all its assets and properties referred to in Clause 4 above, in trust for the Transferee Company and shall account for the same to the Transferee Company.
- 7.2 The Transferor Company shall carry on its business and activities with reasonable diligence and business prudence.
- 7.3 Any income or profit accruing or arising to the Transferor Company and all costs, charges, expenses and losses or taxes (including deferred tax balances, if any) incurred by the Transferor Company shall for all purposes be treated as the income, profits, costs, charges, expenses and losses or taxes (including deferred tax balances, if any), as the case may be, of the Transferee Company and shall be available to the Transferee Company for being disposed off in any manner as it thinks fit.

8. CONDUCT OF BUSINESS

With effect from the date of approval of the Scheme by the Board of Directors of APAKSH and upto the Effective Date:

- 8.1 APAKSH shall carry on its business with reasonable diligence and in the same manner as it had been doing it theretofore.
- 8.2 APAKSH shall not alter or substantially expand the business except with the written concurrence of the Transferee Company.
- 8.3 APAKSH shall not, without the written concurrence of the Transferee Company, alienate charge or encumber any of its properties, except in the ordinary course of business or pursuant to any pre-existing obligation undertaken prior to the date of acceptance of the Scheme by the Board of Directors of APAKSH.
- 8.4 APAKSH shall not vary or alter, except in the ordinary course of its business or pursuant to any pre-existing obligation undertaken prior to the date of acceptance of the Scheme by the Board of Directors of APAKSH, the terms and conditions of employment of any of its employees, nor shall it conclude settlement with employees.
- 8.5 APAKSH shall not revalue its respective assets and liabilities in its balance sheets without the express written consent of AKSH.
- 8.6 Notwithstanding anything else contained in this Scheme, AKSH or APAKSH may declare any dividend (interim or final) or bonus shares as per applicable law with the consent of Board of Directors of the Transferor Company and the Transferee Company.
- 8.7 It is clarified that the aforesaid provisions in respect of declaration of dividends, whether interim or final, are enabling provisions only and shall not be deemed to confer any right on any shareholder of Transferor Company and/or the Transferee Company to demand or claim any dividends which, subject to the provisions of the Act, shall be entirely at the discretion of the respective Board of Directors of the Transferor Company and the Transferee Company and subject, wherever necessary, to the approval of the shareholders of the Transferor Company and the Transferee Company, respectively.

- 8.8 Notwithstanding anything else contained in this Scheme, during the pendency of the Scheme, APAKSH and AKSH are expressly authorized to raise capital for the purpose of funding growth or any other purpose, in any manner as considered suitable by their Board of Directors, whether by means of rights issue, preferential issue, public issue or any other manner whatsoever. Further, such funds may be raised by means of any instrument considered suitable by their respective Board of Directors, including warrants, equity/ equity linked instruments, preference shares, convertible/ non convertible bonds, debentures, debt, etc. Provided that any such capital raising exercise shall be approved in writing by the Board of Directors of APAKSH/ AKSH to preserve the interests of its shareholders.
- 8.9 With effect from the Effective Date and until such time the names of the bank accounts of the Transferor Company are replaced with that of the Transferee Company, the Transferee Company shall be entitled to operate the bank accounts of the Transferor Company in its name, in so far as may be necessary.

9. CONTRACTS AND DEEDS

- 9.1 Subject to the other provisions of this Scheme, all contracts, deeds, bonds, agreements, memorandum of understanding, insurance policies, licenses, leases, (including all tenancies, leases, licenses and other assurances in favour of the Transferor Company or powers or authorities granted by or to it), hire-purchase arrangements and other instruments, if any, of whatsoever nature to which the Transferor Company is a party and subsisting or having effect on the Effective Date shall be in full force and effect against or in favour of the Transferee Company, as the case may be, and may be enforced by or against the Transferee Company as fully and effectually as if, instead of the Transferor Company, the Transferee Company had been a party thereto.
- 9.2 The Transferee Company may enter into and/ or issue and/ or execute deeds, writings or confirmations, affidavits, declarations or enter into any tripartite arrangements, confirmations or novations, to which the Transferor Company will, if necessary, also be party in order to give formal effect to the provisions of this Scheme, if so required or if so considered necessary. The Transferee Company shall be deemed to be authorised to execute any such deeds, writings or confirmations on behalf of the Transferor Company and to implement or carry out all formalities required on the part of the Transferor Company to give effect to the provisions of this Scheme. It is clarified that any inter-se contracts between the Transferor Company and the Transferee Company as on the Effective Date shall stand merged and vest in the Transferee Company.
- 9.3 All subsisting agreements/ arrangements/ licenses/ permissions/ registrations/ applications of the Transferor Company relating to the use of patents, patent applications, trade marks (including logos), brands, copyrights, websites, and / or technology, know-how, designs, process and all other intellectual property and rights, as on the Effective Date shall accrue to and for the benefit of the Transferee Company.

10. MERGER OF AUTHORISED SHARE CAPITAL OF TRANSFEROR COMPANY WITH TRANSFEE COMPANY

- 10.1 Upon the Scheme becoming effective and with effect from the Appointed Date, the authorized share capital of the Transferor Company shall stand transferred to and be added with the authorized equity share capital of Transferee Company, without any liability for payment of any additional fees (including fee to Registrar of Companies) or stamp duty. Further, if required the Transferee Company shall take necessary steps to further increase and/or alter its authorised share capital suitably to enable it to issue and allot shares under the Scheme.
- 10.2 Consequently, subject to any increase and/or alteration in the authorized share capital of the Transferee Company as may be effected with the approval of its shareholders during the pendency of the Scheme for issue and allotment of shares under the Scheme, upon coming into effect of the Scheme and particularly the Clause 10.1 mentioned herein above, the authorized share capital of the Transferee Company shall be increased and accordingly, the Memorandum and Articles of Association of the Transferee Company shall automatically stand amended and words and figures in Clause V of the Memorandum of Association shall be substituted. It is hereby clarified that the Transferee Company through its Board, if required, would be entitled to make appropriate classification of its authorized share capital and provide suitable clarifications to the Registrar of Companies with regard to the addition of the authorized share capital of the Transferor Company with the Transferee Company in Clause V in its Memorandum of Association to facilitate issue and allotment of shares under the Scheme.

- 10.3 The filing fee and stamp duty already paid by the Transferor Company on its Authorized Share Capital, which is being clubbed to the Authorized Share Capital of the Transferee Company and/or the reorganization of the authorised share capital of the Transferee Company in terms of sub-clause hereinabove, shall be deemed to have been paid by the Transferee Company and accordingly, the fee paid by the Transferor Company on its authorized share capital will be eligible for adjustment against the fee on the increased authorized share capital of the Transferee Company so increased or reorganised pursuant to the Scheme.
- 10.4 All steps for reorganizing of share capital and changes to the memorandum of association of the companies under this Scheme, shall be undertaken as an integral part of this Scheme in accordance with the provisions of Sections 391-394 of the Act read with section 100 to 103 of the Act and shall be deemed to be in compliance of Section 100 to 103 of the Companies Act, 1956 and Sections 5, 13, 14, 42, 52, 61, 62 of the Companies Act, 2013 or other applicable Sections of the Act and no other steps or procedures would need to be undertaken by the concerned companies to give effect to the same. Consequential changes shall also apply with respect to the existing issued, subscribed and paid up capital of the Transferor Company and the Transferee Company.

11. DISSOLUTION OF TRANSFEROR COMPANY

On the Scheme coming into effect, the Transferor Company shall, without any further act or deed, stand dissolved without the process of winding up.

12. LEGAL PROCEEDINGS

- 12.1 All legal proceedings of whatsoever nature by or against the Transferor Company pending and/ or arising at the Appointed Date and relating to the Transferor Company or its properties, assets, debts, rights, liabilities, duties and obligations referred to in Clause 2.1 (f), shall be continued and/ or enforced until the Effective Date as desired by the Transferee Company and as and from the Effective Date shall be continued and enforced by or against the Transferee Company in the same manner and to the same extent as would or might have been continued and enforced by or against the Transferor Company. On and from the Effective Date, the Transferee Company shall and may, if required, initiate any legal proceedings in its name in relation to the Transferor Company in the same manner and to the same extent as would or might have been initiated by the Transferor Company.
- 12.2 After the Appointed Date, if any proceedings are taken against the Transferor Company, the same shall be defended by and at the cost of the Transferee Company.

13. STAFF, WORKMEN AND EMPLOYEES

- 13.1 On the coming into effect of the Scheme, all staff and employees of APAKSH in service on such date shall be deemed to have become staff and employees of AKSH without any break in their service and on the basis of continuity of service and the terms and conditions of their employment with AKSH shall not be less favourable than those applicable to them with reference to APAKSH on the Effective Date.
- 13.2 Upon the Scheme coming into effect, all staff welfare schemes including the existing Provident Fund, Gratuity Fund and/ or schemes and trusts, including employee's welfare trust, created by APAKSH for its employees shall be transferred to AKSH. APAKSH shall take all steps necessary for the transfer, where applicable, of the Provident Fund, Gratuity Fund and/ or schemes and trusts, including employee's welfare trust, pursuant to the Scheme, to AKSH. All obligations of APAKSH with regard to the said Fund or Funds as defined in the respective trust deed and rules shall be taken over by AKSH from the Effective Date to the end and intent that all rights, duties, powers and obligations of APAKSH in relation to such Fund or Funds shall become those of AKSH and all the rights, duties and benefits of the employees employed in APAKSH under such Funds and Trusts shall be fully protected, subject to the provisions of law for the time being in force. It is clarified that the services of the staff, workmen and employees of APAKSH will be treated as having been continuous for the purpose of the said Fund or Funds.

14. TREATMENT OF TAXES

- 14.1 The Tax Deducted at Source (TDS)/advance tax including MAT credit entitlement, provision for income tax, if any, paid by the Transferor Company under the Income Tax Act, 1961 or any other statute in respect of income of the Transferor Company assessable for the period commencing from Appointed Date shall be deemed to be the tax deducted from/advance tax paid by the Transferee Company and credit for such TDS/advance tax (including MAT credit) shall be allowed to the Transferee Company notwithstanding that certificates or challans for TDS/advance tax/ MAT are in the name of the Transferor Company and not in the name of the Transferee Company. The income tax, if any, paid by the Transferor Company on or after the Appointed Date, in respect of income assessable from that date, shall be deemed to have been paid by or for the benefit of the Transferee Company. The Transferee Company shall, after the Effective Date, be entitled to file the relevant returns with the authorities concerned for the period after the Appointed Date notwithstanding that the period for filing such return may have elapsed. Further, the Transferee Company shall, after the Effective Date, be entitled to revise the relevant returns, if any, filed by the Transferor Company for any year, if so necessitated or consequent to this Scheme becoming effective; notwithstanding that the time prescribed for such revision may have elapsed.
- 14.2 The wealth tax, if any, paid by the Transferor Company in respect of its assets under the Wealth Tax Act, 1957, on or after the Appointed Date shall be deemed to have been paid by the Transferee Company. The Transferee Company shall, after the Scheme becomes effective, be entitled to file the wealth tax return for the relevant valuation date notwithstanding that the time prescribed for filing such returns may have lapsed. Further the Transferee Company shall, after the Scheme becomes effective, be entitled to revise the wealth tax returns, if any, filed by the Transferor Company for any year if so necessitated or consequent to this Scheme becoming effective; notwithstanding that the time prescribed for such revision may have elapsed.
- 14.3 Similarly, any other taxes including but not limited to excise duty, CENVAT, cess, service tax, value added tax, sales tax etc. paid by the Transferor Company on or after the Appointed Date, in respect of the period after such date shall be deemed to have been paid by or for the benefit of the Transferee Company. The Transferee Company shall, after the Effective Date, be entitled to file the relevant returns with the authorities concerned for the period after the Appointed Date, notwithstanding that the time prescribed for filing such return may have elapsed. Further, the Transferee Company shall, after the Effective Date, be entitled to revise the relevant returns, if any, filed by the Transferor Company for any year, if so necessitated or consequent to this Scheme becoming effective, notwithstanding that the time prescribed for such revision may have elapsed.
- 14.4 Without prejudice to generality of the aforesaid, any concessional or statutory forms under the laws of the Central or State Sales Tax or Value Added Tax (VAT), Service Tax or local levies issued or received by the Transferor Company, if any, in respect of period commencing from the Appointed Date shall be deemed to be issued or received in the name of the Transferee Company and benefit of such forms shall be allowable to the Transferee Company in the same manner and to the same extent as would have been available to the Transferor Company.

15. SAVING OF CONCLUDED TRANSACTIONS

- 15.1 The transfer of Merged Undertaking (including assets, liabilities, rights and obligations) under Clause 4 above and the continuance of proceedings by or against the Transferee Company under Clause 12 herein above shall not affect any transaction or proceedings already concluded by the Transferor Company on or before the Appointed Date and after the Appointed Date till the Effective Date, to the end and intent that the Transferee Company accepts and adopts all acts, deeds and things done and executed by the Transferor Company in respect thereto as done and executed on behalf of Transferee Company.
- 15.2 Since each of the permissions, approvals, registrations, consents, sanctions, remissions, special reservations, right of way, insurance policy, incentives, concessions and other authorizations of the Transferor Company shall stand transferred by the order of the Hon'ble Tribunal to the Transferee Company, the Transferee Company may file the relevant intimations, for the record of the statutory authorities or any relevant authority or person who shall take them on file, pursuant to the vesting order of the Tribunal.

PART IV –OTHER CONDITIONS APPLICABLE TO THE SCHEME

16. APPLICATIONS TO TRIBUNAL

- 16.1 The Transferee Company and the Transferor Company shall, with all reasonable dispatch, make applications to the Tribunal under Section 391 of the Act, seeking orders for dispensing with or convening, holding and conducting of the meetings of the respective classes of the shareholders and/ or creditors of the Transferor Company and the Transferee Company as may be directed by the Tribunal.
- 16.2 That the Scheme, in no way, is a Scheme of compromise or arrangement with the creditors as all the creditors of the Transferor Company and the Transferee Company will be paid in the usual course of business and therefore, the present Scheme of Amalgamation will not be affecting the rights of the creditors of the Transferor and Transferee Companies in any manner as the aggregate assets of the Transferor Company and the Transferee Company are more than sufficient to meet the liabilities of all the creditors of the Transferor Company and the Transferee Company in full.
- 16.3 On the Scheme being agreed to by the requisite majorities of the classes of the shareholders and/ or creditors of the Transferee Company and the Transferor Company as directed by the Tribunal or their meetings dispensed with, the Transferee Company and the Transferor Company shall, with all reasonable dispatch, apply to the Tribunal, for sanctioning the Scheme under Sections 391 to 394 of the Act and other provisions of the Act (if any) and for such other order or orders, as the said Tribunal may deem fit for carrying this Scheme into effect and for dissolution of the Transferor Company without winding up.
- 16.4 The Transferee Company may, if required, give notice in such form as it may deem fit and proper to each person, debtor or borrower, statutory or regulatory authorities as the case may be that pursuant to the Tribunal having sanctioned the Scheme, the said person, debtor or borrower shall pay the debt, loan or advance or make good the same or hold the same to its account and that the right of the Transferee Company to recover or realize the same is in substitution of the right of the Transferor Company.

17. MODIFICATION OR CLARIFICATION OR WITHDRAWAL

- 17.1 The Transferor Company (by their Board of Directors or their committee thereof) and the Transferee Company (by their Board of Directors or their committee thereof) may assent to any modification(s) or amendment(s) in this Scheme which the Tribunal and/ or any other authority or any other body may deem fit to direct or impose or which may otherwise be considered necessary or desirable for implementing and/ or carrying out the Scheme or which may be considered necessary due to any change in law or other reason; and the Transferor Company (by their Boards of Directors or their committee thereof) and the Transferee Company (by their Boards of Directors or their committee thereof) be and are hereby authorized to take such steps and do all acts, deeds and things as may be necessary, desirable or proper to give effect to this Scheme, or to withdraw the Scheme and to resolve any doubts, difficulties or questions whether by reason of any orders of the Tribunal or of any directive or orders of any other authorities or otherwise howsoever arising out of, under or by virtue of this Scheme and/ or any matters concerning or connected therewith.
- 17.2 For the purpose of carrying on the business of APAKSH pursuant to the Scheme, AKSH shall, if and to the extent required, apply for and obtain the necessary approvals from the appropriate regulatory authority, if required for the carrying on the business of APAKSH.
- 17.3 If any part of this Scheme is found to be unworkable, invalid or unenforceable for any reason whatsoever, the same shall not, subject to the decision of the respective Boards of Directors of the Transferor Company and Transferee Company, affect the adoption or validity or interpretation of the other parts and/ or provisions of this Scheme. It is hereby clarified that the Board of Directors of the Transferor Company and Transferee Company may in their absolute discretion, adopt any part of this Scheme or declare the entire Scheme to be null and void and in that event no rights and liabilities whatsoever shall accrue to or be incurred inter se by the parties or their shareholders or creditors or employees or any other person. In such case each company shall bear its own cost or bear costs as may be mutually agreed. It is made clear that no further approval of shareholders or creditors shall be necessary for giving effect to the provisions contained in this Clause 17.

- 17.4 For the purpose of giving effect to this Scheme or to any modifications or amendments thereof or additions thereto, the Board of the Transferor Company and Transferee Company may give and are authorized to determine and give all such directions as are necessary including directions for settling or removing any question of doubt or difficulty that may arise and such determination or directions, as the case may be, shall be binding on all parties, in the same manner as if the same were specifically incorporated in this Scheme.
- 17.5 No party claiming to have acted or not acted or changed his position in anticipation of this Scheme, will have any cause of action against the Transferor Company or the Transferee Company or any of their directors, officers, if the scheme is not effective for any reason whatsoever, or is withdrawn or modified. The decision of the Board of Directors of the Transferor Company and the Transferee Company shall be final and binding on all the parties.
- 17.6 The scheme set out herein in its present form or with any modification(s) to be approved or imposed or directed by the Tribunal, shall be operative from the Appointed Date but shall be effective from the Effective Date.
- 17.7 Upon the coming into effect of this Scheme:
- (a) the resolutions, if any, of the Transferor Company, which are valid and subsisting on the Effective Date, shall continue to be valid and subsisting and be considered as resolutions of the Transferee Company and if any such resolutions have upper monetary or other limits being imposed under the provisions of the Act, or any other applicable provisions, then the said limits shall be added and shall constitute the aggregate of the said limits in the Transferee Company.
 - (b) the borrowing limits of the Transferee Company, shall without further act or deed stand enhanced by an amount being the aggregate limits of the Transferor Company which are being transferred to the Transferee Company pursuant to this Scheme and the Transferee Company will not be required to pass any fresh resolution(s) in this regard.

18 CONDITIONALITY OF THE SCHEME

- 18.1 This Scheme is conditional upon and subject to all of the following:
- (a) approval of Scheme by SEBI in terms of the SEBI Circulars and the Stock Exchanges pursuant to Regulation 37 of SEBI (Listing Obligation and Disclosure Requirements) Regulation, 2015.
 - (b) the consents by the requisite majority of the shareholders and/ or creditors, if any, of the Transferor Company and Transferee Company to the Scheme, if required or their meeting being dispensed with; and the requisite orders of the Hon'ble Tribunal sanctioning the Scheme in exercise of the powers vested in it under the Act;
 - (c) such other sanctions and approvals including sanctions of any government or regulatory authority as may be required by law in respect of the Scheme;
 - (d) approval of the scheme by the public shareholders of the Transferee Company (in case required) in accordance with the provisions of the SEBI Circulars and such approval shall be obtained through resolution passed through postal ballot and e-voting, after disclosure of all material facts in the explanatory statement sent to the shareholders in relation to such resolution and the Scheme shall be acted upon only if the votes cast by the public shareholders in favor of the proposal are more than the number of votes cast by the public shareholders against it.
 - (e) the certified copies of the Tribunal order being filed with the jurisdictional Registrar of Companies by the Transferor Company and the Transferee Company.
- 18.2 The approval to this Scheme under Sections 230 and 236 of the Act by the shareholders and/or creditors of the Transferor Company and Transferee Company, shall be deemed to have the approval of the shareholders and/or creditors, as the case may be, for all matters under the applicable provisions of the Act, rules and regulations made there under, including but not limited to Sections 5, 13, 14, 42, 52, 61, 62 and 66 of the Companies Act, 2013 and rules made thereunder.

19 EFFECT OF NON-APPROVALS

In the event any of the said sanctions and approvals referred to in Clause 18 above not being obtained and/ or the Scheme not being passed as aforesaid before December 31, 2017 or within such further period or periods as may be agreed upon between Transferee Company by its Directors and the Transferor Company by its Directors (and which the Board of Directors of the Company are hereby empowered and authorised to agree to and extend from time to time without any limitations), this Scheme of Amalgamation shall stand revoked, cancelled and be of no effect and null and void save and except in respect of any act or deed done prior thereto as is contemplated hereunder or as to any right, liability or obligation which has arisen or accrued pursuant thereto and which shall be governed and be preserved or worked out as may otherwise arise in law and in such event each party shall bear their respective costs, charges and expenses in connection with the Scheme.

20 COSTS, CHARGES AND EXPENSES

- 20.1 All costs, charges, taxes including duties (including the stamp duty and/ or transfer charges, if any, applicable in relation to this Scheme), levies, fees and all other expenses, if any (save as expressly otherwise agreed) of AKSH and APAKSH arising out of or incurred in carrying out and implementing this Scheme and matters incidental thereto shall be borne and paid by AKSH. These shall be deemed as expenses of the Scheme.
- 20.2 Since the transfer of properties will take effect in the state of Rajasthan pursuant to the order of Tribunal under section 394 of the Act, Amalgamating Company (whose more than 90% of the issued share capital is beneficially held by AKSH) and AKSH shall be entitled to avail the stamp duty exemption/remission under the stamp duty remission Notification No. 1, dated 16th January, 1937 or any other prevailing notification/order in accordance with law and the concerned authorities shall grant the same.

APAKSH BROADBAND LIMITED

Authorized Signatory

AKSH OPTIFIBRE LIMITED

Authorized Signatory

