

Annual Report 1998-99



ASHAPURA

ASHAPURA MINECHEM LIMITED

REGD. OFFICE :
JEEVAN UDYOG BUILDING,
3RD FLOOR, 278, D. N. ROAD, FORT,
MUMBAI 400 001. (INDIA)

ASHAPURA MINECHEM LIMITED



Board of Directors

Mr. Navnitlal R. Shah
Mr. Chetan Shah
Mrs. Dina C. Shah
Mr. R. D. Doshi
Mr. P. A. Vora
Mr. A. M. Kadakia
Mr. B. H. Antia
Mr. S. H. Bathiya
Mr. Bachubhai N. Shah
Mr. John Hughes
Mr. Frank B. Wright, Jr.
Mr. John Evans

Mr. Richard W. Carriker

Executive Chairman
Managing Director
Director
Director
Director
Director
Director
Whole-time Director
Additional Director (w.e.f. 1/6/99)
Additional Director (w.e.f. 1/6/99)
Alternate Director
(Alternate to Mr. John Hughes)
Alternate Director
(Alternate to Mr. Frank B. Wright, Jr.)

Company Secretary

Mr. D. J. Kapadia

Auditors

M/s. Sanghavi & Company
Chartered Accountants
Rajkot

Bankers

Bank of India
Overseas Branch,
Mittal Tower, Nariman Point,
Mumbai - 400 021

Registered and Administrative Office

Jeevan Udyog Bldg., 3rd Floor,
278, D. N. Road, Fort,
Mumbai - 400 001.
Tel.No. : 2070258 (10 Lines)
Fax Nos. : 2079395/2074452

Works

Near Bhuj Railway Station,
Bhuj, Dist. Kutch,
Gujarat

Ler Village,
Tal. Bhuj, Dist. Kutch,
Gujarat.

Share Transfer Agent

Intime Spectrum Registry Pvt. Ltd.,
260-A, Shanti Industrial Estate,
Sarojini Naidu Road, Mulund (West),
Mumbai - 400 080
Tel. No. : 5672716, Fax No. : 5672693

For handling over documents only

201, Davar House, 2nd Floor,
197/199, D. N. Road,
Mumbai - 400 001.

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SHAREHOLDER INFORMATION

Stock Exchanges on which the Company's Securities are Listed

The Company's Securities are listed at the 3 Stock Exchanges in India

The Stock Exchange, Mumbai

Phiroze Jeejeebhoy Towers,
Dalal Street,
Mumbai - 400 001.

National Stock Exchange of India Limited

Trade World,
Senapati Bapat Marg,
Lower Parel, Mumbai - 400 013.

The Stock Exchange, Ahmedabad,

Kamdhenu Complex,
Opp. Sahajanand College,
Panjarapole,
Ahmedabad - 380 015.



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NOTICE

NOTICE is hereby given that the Eighteenth Annual General Meeting of the Members of **ASHAPURA MINECHEM LIMITED** will be held on Friday, the 17th day of September, 1999, at 11.00 A.M. at Kilachand Conference Room, Indian Merchants' Chambers, LNM IMC Building, 2nd Floor, IMC Marg, Churchgate, Mumbai- 400 020 to transact the following business:

ORDINARY BUSINESS:

1. To receive, consider and adopt the Audited Balance Sheet as at 31st March, 1999, the Profit and Loss Account for the year ended on that date and the Reports of the Directors and the Auditors of the Company.
2. To declare a dividend on Equity Shares.
3. To appoint a director in place of Shri Shailesh H. Bathiya, who retires by rotation and being eligible, offers himself for re-appointment.
4. To appoint a director in place of Shri R. D. Doshi, who retires by rotation and being eligible, offers himself for re-appointment.
5. To appoint Auditors and to fix their remuneration.
6. To appoint Branch Auditors for Bhuj Branch, Mandvi Branch, Ler Branch and Chennai Branch in consultation with the Company's Auditors and to fix their remuneration.

SPECIAL BUSINESS:

7. To consider and, if thought fit, to pass with or without modification(s) the following resolution as a **Special Resolution** :

"RESOLVED THAT pursuant to Sections 258 and 259 and other applicable provisions, if any, of the Companies Act, 1956 (including any statutory modification(s) or re-enactment(s) thereof for the time being in force), the maximum number of Directors excluding Alternate Directors, until otherwise determined by the Company in the General Meeting, be increased from twelve to fifteen. PROVIDED, however, that this resolution shall have effect from the date of approval of the Central Government as provided in Section 259 of the said Act."

"RESOLVED FURTHER THAT pursuant to Section 31 and other applicable provisions, if any, of the Companies Act, 1956 (including any statutory modification(s) or re-enactment(s) thereof for the time being in force), the last word "twelve" appearing in Article 120 of the Articles of Association of the Company be replaced by the word "fifteen" on receipt of approval of the Central Government for increase in the number of Directors."

8. To consider and, if thought fit, to pass with or without modification(s) the following resolution as a **Special Resolution** :

"RESOLVED THAT pursuant to Section 31 and other applicable provisions, if any, of the Companies Act, 1956 (including any statutory modification(s) or re-enactment(s) thereof for the time being in force), the Articles of Association of the Company be and are hereby amended in the manner set out below:-

- I. The following be added at the end of the Article 2(ab) but before the last para of the said Article 2:

"(ac) "Promotor" or "the Promoters" shall mean and include Mr. N. R. Shah, Mrs. Hiralaxmi Shah, Mr. Chetan Shah and the following other Shareholders:

- i) Mrs. Dina C. Shah
- ii) Ms. Himani C. Shah
- iii) Ms. Chaitali C. Shah (represented by guardian, Mr. Chetan Shah)

(ad) "VOLCLAY" shall mean and include VOLCLAY INTERNATIONAL CORPORATION, a Delaware Company having its principal place of business at 1500, West Shure Drive, Arlington Heights, Illinois 60005, U.S.A.

(ae) "Affiliate" in relation to VOLCLAY shall mean an entity that controls, is controlled by, or is under Common Control with Volclay, as the case may be. "Affiliate" in relation to the Promoters



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shall mean and include persons, firms, companies and entities that controls, is/are controlled by or is/are under common control with the Promoters, as the case may be.

The term "Control" when used with respect to any party/entity means the beneficial ownership, directly or indirectly, of more than 50 percent of the voting securities and/or ownership of such party/entity or the ability to control the composition or the decisions of the Board of Directors, or the possession of the power to direct or cause the direction of the Management and policies of such party/entity by virtue of the Articles of Association or an Agreement or contract or otherwise.

- (af) "Third Party" means a Company or an individual or an entity who is not a competitor of either Volclay or the Promoters or the Company and who will abide by the terms and conditions of any agreement between the Promoters and Volclay and sign a Deed of Adherence to that effect as may be prescribed by the Promoters and Volclay.
- (ag) "Deed of Adherence" shall mean the Deed as may be prescribed by the Promoters and Volclay which is required to be executed by any Third Party who purchases the shares of the Company held or renounced by any of the Promoters or Volclay which are subject to Article 67(b)(v)."

II. Article 17(a) be amended as follows:

In the fourteenth line of Article 17(a), after the words "persons concerned" the following be added :
"except the Promoters and Volclay".

III. After the Article 17(c), the following Article be added as Article 17 (d) :

'Anti dilution on further issue of capital' "(d) Notwithstanding anything to the contrary contained in these Articles of Association —

- i) Unless otherwise agreed upon between the Promoters and Volclay in writing and such agreement communicated to the Company, in the event of an increase in the issued Equity Share Capital of the Company, the new shares shall first be offered to all the shareholders pro-rata to their level of shareholding in the Company at the time of issue.
- ii) The Promoters and Volclay shall subscribe to and pay in cash (unless otherwise agreed upon by the Promoters and Volclay and the Company) for the increase in the issued Share Capital such that the Promoters' and Volclay's ownership interests remain in the same proportion as their respective ownership interest existing immediately prior to the issue.
- iii) Unless otherwise agreed upon, the Promoters and Volclay shall be given atleast thirty (30) days from receipt of all regulatory approvals (such regulatory approvals to be obtained within a reasonable time) to accept any offer from the Company to subscribe to the further issue of shares of the Company.
- iv) In the event that any of the Promoters or Volclay is unable to subscribe to such shares, they shall be entitled to have any of their Affiliates subscribe to such additional shares, provided the Affiliates shall at all times retain their character and execute a Deed of Adherence that may be prescribed by the Promoters and Volclay and the Deed of Adherence is submitted to the Company. In the event that the Affiliate of any of the Promoters or Volclay as the case may be, subscribing to such additional shares, ceases to be an Affiliate of such Promoters or of Volclay, the shares so subscribed to will be re-transferred by the Company to the Promoters or Volclay or to any other Affiliate(s) of the Promoters or Volclay as the case may be, on submission of duly executed and stamped transfer deed(s) alongwith the ORIGINAL share certificate(s) within thirty (30) days from the date of their lodgment with the Company.

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- v) In the event that the Promoters or Volclay or their Affiliates are unable to subscribe to such shares, the shares shall be offered to the other, namely the Promoters or Volclay, as the case may be, pro-rata to their level of shareholding in the Company at the time of the issue.
- vi) Notwithstanding anything contained hereinabove, in the event that Volclay or its Affiliates are unable to subscribe to such shares due to their inability to obtain any required regulatory approval, Volclay will be entitled to have a Third Party subscribe to such additional shares."

IV. The existing Article 25 be substituted with the following Article as Article 25:

'Register and Index of Members'

"25 The Company shall cause to be kept at its Registered Office or at such other place as may be decided, Register and Index of Members in accordance with Sections 150 and 151 and other applicable provisions of the Act and the Depositories Act, 1996 with the details of shares held in physical and dematerialised forms in any media as may be permitted by law including in any form of electronic media.

The Register and Index of beneficial owners maintained by a Depository under Section 11 of the Depositories Act, 1996 shall also be deemed to be the Register and Index of Members for the purpose of this Act. The Company shall have the power to keep in any state or country outside India, a Register of Members for the residents in that state or country."

V. After the Article 67(b)(iv), the following Article is added as Article 67(b)(v) :

'Right of pre-emption as between the Promoters and Volclay'

"(v) Notwithstanding anything to the contrary contained in these Articles of Association —

- (a) Neither the Promoters nor Volclay shall pledge, create any charge, lien or encumbrance whatsoever with respect to the shares of the Company owned by them, without the prior consent in writing of the other, the Promoters or Volclay, as the case may be, provided however that Chetan Shah is permitted to pledge the shares of the Company owned by him with financial entities from whom the Company has availed of loans to support/ securities such loans.
- (b) Neither the Promoters nor Volclay shall sell, transfer or otherwise dispose of any of its Shares and the Board, subject to the statutory provisions shall not be required to register any sale or transfer of Shares of the Promoters or Volclay unless the procedure prescribed in this Article 67(b) has been followed, and any transfer of Shares as stated in Article 67(b)(v)(d) of the Promoters or Volclay without the prescribed procedure being followed shall be void.
- (c) The Promoters and Volclay may, without any restrictions, sell or transfer its shares in the Company to any of its Affiliate(s) provided that the Promoters or Volclay, as the case may be, may purchase or otherwise recover ownership of all the said shares by itself or through its other Affiliate(s), wherever the Promoters or Volclay, as the case may be, ceases to be an Affiliate of the party to which the shares have been sold or transferred, and the said shares shall be re-transferred, by the Company to the Promoters or Volclay, as the case may be, and/or to the other Affiliate(s) of the Promoters or Volclay, as the case may be, on submission of duly executed and stamped transfer deed(s) along with original share certificate(s) within thirty (30) days from the date of their lodgment with the Company.



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- (d) If Volclay hereto decides to sell or transfer all or any portion of its shares in the Company, it shall offer such shares by written notice ("Notice") first to the Promoters. The Notice shall contain the name of the Third Party to whom it proposes to sell the shares, the price and the terms of payment. If the Promoters hereto decide to sell or transfer all or any portion of their shares in the Company, they shall offer by written notice ("Notice") first to Volclay such shares totally amounting to not less than 31% of the Shares of the Company except that the right of pre-emption shall not apply to the extent of sale of the first 5% each of the shares of the Company including all the entitlements on such shares held by Mr. N. R. Shah, Mr. Chetan Shah and Mrs. Hiralaxmi N. Shah through the stock exchange. The right of pre-emption in favour of Volclay shall be on the 31% of the shares after the aggregate 15% of the shares as exempted from the pre-emption provision. The percentage of 31% on which Volclay has a right of pre-emption shall be reduced to the extent of the shares acquired, if any, by Volclay through the stock exchange or any other means. It is hereby clarified here that once Volclay has purchased such shares from the Promoters or otherwise as would amount, along with the existing shares held by it, to 51% of the capital in the Company, Volclay's right of pre-emption shall expire and shall not apply for any subsequent sale of the shares. The Notice shall contain the name of the Third Party to whom it proposes to sell the shares, the price and the terms of payment. If the party receiving the offer, whether Volclay or the Promoters as the case may be, ("Offeror") does not accept the offer in writing within thirty (30) days from the date of receipt of the written notice ("Acceptance Period") failing which the offer will be deemed to have been rejected, then the party making the offer ("the Seller") shall thereafter be free to dispose of the said Shares within a period of sixty (60) days ("Free Sale Period") after the expiration of the said Acceptance Period, provided, however, that the Seller shall not sell the Shares to the Third Party :
- (1) at the price lower than the price at which the Shares were offered to the Offeror, and/or
 - (2) on the terms or conditions more favourable than those on which the said Shares were offered to the Offeror, and/or
 - (3) who directly or indirectly, carries on activities in competition with the Company and/or the Offeror.
- (e) If the Shares are not sold or transferred to Third Parties upon the term established herein and within the Free Sale Period, then they shall automatically become subject once more to the terms and conditions of this Article as if they had never before been offered for sale.
- (f) If the Offeror accepts the offer within the Acceptance Period then the sale shall be completed within sixty (60) days from the date of acceptance of the offer, provided however in the case of Volclay the time taken to receive regulatory approvals shall be excluded from the sixty (60) days period. Notwithstanding anything contained hereinabove, in the event that Volclay or its Affiliates are unable to subscribe to such shares due to their inability to obtain any regulatory approval as may be required within a reasonable time, Volclay shall be entitled to have a Third Party of its choice subscribe to such additional shares.
- (g) In the event either the Promoters or Volclay, either by themselves or through any of their Affiliates, are unable to exercise their option or are unable to exercise the right of pre-emption under this Article, within 60 days the party who is unable to exercise such rights under the Article may designate a third party ("Permitted Designee"). Appointment of a Permitted Designee shall be subject to the following:

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- (1) A Permitted Designee shall not directly or indirectly carry on activities in competition with the Company or the Promoters or Volclay, who shall be entitled to acquire such shares.
- (2) Sale of a part of the shareholding of either the Promoters or Volclay to the Permitted Designee shall not be subject to the right of pre-emption available to the Promoters and Volclay under this Article. Provided, however, that the Permitted Designee shall agree in writing to be bound by the terms and conditions of any agreement between the promoters and Volclay, by executing a Deed of Adherence.
- (h) Unless the context otherwise requires, all provisions contained in these Articles of Association relating to shares of the Company, including issue, transfer and transmission of shares and exercise of rights as a holder of shares, shall *mutatis mutandis* apply to any fully or partially convertible debenture or any warrant, coupon or instrument which may enable the holder to acquire shares and/or any voting right in the Company.
- (i) In the event of the holding of the Promoters falling below 51% of the entire share capital of the Company, but not falling below 40% of the entire share capital of the Company, Volclay shall, subject to their right to exercise the veto right as provided in Articles 119A and 162A, cast their vote in general body in favour of any resolution sponsored by the Promoters."

VI. The following new Articles be inserted as Articles 75A and 75B after Article 75 :

'Nomination'

- "75A** (1) Every shareholder or debenture holder of the Company, may at any time, nominate a person to whom his shares or debentures shall vest in the event of his death in such manner as may be prescribed under the Act.
- (2) Where the shares or debentures of the Company are held by more than one person jointly, joint holders may together nominate a person to whom all the rights in the shares or debentures, as the case may be shall vest in the event of death of all the joint holders in such manner as may be prescribed under the Act.
- (3) Notwithstanding anything contained in any other law for the time being in force or in any disposition, whether testamentary or otherwise, where a nomination made in the manner aforesaid purports to confer on any person the right to vest the shares or debentures, the nominee shall, on the death of the shareholder or debenture holder or, as the case may be, on the death of the joint holders become entitled to all the rights in such shares or debentures or, as the case may be, all the joint holders, in relation to such shares or debentures, to the exclusion of all other persons, unless the nomination is varied or cancelled in the manner as may be prescribed under the Act.
- (4) Where the nominee is a minor, it shall be lawful for the holder of the shares or debentures, to make the nomination to appoint any person to become entitled to shares in, or debentures of, the Company in the manner prescribed under the Act, in the event of his death, during the minority."

'Transmission of Securities'

- "75B** (1) A nominee, upon production of such evidence as may be required by the Board and subject as hereinafter provided, elect, either –
- (a) to register himself as holder of the share or debenture, as the case may be; or



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(b) to make such transfer of the share or debenture, as the deceased shareholder or debenture holder, as the case may be, could have made.

(2) If the nominee elects to be registered as holder of the share or debenture, himself, as the case may be, he shall deliver or send to the Company, a notice in writing signed by him stating that he so elects and such notice shall be accompanied with the death certificate of the deceased shareholder or debenture holder, as the case may be.

(3) A nominee shall be entitled to the share dividend and other advantages to which he would be entitled if he were the registered holder of the share or debenture. Provided that he shall not, before being registered as a member, be entitled to exercise any right conferred by membership in relation to meeting of the Company.

Provided further 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 or debenture, and if the notice is not complied with within ninety days, the Board may thereafter withhold payment of all dividends, bonuses or other moneys payable in respect of the share or debenture, until the requirements of the notice have been complied with."

VII. After the Article 119, the following Article be added as Article 119A:

'Decision making Principles'

"119A Notwithstanding anything to the contrary contained in the Articles of Association, and so long as the total shares held by Volclay in the Company together with its Affiliates, nominees Permitted Designees and permitted assigns is 10% or more of the paid-up capital of the Company, no decision or resolution shall be taken or passed regarding the matters mentioned in Article 162A at a general meeting of the Shareholders of the Company without the affirmative vote of the representative of the Promoters and the representative of Volclay."

VIII. At the end of the existing Para in the Article 120, the following be added:

"Notwithstanding anything to the contrary contained in this Articles of Association at least two (2) or one fifth of the total directors on the Board, whichever is higher, shall be Directors nominated / sponsored by Volclay for appointment. ("Volclay Directors")

The Volclay Directors shall not be liable to retire by rotation. While calculating one fifth, any fraction shall be rounded off to nearest integer. Subject to the statutory provisions, Volclay and the Promoters, shall have the right to remove any Director nominated /sponsored /appointed by it and nominate/sponsor another director in the place of the original director. The removal or resignation of any such Director shall not require the consent of the Board. Where the shareholding of Volclay varies then the number of non-retiring Volclay Directors shall be in proportion to the percentage of shares then held by Volclay in the total paid-up share capital of the Company."

IX. Article 128

After the Article 128, the following Article be added as Article 128A:

"128A Notwithstanding anything to the contrary contained in this Articles of Association but subject to the statutory provisions -

- a) Volclay and the Promoters shall have a right to nominate alternate directors for any of its Directors, to act for the Director during his absence for a period not less than three months from the state in which the Board Meeting is usually held and such appointment shall have effect, and such appointee whilst he holds office as an Alternate Director shall be entitled to notice of Meetings of

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Directors and to attend and vote, in the absence of the Director nominating him, thereat accordingly. The Promoters and Volclay shall ensure that any Alternate Director nominated by either the Promoters or Volclay shall be duly elected by the Board.

- b) Where any party has requested the appointment of an Alternate for any of its Directors, no business shall be transacted at any Board Meeting until such Alternate is appointed by the Board."

X. Article 151A

After the Article 151, the following Article be added as Article 151A :

"151A(i) Notwithstanding anything to the contrary contained in this Articles of Association at least 14 (Fourteen) clear days' notice (or such shorter notice as unanimously agreed in writing by all the Directors) shall be given to each Director, whether resident in India or abroad before each Board Meeting, provided however, that if Volclay so requests upon receipt of the notice, an additional notice of 7(seven) clear days shall be given to the Directors nominated by Volclay on the Board of Directors of the Company before each Board Meeting to ensure that Volclay can have its representative present at such Board Meetings, in which case the Board Meeting shall stand deferred by such 7 (seven) days.

- (ii) Notwithstanding anything herein contained, every such notice shall contain an agenda identifying sufficient details of the business to be transacted with all necessary accompanying papers and no item shall be transacted at any such Meeting of the Board unless the same has been stated in full and in sufficient detail in the notice convening the Meeting;

PROVIDED however that, with the unanimous consent of all the Directors present at such Meeting, any item or business not included in the agenda for the Meeting may be transacted at the Meeting. However, there can be no transaction of an item or business that is of a non-administrative nature or is material either in terms of value or criticality to business or is an item mentioned under Article 162A of these Articles of Association which is not included in the agenda of a meeting of the Board of Directors if no Volclay director is present at the meeting, even though notice had been given as per Article 151A (i). All notices and agenda of Board Meetings shall be in English language."

XI. Article 156

The following be added at the end of the Article 156 as sub-article (3) of the said Article 156 :

"(3) Notwithstanding anything to the contrary contained in this Articles of Association:

- i) Draft of a proposed circular resolution shall be circulated to every member of the Board, whether in India or not. A circular resolution on any matter listed in Article 162A of this Articles of Association will require the affirmative vote in writing of at least one Director nominated by Volclay and one Director nominated by the Promoters.
- ii) No circular resolution of the Board shall be valid unless the same has been circulated to the Directors whether in India or abroad for a period of at least fourteen (14) days. If any Director fails or refuses to sign such Circular resolution within such 14 days period, he shall be deemed to have disapproved of the resolution circulated to the Directors for approval.
- iii) Decisions at all Meetings of the Board and/or by Circular shall be by majority vote, save as provided in Article 162A of these Articles of Association."

XII. After the Article 162, the following Article is added as Article 162A :

'Decision making principles'

"162A Notwithstanding anything to the contrary contained in this Articles of Association and so long as the total shares held by Volclay in the Company together with its Affiliates, nominees, Permitted Designees and permitted assigns is 10% or more of the paid-up capital of the Company, no decision or resolution shall be taken or passed either at a Meeting of the Board or any Committee thereof or by circulation regarding the following matters, without the approval of a Director appointed by the Promoters and a Director appointed by Volclay.