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Annual Report

2003-2004

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Lumax Automotive Systems Limited

BOARD OF DIRECTORS

Mr. U. K. Jain- Chairman & Managing Director
 Mr. Nitin Jain- Executive Director
 Mr. Jagdeep Kapoor
 Mrs. Kamlesh Jain
 Mr. Vinay Panchmiya
 Mr. Virender Ganda

COMPANY SECRETARY

Ms. Monika Gupta

AUDITORS

M/s R. Jain & Sanjay Associates
 Chartered Accountants, Delhi

M/s D. R. Barve & Company
 Chartered Accountants, Pune (Branch Auditors)

BANKERS

Syndicate Bank

REGISTRAR & TRANSFER AGENT

M/s Skyline Financial Services Pvt. Ltd.
 123, Vinoba Puri, Lajpat Nagar-II,
 New Delhi-110024
 Tel. No. : 29833777, 29847136
 Fax No. : 29848352
 e-mail : admin@skylinerta.com

REGISTERED & CORPORATE OFFICE

B-86, Mayapuri Industrial Area, Phase-I,
 New Delhi-110064
 Tel. No. : 28111777, 51031267
 Fax No. : 28116455
 e-mail : ho@lumaxauto.com

WORKS

- Plot No.78, Sector 6, Faridabad
- 29, DLF Industrial Estate, Phase-II, Faridabad
- Plot No.46, Sector-3, IMT, Manesar, Gurgaon
- D-2/44, MIDC Industrial Area, Chichwad, Pune
- C-10, MIDC Industrial Area, Aurangabad

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IN THE HON'BLE HIGH COURT OF DELHI AT NEW DELHI

(ORIGINAL JURISDICTION)

COMPANY APPLICATION (M) NO. 129 OF 2004

IN THE MATTER OF:

THE COMPANIES ACT, 1956 – SECTION 391 READ WITH SECTION 394

AND

IN THE MATTER OF: SCHEME OF AMALGAMATION OF

TOSHI AUTO INDUSTRIES PRIVATE LIMITED (TOSHI)

...(Transferor Company No.1)

AND

METAL PRESSING INDUSTRIES PRIVATE LIMITED (MPI)

.. (Transferor Company No.2)

WITH

LUMAX AUTOMOTIVE SYSTEMS LIMITED (LUMAX)

...(Transferee Company)

AND

IN THE MATTER OF:

LUMAX AUTOMOTIVE SYSTEMS LIMITED (LUMAX)

a Company incorporated under the provisions of the Companies Act, 1956,
having its registered office at B-86, Mayapuri, Industrial Area, Phase-I
New Delhi- 110 064 within the aforesaid Jurisdiction.

...Applicant Company

NOTICE CONVENING MEETING OF THE EQUITY SHAREHOLDERS OF LUMAX AUTOMOTIVE SYSTEMS LIMITED (LUMAX)

To the Equity Shareholders of
Lumax Automotive Systems Limited (LUMAX)

TAKE NOTICE that by an order made on 15th day of October, 2004, and an order dated 2nd day of November, 2004, the Hon'ble High Court of Delhi at New Delhi has directed that a meeting of the Equity Shareholders of LUMAX, being the Applicant/Transferee Company above named be held at 11.30 A.M. on Saturday, the 27th day of November, 2004 at FICCI Auditorium, Tansen Marg, New Delhi-110 001 for the purpose of considering, and if thought fit, approving, with or without modification(s), the Scheme of Amalgamation of TOSHI and MPI with LUMAX.

TAKE FURTHER NOTICE that in pursuance of the said order, the meeting of the Equity Shareholders of LUMAX will be held **at 11.30 A.M. on Saturday, the 27th day of November, 2004 at FICCI Auditorium, Tansen Marg, New Delhi-110 001**, when you are requested to attend.

TAKE FURTHER NOTICE that you may attend and vote at the said meeting in person or by proxy, provided that a proxy in the prescribed form, duly signed by you, is deposited at the Registered Office of the Transferee Company at B-86, Mayapuri, Industrial Area, Phase-I, New Delhi-110 064, not later than 48 hours before the meeting.

The Hon'ble High Court of Delhi at New Delhi has appointed Smt Rani Chhabra, Advocate, as Chairperson and failing her, Shri Sachin Nawani, Advocate, as the Alternate Chairperson for the aforesaid meeting. The above mentioned Scheme of Amalgamation, if approved by the meeting, will be subject to the subsequent approval of the Court.

A copy of each of the said Scheme of Amalgamation, the statement under section 393 of the Companies Act, 1956 and a form of proxy is enclosed herewith.

Dated this 2nd day of November, 2004

sd/-

Chairpersons appointed for the meeting

**IN THE HON'BLE HIGH COURT OF DELHI AT NEW DELHI
(ORIGINAL JURISDICTION)
COMPANY APPLICATION (M) NO. 129 OF 2004**

**IN THE MATTER OF:
THE COMPANIES ACT, 1956 – SECTION 391 READ WITH SECTION 394
AND
IN THE MATTER OF: SCHEME OF AMALGAMATION OF
TOSHI AUTO INDUSTRIES PRIVATE LIMITED (TOSHI)**

...(Transferor Company No.1)

**AND
METAL PRESSING INDUSTRIES PRIVATE LIMITED (MPI)**

...(Transferor Company No.2)

**WITH
LUMAX AUTOMOTIVE SYSTEMS LIMITED (LUMAX)**

...(Transferee Company)

**AND
IN THE MATTER OF:**

LUMAX AUTOMOTIVE SYSTEMS LIMITED (LUMAX)

a Company incorporated under the provisions of the Companies Act, 1956, having its registered office at B-86, Mayapuri, Industrial Area, Phase-I, New Delhi- 110 064 within the aforesaid Jurisdiction.

...Applicant Company

**EXPLANATORY STATEMENT UNDER SECTION 393 OF THE
COMPANY AT 1956**

1. Pursuant to the Order dated 15th October, 2004 and an order dated 2nd day of November, 2004, passed by the Hon'ble High Court of Delhi at New Delhi in the Company Application referred to herein above, the meetings of the Equity Shareholders and the Unsecured Creditors of LUMAX are being convened for the purpose of considering and, if thought fit, approving, with or without modification(s), the proposed Scheme of Amalgamation of TOSHI and MPI with LUMAX.
2. The expression used in the Explanatory Statement and defined in the Scheme shall bear the same meaning, as defined in the Scheme.
3. The Board of Directors of LUMAX, TOSHI and MPI has approved the Scheme of Amalgamation at their respective Board Meetings held on 9th day of September, 2004, 9th day of September, 2004 and 3rd day of September, 2004 and recommend the same for the approval of the Equity Shareholders and unsecured creditors.
- 4(a) **LUMAX AUTOMOTIVE SYSTEMS LIMITED (LUMAX)** is a Public Limited Company, came into existence on 10th day of November, 2003 by conversion of Lumax Air-Cleaners Limited. Lumax Air-Cleaners Limited was originally incorporated in March, 1999 under the Companies Act, 1956, vide Certificate of Incorporation No. 55-99103 as a Private Limited Company in the name of "Lumax Air-Cleaners Private Limited" and later on in August, 2000, the said Company Lumax Air-Cleaners Private Limited was converted into a Public Limited Company i.e. Lumax Air-Cleaners Limited.
- (b) The Registered Office of LUMAX is situated at B-86, Mayapuri Industrial Area, Phase-I, New Delhi-110 064.
- (c) The Authorized Share Capital of LUMAX is Rs. 6,00,00,000/- (Rupees Six crores only) divided into 60,00,000 (Sixty Lacs) Equity Shares of Rs. 10/- (Rupees Ten) each. The Issued, Subscribed & Paid-up Share Capital of the Company as on 31.03.2004 is Rs. 4,22,41,160/- (Rupees Four crores Twenty-two Lacs Forty-one thousand One hundred and sixty) divided into 42,24,116 (Forty-two Lacs Twenty-four thousand One hundred sixteen) Equity Shares of Rs. 10/- each.
- (d) The Main objects for which LUMAX has been set up are set out in its Memorandum of Association. The Company is presently engaged inter alia in the business of manufacturing of Air-Cleaners, filters, mirrors and other purifying apparatus.
- 5(a) **TOSHI AUTO INDUSTRIES PRIVATE LIMITED (TOSHI)** was originally

incorporated in the year 1982 as a Private Limited Company in the name of Lumax Plastics Private Limited vide certificate of Incorporation no. 55-13318. In the year 1984, the name of the Company was changed to Toshi Auto Industries Private Limited.

During the year 1995, the name of the Company was again changed to Lumax Plastics Private Limited and during the year 1997, the Company became Deemed Public Company i.e. Lumax Plastics Limited pursuant to sub-section (1A) of section 43-A of the Companies Act, 1956. During the year 2000, the name of the Company was again changed to Toshi Auto Industries Limited and in the year 2001, the Company became a Private Limited Company pursuant to sub-section (2A) of section 43-A of the Companies Act, 1956.

- (b) The Registered Office of TOSHI is situated at 2nd Floor, Harbans Bhawan-II, Nangal Raya Business Centre, New Delhi.
- (c) The Authorised Share Capital of TOSHI is Rs. 4,50,00,000/- (Rupees Four crores Fifty lacs only) divided into 45,00,000 (Forty-five lacs) Equity Shares of Rs. 10/- each. The Issued, Subscribed and Paid-up Share Capital of the Company as on that date was Rs. 3,10,11,000/- (Rupees Three crores Ten lacs and Eleven thousand only) divided into 31,01,100 (Thirty-one lacs One thousand and One hundred) Equity Shares of Rs. 10/- each.
- (d) The Main objects for which TOSHI has been set up are set out in its Memorandum of Association. The Company is presently engaged inter alia in the business of Automotive Components and Plastic Injection Moulded Components etc.
- 6(a) **METAL PRESSING INDUSTRIES PRIVATE LIMITED (MPI)** was incorporated in the year 1974 as a Private Limited Company vide Certificate of Incorporation no. 55-7146.
- (b) The Registered Office of MPI is situated at 2nd Floor, Harbans Bhawan-II, Nangal Raya Business Centre, New Delhi.
- (c) The Authorised Share Capital of MPI is Rs. 10,00,000/- (Rupees Ten lacs only) divided into 10,000 (Ten Thousand) Equity Shares of Rs. 100/- each. The Issued, Subscribed and Paid-up Share Capital of the Company as on that date was Rs. 7,88,900/- (Rupees Seven lacs Eighty Eight thousand nine Hundred only) divided into 7,889 (Seven Thousand Eight hundred and Eighty Nine) Equity Shares of Rs. 100/- each.
- (d) The main objects for which MPI has been set up are set out in its Memorandum of Association. The Company is presently engaged inter alia in the business of Automotive Components and other ancillaries.
7. The amalgamation of TOSHI and MPI with LUMAX will be effected by the Scheme of Amalgamation under section 391 and 394 of the Companies Act, 1956 (hereinafter referred to as "the Act").
8. The objective of merging these Companies is to create a single business entity in order to derive the benefit of vertical synergies.
9. The circumstances that have necessitated or justified the proposed Scheme of Amalgamation and its main benefits are, inter alia, summarized as under:
 - (i) To achieve the object of carrying on more smoothly and profitable the business of these Companies.
 - (ii) To consolidate the Automotive capacities within the group and create businesses with focussed objectives.
 - (iii) To enable optimal utilization of various infrastructure and manufacturing assets including utilities and other site facilities, thereby maximizing the wealth of the shareholders.
 - (iv) There will be trade advantage or element of synergy in bringing the companies together under single control that would result in the combined enterprise producing greater or more certain earnings.
 - (v) The Amalgamation will lead to better administration within the Company by having a single co-ordinated staff and support established such as marketing, finance and secretarial departments as against the present separate establishment and thus result in reduction of wastage and repetition of activities.
 - (vi) The Amalgamation will lead to better administration outside the Company by having a unified and integrated representation before the outsiders such as public at large, Banks, Financial Institutions and Government agencies.

(vii) *The Amalgamation would be in tune with the long-term corporate objectives of improving the competence and long term viability of the Companies. The management of Merged Company would have wider perspective and an integrated vision and corporate goals.*

(viii) *The Amalgamation shall reduce the overall cost of administration as there will be only one Company to comply with the provisions of the Companies Act, Income Tax Act, Sales Tax Act and other related legislations as against 2 or 3.*

10. The salient features of the Scheme are:

(a) With effect from the appointed date i.e. 1st day of April, 2004 or such other date as may be fixed by the Hon'ble High Court of Delhi at New Delhi, the Undertakings of TOSHI and MPI as defined in the Scheme, shall without any further act or deed, be and the same shall stand transferred to and vested in or deemed to have been transferred to and vested in LUMAX pursuant to the provisions of section 394 and other applicable provisions of the Act;

(b) All the permanent employees of TOSHI and MPI at their offices, branches and elsewhere and also those in the employment of TOSHI and MPI on the Effective Date of this Scheme shall as from such date, become the employees of LUMAX on the basis that their services have not been interrupted by the vesting of the undertakings of TOSHI and MPI in LUMAX under this Scheme and that the terms and conditions of services applicable to them on the Effective date will not in any way be less favorable than those applicable to them immediately before the Effective Date as aforesaid.

(c) All contracts, deeds, agreements, bonds and other instruments of whatsoever nature to which TOSHI and MPI are parties, subsisting or having effect immediately before or after the Effective date, shall remain in full force and effect against or in favour of LUMAX and shall be binding on and be enforceable by and against LUMAX as fully and effectually, as if, it had at all material times been a party thereto.

(d) Scheme of Amalgamation shall not in any manner affect the rights and interests of the creditors of TOSHI and MPI, which may be deemed to be prejudicial to their interests and in particular the secured creditors of TOSHI and MPI shall continue to enjoy and hold charge upon their respective securities and properties without the need to create fresh charges.

(e) Upon the Scheme becoming finally effective, in consideration of transfer and vesting of the Undertakings of TOSHI and MPI in the Transferee Company (LUMAX) in terms of the Scheme, LUMAX shall, without any further application, act or deed, issue and allot:

(i) 1 (One) Equity Share of Rs. 10/- (Rupees ten) each credited as fully paid-up in the capital of LUMAX to the Equity Shareholders of TOSHI, whose names are recorded in its Register of Members, on the date to be fixed by the Board of Directors of LUMAX, for every 1 (One) Equity Share of Rs. 10/- each credited as fully paid-up held by the said Equity shareholders in TOSHI.

(ii) 10 (Ten) Equity Shares of Rs. 10/- (Rupees ten) each credited as fully paid-up in the capital of LUMAX to the Equity Shareholders of MPI, whose names are recorded in its Register of Members, on the date to be fixed by the Board of Directors of LUMAX, for every 1 (One) Equity Share of Rs. 100/- each credited as fully paid-up held by the said Equity shareholders in MPI.

The Equity shares when issued and allotted by LUMAX in terms of the Scheme shall rank pari passu in all respects with the existing Equity Shares of the LUMAX, except that for the financial year in which they are issued and allotted, they shall rank only for pro-rata dividend for the period during which such capital is so paid-up. For the purpose of such allotment, fractional entitlements, if any, shall be rounded off to the nearest figure.

The proposed share exchange ratio whereunder every shareholder of TOSHI and MPI will receive allotment of shares from LUMAX has been duly worked out by *M/s Pradeep P. Jain & Co., Chartered Accountants, New Delhi*. In recommending the share swap ratio, the Valuers have given due consideration to various methodologies, such as Earning Based, Net Asset Value and Discounted Cash Flow with weight as-

signed based on the appropriateness of each method to give the true value of the business. The Board of Directors of TOSHI, MPI and LUMAX have, based on and relying upon the aforesaid expert advice of the Valuers and on the basis of their independent evaluation and judgment, accepted the suggested ratio.

(f) TOSHI and MPI shall make applications/petitions under section 391 and 394 and other applicable provisions of the said Act to the Hon'ble High Court of Delhi, at New Delhi, for sanction of this Scheme and for dissolution of TOSHI and MPI without winding up.

(g) The Board of Directors of LUMAX, TOSHI and MPI in their full and absolute discretion may assent to any modification(s) or amendment(s) to the Scheme, which the High Court of Delhi, at New Delhi, shareholders of TOSHI and MPI and/or LUMAX and/or any other competent authority may deem fit to approve/impose and effect any other modification(s) or amendment(s), which the Boards in the best interests of the Transferor Company No.1, Transferor Company No.2 or Transferee Company may consider necessary or desirable and give such directions as they may consider desirable or necessary for settling any question, doubt or difficulty arising under the Scheme or in regard to its implementation or any other matter connected therewith (including any question, doubt or difficulty arising in connection with any deceased or insolvent shareholders of the Transferor Company No.1, Transferor Company No.2 and/or Transferee Company) and to do all acts, deeds and things as may be necessary, desirable or expedient for carrying the Scheme into effect. In the event, any modification(s) or amendment(s) to the Scheme is unacceptable to the Transferor Company No.1, Transferor Company No.2 or and/or the Transferee Company for any reason whatsoever, the Transferor Company No.1, Transferor Company No.2 and/or Transferee Company shall be at liberty to withdraw from the Scheme at any time.

For the purpose of giving effect to the Scheme or to carry out any modification(s) or amendment(s) thereto, the Board of Directors of the Transferor Company No.1, Transferor Company No.2 or Transferee Company or any committee thereof is authorised to give such directions and/or to take such steps as may be necessary or desirable including any directions for settling any question, doubt or difficulty whatsoever that may arise.

(h) The Scheme is conditional upon and subject to:

(1) The sanction or approval of all persons or authorities concerned, being obtained and granted in respect of any of the matters provided for or relating to the Scheme for which such sanction or approval is required.

(2) The approval of and agreement to the Scheme by the requisite majority in number and value of such classes of persons of the Transferor Company No.1, Transferor Company No.2 and Company, as may be directed by the Hon'ble High Court of Delhi at New Delhi, on the application made for direction under section 391 of the Act for calling meetings and necessary resolution(s) been passed under the Act for the purpose.

(3) The sanction of the Scheme by the Hon'ble High Court of Delhi at New Delhi under section 391 and 394 of the said act and necessary order or orders under section 394 of the said Act being obtained.

(i) The Board of Directors of the Transferor Company No.1, Transferor Company No.2 and the Transferee Company shall be at liberty to withdraw from this Scheme of Amalgamation in case any condition or alteration imposed by any Authority is unacceptable to any of them.

(j) In case, the Scheme is not sanctioned by the Hon'ble High Court of Delhi at New Delhi for any reason whatsoever or for any other reasons, the Scheme cannot be implemented, the Scheme will become null and void and has no effect and in that event, no rights and/or liabilities shall accrue to or be incurred inter-se by the Transferor Company No. 1, Transferor Company No. 2 and the Transferee Company and the parties shall bear and pay their respective costs and expenses incurred in connection with or relating to the Scheme or pursuant thereto.

- (k) If any doubt or difference or issue arise between the parties hereto or any of their shareholders, creditors, employees and any other as to the construction hereof or as to any account, valuation or apportionment to be taken or made of any asset or liability vested under this Scheme or as to the accounting treatment thereof or as to anything else contained in or relating to or arising out of this Scheme, the same shall be referred to the arbitration and law of arbitration as in force, shall apply.

11(a) The Directors of LUMAX, TOSHI and MPI have no material interest in the Scheme, whether in their capacity as directors, members, creditors or otherwise of LUMAX, TOSHI and MPI, save and except as shareholders in general in LUMAX, TOSHI and MPI. The extent of the shareholding of the Directors, in these Companies are as set out hereunder:

Sr. No.	Directors of LUMAX	Share holding in LUMAX	Share holding in TOSHI	Share holding in MPI
1.	Sh. U. K. Jain	13,06,294	50,000	5,280
2.	Sh. Nitin Jain	2,77,779	81,920	nil
3.	Smt. Kamlesh Jain	2,62,978	3,530	nil
Sr. No.	Directors of TOSHI	Share holding in TOSHI	Share holding in LUMAX	Share holding in MPI
1.	Sh. Sagar Chand Jain	21,34,600	40,010	nil
2.	Sh. Nitin Jain	81,920	2,77,779	nil
3.	Sh. Milan Jain	43,680	2,04,245	2,160
4.	Sh. Vinod Kumar Jain	1,400	175	nil
5.	Sh. Sushil Kumar Jain	100	25	nil
Sr. No.	Directors of LUMAX	Share holding in MPI	Share holding in LUMAX	Share holding in TOSHI
1.	Sh. U. K. Jain	5,280	13,06,294	50,000
2.	Sh. Milan Jain	2,160	2,04,245	43,680

- (b) Shri U. K. Jain, Chairman-cum-Managing Director of LUMAX is also the director of MPI.
- (c) Shri Nitin Jain, Director of LUMAX is also the director of TOSHI.
- (d) Shri Milan Jain, Director of TOSHI is also the director of MPI.
12. No investigation proceedings have been instituted or are pending under Section 235 to 251 of the Companies Act, 1956 with respect to all the three companies. i.e LUMAX, TOSHI and MPI.
13. This Statement may be treated as an Explanatory Statement under Section 173 and under Section 393 of the Companies Act, 1956.
14. A copy of the Scheme of Amalgamation and Explanatory Statement may be obtained from the Registered Office of the Applicant Company. A copy of the latest Annual Report of the Applicant Company for the year ended 31st March, 2004 may also be obtained from the Registered Office of the Applicant Company.
15. Inspection of the following documents may be had at the Registered Office of the Applicant Company between 1100 hours and 1400 hours:
- (a) Certified Copy of the Order dated 15th October, 2004 and an order dated 2nd day of November, 2004, passed by the Hon'ble High Court of Delhi at New Delhi in Company Application (M) No. 129 of 2004.
- (b) Memorandum and Articles of Association of LUMAX, TOSHI and MPI.
- (c) Audited copies of the Annual Report of LUMAX, TOSHI and MPI for the year ended 31st March, 2004.
- (d) Register of Members.
- (e) Register of Directors and their Shareholding.
- (f) Proposed Scheme of Amalgamation.
- (g) Valuation Report of M/s Pradeep P. Jain & Co., Chartered Accountants, New Delhi, of August, 2004 determining the share exchange ratio.

Dated this 2nd day of November, 2004

**SCHEME OF AMALGAMATION
OF
TOSHI AUTO INDUSTRIES PRIVATE LIMITED
AND
METAL PRESSING INDUSTRIES PRIVATE LIMITED
WITH
LUMAX AUTOMOTIVE SYSTEMS LIMITED**

(Under Section 391, 394 and other applicable provisions of the Companies Act, 1956)

PART I OF THE SCHEME

1. DEFINITIONS

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

- 1.1 "Act" or "The Act" means the Companies Act, 1956, or any statutory modifications or re-enactment thereof for the time being in force.
- 1.2 "Appointed Date" means the 1st day of April, 2004 or such other date as may be fixed or approved by Hon'ble High Court at Delhi. Unless otherwise specified in the Scheme, reference to the Appointed Date shall mean the commencement of business hours on the Appointed Date.

1.3 "Effective Date" means the later of the following dates or such date as the High Court may direct, namely

- (a) the date on which the last of all the consents, approvals, permissions, resolutions, actions, sanctions and orders as are referred to in clause 2 of Part III of this Scheme have been obtained, passed or completed.

And

- (b) the date on which certified copies of the Orders of the High Court of Delhi will be filed with the Registrar of Companies.

1.4 "LUMAX" means Lumax Automotive Systems Limited, a Company incorporated under the Companies Act, 1956, having its registered office situated at B-86, Mayapuri Industrial Area, Phase-I, New Delhi-110064

1.5 "MPI" means Metal Pressing Industries Private Limited, a Company incorporated under the Companies Act, 1956, having its registered office situated at 2nd Floor, Harbans Bhawan-II, Nangal Raya Business Centre, New Delhi-110046

1.6 "Scheme" or "The Scheme" means this Scheme of Amalgamation in its present form or with any modification(s) made under Clause 1 of Part III of this Scheme and as may be approved by the Order of the Hon'ble High Court at Delhi in terms of the provisions of this Scheme.

1.7 "TOSHI" means Toshi Auto Industries Private Limited, a Company incorporated under the Companies, Act, 1956, having its registered office situated at 2nd Floor, Harbans Bhawan-II, Nangal Raya Business Centre, New Delhi.110046

1.8 "Undertaking of TOSHI" means:

- (a) All the properties, assets, and liabilities of TOSHI, movable or immovable properties together with all present and future liabilities including contingent liabilities and debts appearing as on the Appointed Date.
- (b) All the debts, liabilities, duties and obligations of TOSHI as on the Appointed Date.
- (c) All TOSHI's
 - reserves,
 - movable and immovable properties, real, corporeal and incorporeal,
 - assets including leasehold rights, tenancy rights, industrial and other licenses, permits, authorizations, quota rights, trade marks, patents, and other industrial and intellectual properties, import quotas, telephone, telex, facsimile and other communication facilities and equipments,
 - rights and benefits of all agreements and all interests, rights and powers of every kind, nature and description whatsoever, privileges, liberties, easements, advantages, benefits and approvals, advantages of any nature whatsoever and whereso ever situated, belonging to and in ownership, power or in possession and in control of or vested or granted in favour of or enjoyed by TOSHI as on the Appointed Date.
 - rights of any nature whatsoever including manufacturing or marketing rights, licenses, agreements, grants, registrations, recognitions in respect thereof.
- (d) All the permanent employees of TOSHI.
- (e) Any project to be initiated after the Appointed Date but before the Effective Date in relation to business together with assets and liabilities.

1.9 "Undertaking of MPI" means:

- (a) All the properties, assets, and liabilities of MPI, movable or immovable properties together with all present and future liabilities including contingent liabilities and debts appearing as on the Appointed Date.
- (b) All the debts, liabilities, duties and obligations of MPI as on the Appointed Date.
- (c) All MPI's
 - reserves,
 - movable and immovable properties, real, corporeal and incorporeal,
 - assets including leasehold rights, tenancy rights, industrial and other licenses, permits, authorizations, quota rights, trade marks, patents, and other industrial and intellectual properties, import quotas, telephone, telex, facsimile and other communication facilities and equipments,
 - rights and benefits of all agreements and all interests, rights and powers of every kind, nature and description whatsoever, privileges, liberties, easements, advantages, benefits and approvals, advantages of any nature whatsoever and whereso ever situated, belonging to and in ownership, power or in possession and in control of or vested or granted in favour of or enjoyed by MPI as on the Appointed Date.
 - rights of any nature whatsoever including manufacturing or marketing rights, licenses, agreements, grants, registrations, recognitions in respect thereof.
- (d) All the permanent employees of MPI.
- (e) Any project to be initiated after the Appointed Date but before the Effective Date in relation to business together with assets and liabilities.

- (a) With effect from the Appointed date, the undertaking of TOSHI shall pursuant to Section 391(2) and 394(2) of the Act and subject to the provisions of the Scheme in relation to the mode of transfer and vesting, with out any further act, instrument or deed be and the same shall stand transferred to and vested in and/or deemed to be transferred to and vested in LUMAX as a going concern with effect from the Appointed Date free from all encumbrances.
- (b) With effect from the Appointed date, the undertaking of MPI shall pursuant to Section 391(2) and 394(2) of the Act and subject to the provisions of the Scheme in relation to the mode of transfer and vesting, without any further act, instrument or deed be and the same shall stand transferred to and vested in and/or deemed to be transferred to and vested in LUMAX as a going concern with effect from the Appointed Date free from all encumbrances.
- (c) The transfer or vesting of the undertakings as per clause (a) and (b) above, nevertheless shall be subject to the existing charges there on in favour of banks, financial institutions, as may be modified, readjusted, apportioned or reallocated by them.
- (d) Wherein the assets of TOSHI have been or are offered or agreed to be offered as security for any financial assistance obligations, such assets shall be construed as reference only to the assets pertaining to TOSHI as are vested in LUMAX by virtue of the Scheme, that such securities, mortgages and charges shall not extend or be deemed to extend to any of the assets or any of the other units or divisions of TOSHI, unless specifically agreed by LUMAX.
- (e) Wherein the assets of MPI have been or are offered or agreed to be offered as security for any financial assistance obligations, such assets shall be construed as reference only to the assets pertaining to MPI as are vested in LUMAX by virtue of the Scheme, that such securities, mortgages and charges shall not extend or be deemed to extend to any of the assets or any of the other units or divisions of MPI, unless specifically agreed by LUMAX.
- (f) The Scheme shall not operate to enlarge the security for any loan, deposit, or facility created by or available to TOSHI and MPI, which shall vest in LUMAX, by virtue of this Scheme.

3. It is clarified that all debts, liabilities and obligations of TOSHI and MPI as on the Appointed Date, whether provided for or not in the Books of Accounts of TOSHI and MPI respectively, shall be the debts, liabilities, duties and obligations of LUMAX, which it undertakes to meet, discharge and satisfy the same.

4. LUMAX may in accordance with the provisions of the Scheme if so required, under any law or otherwise,

- (a) execute deeds of confirmation in favour of
 - the secured creditors of TOSHI and MPI.
 - in favour of any other Party to any contract or arrangement to which TOSHI and / or MPI are the Parties.
- (b) any writings as may be necessary to be executed in order to give formal effect to the above provisions.

LUMAX shall be authorized to execute any such writings and to carry out all the formalities or compliances referred to above on the part of TOSHI and MPI.

5. LEGAL PROCEEDINGS

- (a) If any suit, writ petition, appeal, revision or other proceedings of whatever nature (hereinafter called "the Proceedings") by or against TOSHI, whether pending on the Appointed Date or which may be instituted in future, the same shall not abate, be discontinued or be in any way prejudicially affected by any reason of the transfer of the undertaking of TOSHI or anything contained in the Scheme, but the Proceedings may be continued, prosecuted and enforced by or against LUMAX in the same manner and to the same extent, as it would be or might have been continued, prosecuted and

PART II OF THE SCHEME

2. TRANSFER OF THE UNDERTAKING

enforced by or against TOSHI, as if the Scheme had not been made.

- (b) Upon the Scheme become effective, LUMAX undertakes to have such legal or other proceedings initiated by or against TOSHI referred to in clause (a) above, transferred in its name and the same may be continued, prosecuted and enforced by or against LUMAX in the same manner and to the same extent, as it would be or might have been continued, prosecuted and enforced by or against TOSHI, as if the Scheme had not been made.
- (c) If any suit, writ petition, appeal, revision or other proceedings of whatever nature (hereinafter called "the Proceedings") by or against MPI whether pending on the Appointed Date or which may be instituted in future, the same shall not abate, be discontinued or be in any way prejudicially affected by any reason of the transfer of the undertaking of MPI or anything contained in the Scheme, but the Proceedings may be continued, prosecuted and enforced by or against LUMAX in the same manner and to the same extent, as it would be or might have been continued, prosecuted and enforced by or against MPI, as if the Scheme had not been made.
- (d) Upon the Scheme become effective, LUMAX undertakes to have such legal or other proceedings initiated by or against MPI referred to in clause (c) above transferred in its name and the same may be continued, prosecuted and enforced by or against LUMAX in the same manner and to the same extent, as it would be or might have been continued, prosecuted and enforced by or against MPI, as if the Scheme had not been made.

6. CONDUCT OF BUSINESS BY TOSHI AND MPI TILL THE EFFECTIVE DATE

- 6.1 TOSHI and MPI hereby undertakes upto and including the effective date to carry on their business with proper prudence and not to alienate, change or otherwise deal with or dispose off any property or any part thereof (except for in the usual course of business) or to undertake any substantial expansion of their existing business without the prior consent of LUMAX.
- 6.2 Until the Scheme is sanctioned and the transfer is effected as aforesaid, TOSHI and MPI shall carry on their business in the usual course and shall be deemed to be carrying on the said business for and on behalf of and in trust for LUMAX with effect from the Appointed Date.
- 6.3 Accordingly all profits accruing to TOSHI and MPI or losses arising or incurred by them after the appointed date till the effective date shall for all purposes be treated as the profits or losses, as the case may be, of LUMAX. Further TOSHI and MPI undertakes not to utilize the profits, if any, for the purpose of declaring or paying any dividend in respect of the period falling on or after the Appointed Date.
- 6.4 TOSHI and MPI shall be entitled, pending the sanction of the scheme, to apply to the Central / State Government, and all other agencies, departments and authorities concerned as are necessary under any law or rules, for such consents, approvals and sanctions, which LUMAX may require to own and operate the Undertaking.

7. EMPLOYEES OF TOSHI AND MPI

- 7.1 All the permanent employees of TOSHI and MPI at their offices, branches and elsewhere and also those in the employment of TOSHI and MPI shall stand transferred to LUMAX with continuity of service and on the same terms and conditions, on which they are engaged as on Appointed Date by TOSHI and MPI.
- 7.2 LUMAX undertakes to continue, abide by any of the Agreement / settlement, etc. entered into by TOSHI and / or MPI with any union / employee of TOSHI and / or MPI. LUMAX agrees that the service of all such employees with TOSHI and MPI upto the Appointed Date shall be taken into account for the purpose of all retirement benefits for which they may be eligible in TOSHI and MPI upto the Appointed Date.
- 7.1 On the scheme become finally effective, the Provident Fund, Gratuity

Fund, Superannuation Fund or any other Special Fund created or existing for the benefit of the staff, workmen, and other employees of TOSHI and MPI shall stand substituted to LUMAX in accordance with the provisions of such Schemes or Funds, according to the terms provided in the respective Trust Deeds or other documents.

8. PROFITS, DIVIDENDS, BONUS AND RIGHT SHARES

TOSHI and MPI shall not utilize their respective profits, if any, for any purpose including declaring or paying any dividends, issue or allot any further shares, either right or bonus or adjust or claim adjustment of the profit or losses as the case may be, earned or incurred or suffered after the Appointed Date, without the prior consent of LUMAX.

9. CONTRACTS, BONDS, DEEDS, AGREEMENT AND OTHER INSTRUMENT

(A). TOSHI

- 9.1 Subject to other provisions contained in this scheme, all **contracts, deeds, bonds, agreements, schemes, arrangements and other instruments** of whatever nature to which TOSHI is a party subsisting or having effect immediately before the arrangement, shall remain in full force and effect against or in favour of LUMAX and may be enforced as fully and effectively as if, instead of TOSHI, LUMAX had been a party thereto.
- 9.2 Upon coming into effect of this scheme and subject to the provisions of the Scheme, **all permits, quotas, rights, entitlements, licenses including those relating to trademarks, tenancies, patents, copyright, privileges, powers facilities** of every kind and description of whatever nature in relation to the undertaking of TOSHI, to which TOSHI is a party or to the benefit of which TOSHI may be eligible and which are subsisting or having effect immediately before the Effective Date, shall be and remain in force and effect in favour of or against LUMAX as the case may be, enforced as fully and effectively as if, instead of TOSHI, LUMAX has been a party or beneficiary or obligee thereto.
- 9.3 Any **inter-se contracts** between TOSHI and LUMAX relating to the undertaking of TOSHI, shall stand merged and vest in LUMAX upon the sanction of the scheme and upon the scheme becoming effective.
- 9.4 Any **statutory permissions or approvals, or consents** to carry on the operations in TOSHI shall stand vested in or transferred to LUMAX without further act or deed, and shall be mutated by the statutory authorities concerned therewith in favour of LUMAX upon the vesting and transfer of the undertaking of TOSHI pursuant to this scheme.
- 9.5 LUMAX at any time after coming into effect of this Scheme in accordance with the provisions hereof, if so required, under any law or otherwise, will execute **deeds of confirmation or other writings or arrangements** with any party to any contract or arrangement in relation to the undertaking of TOSHI to which TOSHI is a party, in order to give formal effect to the above provisions. LUMAX shall under the provisions of this Scheme, be deemed to be authorized to execute any such writings on behalf of TOSHI and to carry out or perform all such formalities or compliances referred to above on the part of TOSHI.

(B). MPI

- 9.6 Subject to other provisions contained in this scheme, all **contracts, deeds, bonds, agreements, schemes, arrangements and other instruments** of whatever nature to which MPI is a party subsisting or having effect immediately before the arrangement, shall remain in full force and effect against or in favour of LUMAX and may be enforced as fully and effectively as if, instead of MPI, LUMAX had been a party thereto.
- 9.7 Upon coming into effect of this scheme and subject to the provisions of the Scheme, **all permits, quotas, rights, entitlements, licenses including those relating to trademarks, tenancies, patents, copyright, privileges, powers facilities** of every kind and description of whatever nature in relation to the undertaking of MPI to which MPI is a party or to the benefit of which MPI may be eligible and which are subsisting or having effect immediately before the Effective Date, shall be and remain in force and effect in favour of or against LUMAX as the case may be, enforced as fully and effectively as if, instead of

MPI, LUMAX has been a party or beneficiary or oblige thereto.

- 9.8 Any **inter-se contracts** between MPI and LUMAX relating to the undertaking of MPI, shall stand merged and vest in LUMAX upon the sanction of the scheme and upon the scheme becoming effective.
- 9.9 Any **statutory permissions or approvals, or consents** to carry on the operations in MPI shall stand vested in or transferred to LUMAX without further act or deed, and shall be mutated by the statutory authorities concerned therewith in favour of LUMAX upon the vesting and transfer of the undertaking of MPI pursuant to this scheme.
- 9.10 LUMAX at any time after coming into effect of this Scheme in accordance with the provisions hereof, if so required, under any law or otherwise, will execute **deeds of confirmation or other writings or arrangements** with any party to any contract or arrangement in relation to the undertaking of MPI to which MPI is a party, in order to give formal effect to the above provisions. LUMAX shall under the provisions of this Scheme, be deemed to be authorized to execute any such writings on behalf of MPI and to carry out or perform all such formalities or compliances referred to above on the part of MPI.
- 10. ISSUE OF SHARES BY LUMAX**
 - 10.1 Upon the Scheme becoming effective, the said undertaking of TOSHI being transferred and vested in LUMAX in accordance and in terms of this Scheme, LUMAX shall without any further act, obligation or deed issue and allot to the shareholders of TOSHI, 1 (One) Equity Share of Rs. 10/- each in LUMAX credited as fully paid-up for every 1 (One) Equity Share of Rs. 10/- each credited as fully paid-up held by them in TOSHI, within 60 days after the Effective Date, as the Board of Directors of LUMAX may determine.
 - 10.2 Upon the Scheme becoming effective, the said undertaking of MPI being transferred and vested in LUMAX in accordance and in terms of this Scheme and LUMAX shall without any further act, obligation or deed issue and allot to the shareholders of MPI 10 (Ten) Equity Shares of Rs. 10/- each in LUMAX credited as fully paid-up for every 1 (One) Equity Share of Rs. 100/- each credited as fully paid-up held by them in MPI, on such date after the Effective Date, as the Board of Directors of LUMAX may determine.

Provided however that no such allotment shall be made in respect of any Equity Share(s) held by LUMAX in the Share Capital of TOSHI and / or MPI as on the Effective Date, which shall be cancelled.
 - 10.3 All the Equity Shares in the Share Capital of LUMAX to be issued and allotted as aforesaid shall rank pari passu in all respects with the existing Equity Shares in LUMAX, except that the Dividend, if any, declared and accruing for the period before the Appointed Date shall be paid to the shareholders of the respective Companies.
 - 10.4 For the purposes as aforesaid LUMAX shall if and to the extent required apply for and obtain the requisite consent and approval of the Reserve Bank of India and other appropriate authorities concerned for the issue and allotment by LUMAX to the respective members of TOSHI and MPI of the Equity Shares in the recognized Share Capital of LUMAX in the ratio aforesaid.
 - 10.5 LUMAX shall before allotment of the Equity Shares in terms of the Scheme increase its Authorized Share Capital by creation of at least such number of Equity Shares of Rs. 10/- each, as may be necessary to satisfy its obligations under the provisions of the Scheme.
 - 10.6 All the members whose name appears in the Register of Members of TOSHI & MPI respectively on such date after the Effective Date as the Board of Directors of LUMAX may determine, will surrender the Share Certificates held by them in the Share Capital of TOSHI & MPI respectively to LUMAX at its Registered Office, for cancellation and take all steps to obtain from LUMAX, the certificates for the shares in LUMAX to which they may be entitled to under clause (1) above.
 - 10.7 All the members whose names appears in the Register of Members of TOSHI & MPI respectively on such date as is referred to in above clause, will accept the shares to be allotted as aforesaid in lieu of their shareholding in TOSHI & MPI respectively.

PART III GENERAL CONDITIONS OF THE SCHEME

- (1) **Modifications and Amendments:** The Board of Directors of TOSHI, MPI and LUMAX or any person authorized by the respective Board may assent on behalf of all the concerned to any modification(s), alteration(s), addition(s), deletion(s), or any other amendments to this Scheme or to any conditions which the Hon'ble High Court of Delhi or any other Authority may impose or which the Board of Directors may do all acts, things, and deeds as may be necessary and / or expedient for the purpose of implementing this Scheme.
- (2) **Approvals:** The Scheme is conditional upon the following Approvals and shall be deemed to be effective on the date on which the last of the under noted approvals shall have to be obtained and upon a certified copy of the order granted by the Hon'ble High Court of Delhi being filed with the office of the Registrar of the Companies by TOSHI, MPI and LUMAX.
 - (a) The approval by the requisite majority of the **members and creditors** of TOSHI, MPI and LUMAX.
 - (b) The sanction of this Scheme by the **Hon'ble High Court of Delhi** under Section 391, 394 and other applicable provisions of the Companies Act, 1956.
 - (c) The approval to the issue and allotment of Equity Shares in LUMAX to the shareholders of TOSHI and MPI in accordance with and subject to the provisions of the Scheme being approved by way of a **Special Resolution** of LUMAX in terms of Section 81(1A) of the Companies Act, 1956.
 - (d) Such other sanctions and approvals as would be required by law in respect of the Scheme.
- (3) **Cost, Charges and Expenses:** All costs, charges, and expenses of TOSHI, MPI and LUMAX respectively and in relation to or in connection with the negotiations leading up to the Scheme and of carrying on or completing the terms and provisions of this Scheme shall be borne and paid by LUMAX.
- (4) **Rights of the Creditors:** The Scheme shall not in any manner effect the rights and interests of the creditors of TOSHI and MPI, which may be deemed to be prejudicial to their interest.
- (5) **Dissolution without Winding up:** Subject to the Hon'ble High Court of Delhi's Orders under Section 394 of the Company's Act, 1956, TOSHI and MPI shall be dissolved without winding-up upon the fulfillment of the conditions set out in the order.
- (6) **Non sanction of the Scheme by the Hon'ble High Court:** In the event of Scheme not being sanctioned by the Hon'ble High Court for any reason whatsoever or for any other reason, if the Scheme cannot be implemented, it will become null and shall have no effect. In such an event, no rights and / or liabilities shall accrue to or be incurred inter-se by TOSHI, MPI and LUMAX and the parties shall bear their respective costs and expenses.
- (7) **Resolution of further doubts and questions:** Upon the Scheme taking effect and after dissolution of TOSHI and MPI, the Board of Directors of LUMAX is hereby authorized to take steps as may be necessary desirable or proper to resolve any questions, doubts or difficulty whether by reason of any order of the Court or any directive, order or sanction of any authority or otherwise arising out of or under this Scheme or any matter therewith.
- (8) **Settlement of Difference or issue through arbitration:** If any doubt or difference or issue arise between the parties hereto or any of their shareholders, creditors, employees and any other as to the construction hereof or as to any account, valuation or apportionment to be taken or made of any asset or liability vested under this Scheme or as to the accounting treatment thereof or as to anything else contained in or relating to or arising out of this Scheme, the same shall be referred to arbitration and law of arbitration as in force shall apply.

**IN THE HON'BLE HIGH COURT OF DELHI AT NEW DELHI
(ORIGINAL JURISDICTION)
COMPANY APPLICATION (M) NO. 129 OF 2004**

IN THE MATTER OF:

THE COMPANIES ACT, 1956 – SECTION 391 READ WITH SECTION 394

AND

**IN THE MATTER OF: SCHEME OF AMALGAMATION
OF**

TOSHI AUTO INDUSTRIES PRIVATE LIMITED (TOSHI)

...(Transferor Company No.1)

AND

METAL PRESSING INDUSTRIES PRIVATE LIMITED (MPI)

...(Transferor Company No.2)

WITH

LUMAX AUTOMOTIVE SYSTEMS LIMITED (LUMAX)

...(Transferee Company)

AND

IN THE MATTER OF:

LUMAX AUTOMOTIVE SYSTEMS LIMITED (LUMAX)

a Company incorporated under the provisions of the Companies Act, 1956, having its registered office at B-86, Mayapuri, Industrial Area, Phase-I, New Delhi- 110 064 within the aforesaid Jurisdiction.

...Applicant Company

FORM OF PROXY

I, the undersigned Shareholder, of the above company hereby appoint _____ of _____, and failing him _____ of _____, as my proxy, to act for me at the meeting of the Equity Shareholders of LUMAX to be held **at 11.30 A.M. on Saturday, the 27th day of November, 2004 at FICCI Auditorium, Tansen Marg, New Delhi-110 001** for the purpose of considering and, if though fit, approving, with or without modification(s), the Scheme of Amalgamation of TOSHI and MPI with LUMAX and at such meeting and any adjournment thereof, to vote, for me and in my name for or against the said Scheme of Amalgamation, either with or without modification, as my proxy may approve.

Dated this.....day of November, 2004

Signature: _____

Address : _____

ATTENDANCE SLIP

PLEASE FILL THIS ATTENDANCE SLIP AND HAND IT OVER AT THE MEETING VENUE

(For demat holding)

(for physical holding)

DP Id. _____

Folio No. _____

Client Id _____

NAME OF THE SHAREHOLDER/PROXY HOLDER _____

FATHER/HUSBAND'S HELD _____

NO. OF SHARES(S) HELD _____

I hereby record my presence at the meeting, convened pursuant to the Order dated 15th October, 2004 and order dated 2nd November, 2004, of the High Court of Delhi of the Equity shareholders of the Company of Saturday, the 27th November, 2004 at 11.30 a.m. at FICCI Auditorium, Tansen Marg, New Delhi - 110001.

Signature of the equity shareholder or proxy

Notes : 1. Shareholders are request to bring the Attendance Slip with them when they come to the meeting and hand it over at the respective counters after affixing their signature on it.
2. Shareholders who come to attend the meeting are requested to bring with them copy of the Scheme.
3. Members having multiple folios may use photocopy of the Proxy Form / Attendance Slip.