

**SCHEME OF ARRANGEMENT**

**UNDER SECTIONS 391 TO 394 READ WITH SECTIONS 100 to 103 OF THE COMPANIES  
ACT 1956 AND SECTION 52 OF THE COMPANIES ACT 2013**

**BETWEEN**

**MARICO KAYA ENTERPRISES LIMITED**

**AND**

**KAYA LIMITED**

**AND**

**THEIR RESPECTIVE SHAREHOLDERS AND CREDITORS**

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**A. PREAMBLE**

This Scheme of Arrangement (~~Scheme~~) is presented under sections 391 to 394 read with sections 100 to 103 of the Companies Act 1956 and section 52 of the Companies Act 2013 and other applicable provisions of the Companies Act, 1956 and Companies Act, 2013 for amalgamation of Marico Kaya Enterprises Limited (~~MaKE~~) with Kaya Limited (~~Kaya~~). This Scheme also provides for various other matters consequential or otherwise integrally connected therewith.

**B. RATIONALE AND PURPOSE OF THE SCHEME**

MaKE is engaged in the business of skincare products and skincare solutions business carried through Kaya skin clinics in India and Middle East. Kaya, a wholly owned subsidiary of MaKE, is engaged in the business of providing Health Care, Aesthetics, Beauty and Personal Care services in India and abroad. The management of MaKE and Kaya believe amalgamation of MaKE with Kaya, inter alia, would have the following benefits:

- i. Elimination of a multi-layered structure
- ii. Unlocking value for the shareholders of MaKE; and
- iii. Reduction in administrative and operational costs.

### **C. PARTS OF THE SCHEME**

The Scheme is divided into the following three parts:

- Part I** - Deals with Definitions and Share Capital
- Part II** - Deals with the amalgamation of MaKE into Kaya
- Part III** - Deals with General Clauses, Terms and Conditions

### **PART I – DEFINITIONS AND SHARE CAPITAL**

#### **1 DEFINITIONS**

In this Scheme (as defined hereunder), unless inconsistent with the subject or context, the following expressions shall have the following meaning:

- 1.1 **Act** or **the Act** means the Companies Act, 1956 and the Companies Act, 2013, as applicable, and rules and regulations made thereunder and shall include any statutory modifications, amendments or re-enactment thereof for the time being in force. It is being clarified that as on the date of approval of this Scheme by the Board of Directors or any committee thereof of MaKE and by the Board of Directors of Kaya, Section 100 to 103 and Section 391 to 394 of the Companies Act, 1956 continue to be in force with the corresponding provisions of the Companies Act, 2013 not having been notified. Accordingly, reference in this Scheme to particular provisions of the Act are reference to the particular provisions of the Companies Act, 1956. Upon such provisions standing re-enacted by enforcement of provisions of the Companies Act, 2013, such reference shall, unless a different intention appears, be construed as reference to the provisions so re-enacted;
- 1.2 **“Appointed Date”** means April 1, 2014 or such other date as may be fixed or approved by the High Court or such other competent authority;
- 1.3 **“Effective Date”** means the last of the dates on which the certified copy or authenticated copy of the Order sanctioning this Scheme passed by the High Court of Judicature at Bombay is filed by MaKE and Kaya with the Registrar of Companies, Mumbai, Maharashtra.

Any references in the Scheme to ~~upon the Scheme becoming effective+or %effectiveness of the Scheme+ or %upon coming into effect of this Scheme+~~ shall mean the Effective Date;

1.4 **"High Court"** or **"Court"** means the High Court of Judicature at Bombay or such other Authority having jurisdiction in the matter and shall include the National Company Law Tribunal, if and when applicable;

1.5 **"Kaya"** or **"the Transferee Company"** means Kaya Limited, a company incorporated under the Act and having its registered office at 23C, Mahal Industrial Estate, Mahakali Caves Road, Near Paper Box Lane, Andheri (East), Mumbai . 400 093;

1.6 **"MaKE"** or **"the Transferor Company"** means Marico Kaya Enterprises Limited, a company incorporated under the Act and having its registered office at 9<sup>th</sup> Floor, Grande Palladium, 175 CST Road, Kalina, Santa Cruz (East), Mumbai . 400 098;

1.7 ~~%Record Date+~~ means such date to be fixed by the Board of Directors of the Transferee Company in consultation with the Board of Directors of Transferor Company for the purposes of determining the shareholders of MaKE to whom shares would be issued in accordance with Clause 5 of this Scheme;

1.8 **"Scheme"** or ~~%the Scheme+ or %his Scheme+~~ means this Scheme of Arrangement in its present form as submitted to the Hon<sup>ble</sup> High Court of Judicature at Bombay for sanction including / with any modifications / amendments thereto / therein made under Clause 16 of the Scheme;

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, the Securities Contract Regulation Act, 1956, Securities and Exchange Board of India Act, 1992 (including the Regulations made thereunder), 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.

## **2 DATE OF TAKING EFFECT AND OPERATIVE DATE**

The Scheme set out herein in its present form or with any modification(s) approved or imposed or directed by the High Court or made as per Clause 16 of the Scheme, shall be effective from the Appointed Date but shall be operative from the Effective Date.

### 3 SHARE CAPITAL

3.1 The authorized, issued, subscribed and paid-up share capital of MaKE as on March 31, 2014 is as under:

<u>Share Capital</u>	<u>Amount in Rupees</u>
<u>Authorised Share Capital</u>	
1,40,00,000 Equity Shares of Rs.10/- each	14,00,00,000
<b>TOTAL</b>	<b>14,00,00,000</b>
<u>Issued, Subscribed and Paid Up Share Capital</u>	
1,28,97,100 Equity Shares of Rs. 10/- each	12,89,71,000
<b>TOTAL</b>	<b>12,89,71,000</b>

Subsequent to the above date and till the date of the Scheme being approved by the Board of Directors of MaKE, there has been no change in the authorized, issued, subscribed and paid-up share capital of MaKE. The shares of MaKE are listed on the BSE Limited and National Stock Exchange of India Limited.

3.2 The authorized, issued, subscribed and paid-up share capital of Kaya as on March 31, 2014 is as under:

<u>Share Capital</u>	<u>Amount in Rupees</u>
<u>Authorised Share Capital</u>	
2,00,00,000 Equity Shares of Rs. 10/- each	20,00,00,000
<b>TOTAL</b>	<b>20,00,00,000</b>
<u>Issued, Subscribed and Paid Up Share Capital</u>	
1,78,48,975 Equity Shares of Rs. 10/- each	17,84,89,750
<b>TOTAL</b>	<b>17,84,89,750</b>

Subsequent to the above date and till the date of the Scheme being approved by the Board of Directors of Kaya, there has been no change in the authorized, issued, subscribed and paid-up share capital of Kaya. The entire share capital of Kaya is held by MaKE and its nominees.

## **PART II – AMALGAMATION OF MaKE INTO Kaya**

### **4 TRANSFER AND VESTING**

- 4.1 With effect from the opening of business as on the Appointed Date and upon the scheme becoming effective, the entire business and whole of the undertaking of MaKE including all its properties and assets of whatsoever nature, 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 (whether owned, leased, licensed) all fixed and movable plant and machinery, vehicles, fixed assets, work in progress, current assets, tax credits, investments, reserves, provisions, funds, licenses, registrations, copyrights, any brand name, patents, trademarks and other rights and licenses in respect thereof, whether registered or not, permits, quotas, approvals, actionable claims, all rights / title or interest in property(ies) by virtue of any court order / decree, contractual arrangement, allotment, grant, possession or otherwise, lease, tenancy rights, permissions, incentives, licenses and other records whether in physical, electronic form in connection/ relating to MaKE and all other rights, title, interest, contracts, consent, approvals or powers of every kind, nature and descriptions whatsoever, situated belonging to or in the possession of or granted in favour of or enjoyed by MaKE, shall under the provisions of Sections 391 to 394 of the Act and pursuant to the orders of the High Court or any other appropriate authority sanctioning this Scheme and without further act, instrument or deed, be transferred to and vested in and/or deemed to be transferred to and vested in Kaya so as to become the properties and assets of Kaya.
- 4.2 Upon the Scheme becoming effective and with effect from the Appointed Date, all debts, liabilities, contingent liabilities, duties and obligations of MaKE as on the close of business on the date preceding the Appointed Date, whether or not provided in the books of MaKE, shall be deemed to be the debt, liabilities, duties and obligations of Kaya and it shall not be necessary to obtain the consent of any third party or other person who is a party to any contract or arrangement by virtue of which such debts, liabilities, contingent liabilities, duties and obligations have arisen in order to give effect to the provisions of this sub-clause.
- 4.3 The transfer and vesting of the entire business and assets and liabilities as aforesaid of MaKE, 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 MaKE.

Provided however, any reference in any security documents or arrangements (to which MaKE is a party) to the assets of MaKE 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 MaKE as are vested in Kaya by virtue of the aforesaid Clauses, 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 Kaya.

Provided further that the securities, charges and mortgages (if any subsisting) over and in respect of the assets or any part thereof of Kaya 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 MaKE vested in Kaya.

4.4 In respect of all the movable assets of MaKE and the assets which are otherwise capable of transfer by physical delivery or endorsement and delivery, including cash on hand (together with duly executed transfer forms or other documents as may be required), shall be so transferred to Kaya and deemed to have been physically handed over by physical delivery or by endorsement and delivery, as the case may be, to Kaya to the end and intent that the property and benefit therein passes to Kaya with effect from the Appointed Date.

4.5 The investments if any held by MaKE in physical certificate form will be transferred to Kaya by duly executed transfer deeds. The investments held in dematerialised form will be transferred to Kaya by issuing appropriate delivery instructions to the depository participant with whom MaKE has an account. Such delivery and transfer shall be made on a date mutually agreed upon between the respective Boards of Directors of MaKE and Kaya, being a Date after the sanction of the Scheme by the High Court.

4.6 In respect of any intangible moveable assets of MaKE other than those mentioned in Clause 4.4 or 4.5 above, including actionable claims, sundry debtors, outstanding loans, advances recoverable in cash or kind or for value to be received and deposits with the Government, semi-Government, local and other authorities and bodies and customers, MaKE shall if so required by Kaya, and Kaya may, issue notices in such form as Kaya may deem fit and proper stating that pursuant to the High Court having sanctioned this Scheme, the relevant debt, loan, advance or other asset, be paid or made good or held on account of Kaya, as the person entitled thereto, to the end and intent that the right of MaKE to recover or realise the same stands transferred to Kaya and that appropriate entries should be passed in their respective books to record the aforesaid changes.

4.7 Kaya may, at any time after the coming into effect of this Scheme in accordance with the provisions hereof, if so required, under any law or otherwise, execute deeds of confirmation in favour of the creditors of MaKE or in favour of any other party, to any contract or arrangement to which MaKE is a party or any writings, as may be necessary, in order to give formal effect to the above provisions. Kaya shall under the provisions of the Scheme be deemed to be authorized to execute any such writings on behalf of MaKE and to implement or carry out all such formalities or compliances referred to above on the part of MaKE.

4.8 The provisions of this Scheme as they relate to the merger of MaKE, have been drawn up to comply with the conditions relating to ~~%Amalgamation+~~as specified under Section 2(1B) of the Income-tax Act, 1961 effective as on the date of the Scheme being approved by the Board of MaKE and Kaya. If any terms or provisions of the Scheme are found or interpreted to be inconsistent with the provisions of the said Section at a later date, the provisions of the said Section of the Income-tax Act, 1961 shall prevail and the Scheme shall stand modified to the extent determined necessary to comply with Section 2(1B) of the Income-tax Act, 1961. Such modification will however not affect the other parts of the Scheme.

## **5 ISSUE AND ALLOTMENT OF SHARES BY KAYA**

5.1 Upon coming into effect of the Scheme and in consideration for amalgamation of MaKE with Kaya, Kaya shall, without any further application or deed, issue and allot shares of face value INR 10/- each, credited as fully paid up, to all the shareholders of MaKE or to their respective heirs, executors, administrators or other legal representatives or the successors-in-title, as the case may be, whose names appear in the register of members of MaKE as on the Record date in the following proportion:

~~%~~ (One) Equity Share of the face value of INR 10/- each of Kaya, credited as fully paid-up, shall be issued and allotted for every 1 (One) Equity Share of the face value of INR 10/- each held in MaKE (~~%Share Exchange Ratio+~~)+

5.2 The Equity Shares to be issued to the shareholders of MaKE as above shall be subject to the Memorandum and Articles of Association of Kaya and shall rank *pari passu* with the existing equity shares of Kaya in all respects including dividends (subject to the provisions of Section 123 of the Companies Act, 2013) for the purpose of any dividend declared after the Scheme

becomes effective. The holders of the equity shares of MaKE and Kaya 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 for the financial year upto the Appointed Date. It is clarified that the aforesaid provision in respect of declaration of dividends is an enabling provision only and shall not be deemed to confer any right on any member of MaKE or Kaya to demand or claim any dividends which, subject to the provisions of the Act, shall be entirely at the discretion of the respective Boards of MaKE and Kaya and subject to the approval of the shareholders of MaKE and Kaya.

- 5.3 The equity shares shall be issued in dematerialized form to those shareholders who hold shares of MaKE in dematerialized form, in to the account in which MaKE shares are held or such other account as is intimated by the shareholders to MaKE and / or its Registrar before the Record Date. All those shareholders who hold shares of MaKE in physical form shall also have the option to receive the equity shares, as the case may be, in dematerialized form provided the details of their account with the Depository Participant are intimated in writing to MaKE and / or its Registrar before the Record Date. The shareholders who fail to provide such details shall be issued equity shares in physical form.
- 5.4 The equity shares to be issued by Kaya to the members of MaKE pursuant to Clause 5.1 of this Scheme, in respect of any shares held in MaKE which are held in abeyance under the provisions of Section 126 of the Companies Act, 2013 or otherwise, pending allotment or settlement of dispute, by order of court or otherwise, be held in abeyance by Kaya
- 5.5 The Board of Directors of Kaya shall, if and to the extent required, apply for and obtain any approvals from concerned Government / Regulatory authorities and undertake necessary compliance for the issue and allotment of equity shares to the shareholders of MaKE pursuant to clause 5.1 of the Scheme.
- 5.6 The equity shares to be issued to the members of MaKE pursuant to clause 5.1 of this Scheme will be listed and/or admitted to trading on all the Stock Exchanges on which shares of MaKE are listed on the Effective Date. Kaya shall enter into such arrangements and give such confirmations and/or undertakings as may be necessary in accordance with the applicable laws or regulations for complying with the formalities of the said stock exchanges. The equity shares of Kaya allotted pursuant to the Scheme shall remain frozen in the depositories system till listing and trading permission is given by the designated Stock Exchange(s). There shall be no change in the shareholding pattern or control in Kaya



between the Record Date and the listing which may affect the status of approvals received from the Stock Exchanges.

- 5.7 In the event of there being any pending share transfer, whether lodged or outstanding, of any shareholder of MaKE, the Board of Directors or any committee thereof of MaKE shall be empowered even subsequent to the Effective Date, to effectuate such transfer as if such changes in the registered holder were operative from the Effective Date, in order to remove any difficulties arising on account of the transfer of shares after the Scheme becomes effective.
- 5.8 Kaya shall, if necessary and to the extent required, increase its authorized share capital to facilitate issue of equity shares under this Scheme
- 5.9 Approval of this Scheme by the shareholders of Kaya shall be deemed to be the due compliance of the provisions of Section 62 of the Companies Act, 2013, and the other relevant and applicable provisions of the Act for the issue and allotment of equity shares by Kaya to the shareholders of MaKE, as provided in this Scheme.
- 5.10 The approval of this Scheme by the shareholders of both the companies under Sections 391 and 394 of the Companies Act, 1956 shall be deemed to have the approval under sections 13 and 14 of the Companies Act, 2013, and other applicable provisions of the Act and any other consents and approvals required in this regard.

## **6 REDUCTION OF THE EXISTING EQUITY SHARE CAPITAL OF KAYA**

- 6.1 Upon the Scheme becoming effective and upon the issue of shares by Kaya in accordance with Clause 5.1 above, the existing 1,78,48,975 (One crore seventy eight lac forty eight thousand nine hundred and seventy five) equity shares of INR 10/- each of Kaya held by MaKE, without any application or deed, stand cancelled without any payment.
- 6.2 The cancellation of the existing equity shares of INR 10/- each amounting to INR 17,84,89,750 (Seventeen crore eighty four lac eighty nine thousand seven hundred and fifty Only) of Kaya as mentioned in Clause 6.1 above shall be effected as an integral part of this Scheme without having to follow the process under Sections 100 to 103 of the Act separately and the Order of the High Court sanctioning the Scheme shall be deemed to be also the Order under Section 102 of the Act for the purpose of confirming the reduction. The reduction would not involve either a diminution of liability in respect of unpaid share capital or payment of paid-up share capital and hence the provisions of Section 101 of the Act will not be

applicable. Further, Kaya shall not be required to add the words ~~and reduced~~ as a suffix to its name consequent upon such reduction.

## **7 COMBINATION OF AUTHORISED SHARE CAPITAL**

7.1 The current authorized share capital of MaKE is Rs.14,00,00,000/- (Rupees Fourteen Crores Only) comprising of 1,40,00,000 Equity Shares of Rs.10/- each, The authorized share capital of Kaya is Rs.20,00,00,000 (Rupees Twenty Crore Only) comprising of 2,00,00,000 equity shares of Rs.10/- each.

7.2 Upon sanction of this Scheme, the authorized share capital of Kaya shall automatically stand increased without any further act, instrument or deed on the part of Kaya including payment of stamp duty and fees payable to Registrar of Companies, by the authorized share capital of MaKE amounting to Rs. 14,00,00,000/- (Rupees Fourteen Crores Only). The filing fee and stamp duty already paid by MaKE on its authorized share capital shall be deemed to have been so paid by Kaya on the combined authorized share capital and accordingly, Kaya shall not be required to pay any fee/stamp duty on the authorized share capital so increased.

7.3 Consequently, the Memorandum of Association and Articles of Association of Kaya (relating to the authorized share capital) shall, without any further act, instrument or deed, be and stand altered, modified and amended, pursuant to Sections 13, 14, 61 and 64 of the Companies Act 2013 and other applicable provisions of the Act as follows:

Clause V of the Memorandum of Association of Kaya shall read as under:

*The authorized share capital of the company is Rs.34,00,00,000 ( Thirty Four Crores Only) divided into 3,40,00,000 (Three Crore Forty Lac) Equity Shares of Rs.10 (Rupees Ten) each.*

7.4 For removal of doubt, it is clarified that the approval of the Scheme by the shareholders of Kaya under sections 391 to 394 read with sections 100 to 103 of the Act and section 52 of the Companies Act, 2013 shall be deemed to be the approval under sections 13, 14, 61 and 64 of the Companies Act, 2013.

## **8 ACCOUNTING TREATMENT IN THE BOOKS OF KAYA**

On the Scheme becoming effective and with effect from the Appointed Date, Kaya shall account for the amalgamation in its books of accounts, as per Pooling of interest method under Accounting Standard (AS) 14 on Accounting for Amalgamations:

- 8.1 All assets, liabilities and reserves recorded in the books of MaKE shall be recorded by Kaya at their respective book values as appearing in the books of MaKE, on the Appointed Date;
- 8.2 Inter-company balances, if any, shall stand cancelled;
- 8.3 The equity shares of Kaya held by MaKE shall get cancelled and as a result the equivalent capital of Kaya shall get cancelled;
- 8.4 The face value of the Equity Shares issued by Kaya pursuant to the Scheme shall be credited to the equity share capital account of Kaya.
- 8.5 The difference between the book value of assets taken over by Kaya over the book value of liabilities, after giving effect to clauses 8.1. to 8.4 above , shall be adjusted against the Securities Premium Account of Kaya.
- 8.6 If considered appropriate for the purpose of application of uniform accounting methods and policies between MaKE and Kaya, Kaya may make suitable adjustments and reflect the effect thereof in its Profit and Loss Account.
- 8.7 The application and reduction of the Securities Premium Account as above, shall be effected as an integral part of the Scheme itself in accordance with the provisions of Section 52 of the Companies Act, 2013 read with Sections 100 to 103 of the Companies Act, 1956 as the same does not involve either diminution of liability in respect of unpaid share capital or payment to any shareholder of any paid up share capital and the order of the Court sanctioning the Scheme shall be deemed to be an order under Section 102 of the Companies Act, 1956 confirming the reduction and sufficient compliance of the provisions of Sections 100 to 103 of the Companies Act, 1956, rule 85 of the Companies (Court) Rules, 1959, and other applicable provisions including any modifications or re-enactment thereof for the time being in force, relating to the reduction of share capital. Further, Kaya shall not be required to add the words ~~and reduced~~ as a suffix to its name consequent upon such reduction.

## **9 CONDUCT OF BUSINESS TILL EFFECTIVE DATE**

Upon filing the Scheme with the Hon<sup>ble</sup> High Court and upto and including the Effective Date:

- 9.1 MaKE shall be deemed to have been carrying on and shall carry on its business and activities and shall be deemed to have held and stood possessed of and shall hold and stand

possessed of all its properties and assets pertaining to the businesses and undertakings of MaKE for and on account of and in trust for Kaya. MaKE hereby undertakes to hold their said assets with utmost prudence until the Effective Date.

9.2 MaKE shall carry on its business and activities with reasonable diligence, business prudence and shall not, except in the ordinary course of business or without prior written consent of Kaya alienate, charge, mortgage, encumber or otherwise deal with or dispose of its assets or any part thereof.

9.3 With effect from the Appointed Date all the profits or income accruing or arising to MaKE or expenditure or losses arising or incurred or suffered by MaKE shall for all purposes be treated and be deemed to be accrued as the income or profits or losses or expenditure as the case may be of Kaya. All taxes (including Income Tax, Service Tax, Value Added Tax, etc.) paid or payable by MaKE in respect of the operations and / or the profits of the business before the Appointed Date shall be on account of MaKE. All taxes (including Income Tax, Service Tax, Value Added Tax, etc.), paid or payable whether by way of deduction at source, advance tax or otherwise, by MaKE, in respect of the profits or activities or operations of business after the Appointed Date, the same shall be deemed to be paid or payable on behalf of Kaya and shall, in all proceedings, be dealt with accordingly.

9.4 MaKE shall not vary the terms and conditions of employment of any of the employees except in the ordinary course of business or with the prior written consent of Kaya or pursuant to any pre-existing obligation undertaken by MaKE, as the case may be, prior to the Appointed Date.

9.5 Kaya 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 Kaya may require pursuant to this Scheme.

## **10 EMPLOYEES**

10.1 On the Scheme becoming effective the employees, if any, of MaKE shall become the employees of Kaya without any break or interruption in their services and on same terms and conditions on which they are engaged as on the Effective Date. Kaya further agrees that for the purpose of payment of any retirement benefit / compensation, such immediate uninterrupted past services with MaKE shall also be taken into account.

10.2 It is expressly provided that, on the Scheme becoming effective, the Provident Fund, Gratuity Fund, Superannuation Fund or such other Special Fund, if any, or Trusts (hereinafter collectively referred as Funds) created for the benefit of the staff, workmen and employee of MaKE shall, with the approval of the concerned authorities, become Funds of Kaya, or shall be transferred to or merged with other similar funds of Kaya for all purposes whatsoever in relation to the administration or operation of such Funds or in relation to the obligation to make contributions to the said Funds in accordance with the provisions of respective Trust Deeds or other agreements, if any, to the end and intent that all rights, duties, powers and obligations of MaKE in relation to such Funds shall become those of Kaya. It is clarified that the services of the staff, workmen and employee will be treated as having been continuous for the purpose of the said Funds.

10.3 Kaya has an Employees Stock Option Scheme (ESOP Scheme), pursuant to which employees of Kaya, and its subsidiaries would have an option, upon vesting, to acquire equity shares of Kaya. However, on the date of this Scheme being approved by the Board of Directors of Kaya, none of the options have vested and there is no impact of the ESOP Scheme on the issued, subscribed and paid up capital of Kaya.

## **11 LEGAL PROCEEDINGS**

11.1 Upon the Scheme becoming effective, all suits, appeals, legal, administrative or other proceedings of whatsoever nature, by or against MaKE in any court or before any authority, judicial, quasi judicial or administrative, any adjudicating authority pending and/or arising on or after the Appointed Date, shall be continued and enforced by or against Kaya only to the exclusion of MaKE in the manner and to the same extent as would have been continued and enforced by or against MaKE. MaKE shall not be liable to pay any amounts arising out of such proceedings including interest, penalties, damages, costs etc and the same shall be paid only by Kaya.

11.2 After the Appointed Date, if any proceedings are taken against MaKE in respect of the matters referred to in the Clause 11.1 above, MaKE shall defend the same at the cost of Kaya and Kaya shall reimburse and indemnify MaKE against all liabilities and obligations incurred by MaKE in respect thereof and further reimburse all amounts including interest, penalties, damages, costs etc which MaKE may be called upon to pay or secure in respect of any liability or obligation.

11.3 Kaya undertakes to have all legal or other proceedings initiated by or against MaKE referred to in Clause 11.1 above transferred into its name and to have the same continued, prosecuted and enforced by or against Kaya to the exclusion of MaKE to the extent legally permissible after the Scheme being effective. To the extent such proceedings cannot be taken over by Kaya, the proceedings shall be pursued by MaKE for and on behalf of Kaya as per the instructions of and entirely at the cost and expenses of Kaya.

## **12 CONTRACTS, DEEDS, ETC.**

12.1 Subject to the other provisions of this Scheme, all contracts, deeds, bonds, insurance, Letters of Intent, undertakings, arrangements, policies, agreements and other instruments, if any, of whatsoever nature pertaining to MaKE to which MaKE is a party and subsisting or having effect on the Effective Date, shall be in full force and effect against or in favour of Kaya, as the case may be, and may be enforced by or against Kaya as fully and effectually as if, instead of MaKE, Kaya had been a party thereto.

12.2 Kaya shall enter into and/or issue and/or execute deeds, writings or confirmations or enter into any tripartite arrangements, confirmations or novations, to which MaKE will, if necessary, also be party in order to give formal effect to the provisions of this Scheme, if so required or becomes necessary. Kaya shall be deemed to be authorised to execute any such deeds, writings or confirmations on behalf of MaKE and to implement or carry out all formalities required on the part of MaKE to give effect to the provisions of this Scheme.

## **13 SAVING OF CONCLUDED TRANSACTIONS**

The transfer of properties and liabilities under Clause 4 above and the continuance of proceedings by or against MaKE under Clause 11 above shall not affect any transaction or proceedings already concluded by MaKE upon filing of the Scheme with the Hon<sup>ble</sup> High Court of Judicature at Bombay till the Effective Date, to the end and intent that Kaya accepts and adopts all acts, deeds and things done and executed by MaKE in respect thereto as done and executed on behalf of Kaya.

## **14 DISSOLUTION OF MaKE**

- 14.1 Upon the Scheme becoming effective, MaKE shall stand dissolved automatically without being wound-up.
- 14.2 On and with effect from the Effective Date, the name of MaKE shall be struck off from the records of the relevant Registrar of Companies.

## **PART III – GENERAL CLAUSES, TERMS AND CONDITIONS**

## **15 APPLICATION TO HIGH COURT**

MaKE and Kaya shall with all reasonable dispatch make all necessary applications to the High Court for seeking approval to the Scheme under sections 391 to 394 read with sections 100 to 103 of the Companies Act 1956 and section 52 of the Companies Act 2013 for an order or orders thereof for carrying the Scheme into effect and for dissolution of MaKE without winding up.

## **16 MODIFICATION OR AMENDMENTS TO THE SCHEME**

- 16.1 Subject to approval of the High Court, MaKE and Kaya by their respective Boards of Directors (the Board, which term shall include Committee (s) thereof), may assent to/make and/or consent to any modifications/amendments to the Scheme or to any conditions or limitations that the High Court and/or any other Authority under law may deem fit to direct or impose, or which may otherwise be considered necessary, desirable or appropriate as a result of subsequent events or otherwise by them (i.e. the Board). MaKE and Kaya by their respective Board are authorised to take all such steps as may be necessary, desirable or proper to resolve any doubts, difficulties or questions whatsoever for carrying the Scheme into effect, whether by reason of any directive or Orders of any other authorities or otherwise howsoever, arising out of or under or by virtue of the Scheme and/or any matter concerned or connected therewith.
- 16.2 For the purpose of giving effect to this Scheme or to any modification or amendments thereof or additions thereto, the delegate(s) and / or Directors of MaKE and / or Kaya may give and are hereby authorized to determine and give all such directions as are necessary including directions for settling 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 CONDITIONALITY OF THE SCHEME**

This Scheme is and shall be conditional upon and subject to:

- 17.1 The requisite consent, approval or permission of the Central Government or any other statutory or regulatory authority, which by law may be necessary for the implementation of this Scheme
- 17.2 The Scheme being approved by the requisite majorities in number and value of such classes of persons including the equity shareholders and / or creditors of MaKE and Kaya, as may be directed by the High Court.
- 17.3 The sanction of the High Court under sections 391 to 394 read with sections 100 to 103 of the Companies Act 1956 and section 52 of the Companies Act 2013 being obtained and certified copies of the same being filed with the Registrar of Companies.
- 17.4 Certified or authenticated copy of the Order of the High Court sanctioning the Scheme being filed with the Registrar of Companies, Maharashtra at Mumbai by MaKE and Kaya as may be applicable
- 17.5 All other sanctions and approvals as may be required by law in respect of this Scheme being obtained.

## **18 EFFECT OF NON-RECEIPT OF APPROVALS**

In the event of any of the said sanctions and approvals referred to in the preceding Clause not being obtained and/ or the Scheme not being sanctioned by the High Court of Judicature at Bombay or such other competent authority and / or the Order not being passed as aforesaid before June 30, 2015 or within such further period or periods as may be agreed upon between MaKE and Kaya by their Boards of Directors (and which the Boards of Directors of the Companies are hereby empowered and authorised to agree to and extend the Scheme from time to time without any limitation) this Scheme shall stand revoked, cancelled and be of no effect, 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 thereto and which shall be governed and be preserved or worked out as is specifically provided in the Scheme or as may otherwise arise in law.

**19 COSTS, CHARGES & EXPENSES**

All costs, charges, taxes including duties, levies and all other expenses, if any (save as expressly otherwise agreed) of MaKE and Kaya arising out of or incurred in connection with and implementing this Scheme and matters incidental thereto shall be borne by Kaya