

F97000000202

**ARTICLES OF MERGER
Merger Sheet**

MERGING:

VERSACHEM CORPORATION, a Florida corporation, 511368

INTO

**VC ACQUISITION CORPORATION which changed its name to
VERSACHEM CORPORATION, a Delaware corporation, F97000000202**

File date: January 30, 1997

Corporate Specialist: Linda Stitt

F97000000202

1/29/97

FLORIDA DIVISION OF CORPORATIONS
PUBLIC ACCESS SYSTEM
ELECTRONIC FILING COVER SHEET

5:51 PM

((H97000001759 4)))

TO: DIVISION OF CORPORATIONS FAX #: (904)922-4000
FROM: GUNSTER, YOAKLEY, ETAL. (WEST PALM BEACH) ACCT#: 076117000420
CONTACT: BETSY CASTO
PHONE: (407)650-0710 FAX #: (407)655-5677
NAME: VERSACHEM CORPORATION

AUDIT NUMBER.....H97000001759
DOC TYPE.....MERGER OR SHARE EXCHANGE
CERT. OF STATUS..0 PAGES.....~~45~~ 44
CERT. COPIES.....1 DEL.METHOD.. FAX
EST.CHARGE.. \$122.50

NOTE: PLEASE PRINT THIS PAGE AND USE IT AS A COVER SHEET. TYPE THE FAX
AUDIT NUMBER ON THE TOP AND BOTTOM OF ALL PAGES OF THE DOCUMENT

** ENTER 'M' FOR MENU, **

ENTER SELECTION AND <CR>:

RECEIVED

97 JAN 30 PM 12:11

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

FILED

97 JAN 30 PM 4:30

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

*C. O. Lapner TNC
Linda*

01/30/87 THU 15:54 FAX

0001

GUNSTER, YOAKLEY, VALDES-FAULI & STEWART, P.A.
ATTORNEYS AT LAW
PHILLIPS POINT, SUITE 500 EAST
777 SOUTH FLAGLER DRIVE
WEST PALM BEACH, FLORIDA 33401-6194
P.O. BOX 4587
WEST PALM BEACH, FLORIDA 33402-4587

TELEPHONE (561) 655-1980
TELECOPY (561) 655-3677

OTHER OFFICES IN:
MIAMI, FL (305) 376-6000
FT. LAUDERDALE, FL (305) 462-2000
PALM BEACH, FL (561) 655-1980
STUART, FL (561) 288-1980
TALLAHASSEE, FL (904) 222-6660
VERO BEACH, FL (561) 234-1040

FAX TRANSMITTAL FORM

DATE: January 27, 1997
TO: Linda Stett
FIRM: Florida Department of State
FAX #: 904-922-4000

FROM: Betsy Casto, Legal Assistant

PHONE #: (561) 650-0710

ORIGINAL FOLLOWS: No

NO. OF PAGES TRANSMITTED (INCLUDING THIS COVER PAGE)..... 49
PLEASE CALL IMMEDIATELY IF ALL PAGES ARE NOT RECEIVED

MESSAGE:

IN ACCORDANCE WITH YOUR INSTRUCTION, TO FOLLOW IS:

1. AN ORIGINAL, DULY AUTHENTICATED CERTIFICATE FROM THE STATE OF DELAWARE, EVIDENCING THE AMENDMENT TO THE CERTIFICATE OF INCORPORATION FOR VC ACQUISITION TO CHANGE ITS ARTICLE I, TO REFLECT THE NAME CHANGE TO VERSACHEM CORPORATION; AND

2. PROFIT CORPORATION, APPLICATION BY FOREIGN PROFIT CORPORATION TO FILE AMENDMENT TO APPLICATION FOR AUTHORIZATION TO TRANSACT BUSINESS IN FLORIDA

3. RESUBMITTAL OF THE ENTIRE ARTICLES OF MERGER — WITH YOUR REQUESTED CORRECTION TO EXHIBIT A — WHICH NOW READS "PLAN & AGREEMENT OF MERGER"

I TRULY APPRECIATE YOUR KIND CONSIDERATION WITH REGARD TO THE DISPOSITION OF MY DOCUMENTATION. THANK YOU VERY MUCH

CONFIDENTIALITY NOTE:

THE INFORMATION CONTAINED IN THIS TRANSMISSION IS LEGALLY PRIVILEGED AND CONFIDENTIAL, INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU RECEIVE THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE (COLLECT) AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE LISTED ADDRESS VIA THE U.S. POSTAL SERVICE. WE WILL REIMBURSE YOU FOR POSTAGE AND/OR TELEPHONE EXPENSES INVOLVED. THANK YOU.

CLIENT/MATTER#: 8802-00003

I presume you'll charge us for the 35.00 fee associated with item 2.

GUNSTER, YOAKLEY, VALDES-FAULI & STEWART, PA.

ATTORNEYS AT LAW
PHILLIPS POINT, SUITE 500 EAST
777 SOUTH FLAGLER DRIVE
WEST PALM BEACH, FLORIDA 33401-6194
P.O. BOX 4587
WEST PALM BEACH, FLORIDA 33402-4587

TELEPHONE (407) 655-1980
FAX (407) 655-5677

OTHER OFFICES IN:
STUART, FL (407) 288-1980
FORT LAUDERDALE, FL (305) 462-2000

FAX TRANSMITTAL FORM

DATE: January 30, 1997
TO: FL Division of Corporations
FIRM: Department of State
CITY, STATE: Tallahassee, FL
FAX #: 904-922-4001
PHONE #: 904-487-6926
FROM: Mary Blackford Cherry, Legal Assistant Ext: 728
ORIGINALS TO FOLLOW: No

NO. OF PAGES TRANSMITTED (INCLUDING THIS COVER PAGE) 45
NOTE: PLEASE CALL IMMEDIATELY IF ALL PAGES ARE NOT RECEIVED: (407) 650-0728

Message:

CONFIDENTIALITY NOTE:

THE INFORMATION CONTAINED IN THIS TRANSMISSION IS LEGALLY PRIVILEGED AND CONFIDENTIAL, INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU RECEIVE THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE (COLLECT) AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE-LISTED ADDRESS VIA THE U.S. POSTAL. WE WILL REIMBURSE YOU FOR POSTAGE AND/OR TELEPHONE EXPENSES INVOLVED. THANK YOU.

CLIENT/MATTER#: 8802.0003



FLORIDA DEPARTMENT OF STATE

Sandra B. Mortham
Secretary of State

January 30, 1997

Betay Casto
VC ACQUISITION CORPORATION
3600 W. LAKE AVE.
GLENVIEW, IL 60025

SUBJECT: VC ACQUISITION CORPORATION
Ref. Number: F9700000202

We received your electronically transmitted document. However, the document has not been filed. Please make the following corrections and refax the complete document, including the electronic filing cover sheet.

An original, duly authenticated certificate from the state of incorporation/organization evidencing the amendment, must be submitted with the application. The certificate must have been issued within the past 90 days.

Please entitle Exhibit A as Plan and Agreement of Merger.

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (904) 487-6902.

Linda Stitt
Corporate Specialist

FAX Aud. #: H97000001759
Letter Number: 897A00004937

**ARTICLES OF MERGER
OF
VERSACHEM CORPORATION
WITH AND INTO
VC ACQUISITION CORPORATION**

ARTICLES OF MERGER between **VersaChem Corporation**, a Florida corporation ("VersaChem"), and **VC Acquisition Corporation**, a Delaware corporation ("VC Acquisition").

Pursuant to Sections 607.1105 and 607.1107 of the Florida Statutes, **VersaChem** and **VC Acquisition** adopt and **VC Acquisition** delivers for filing the following Articles of Merger:

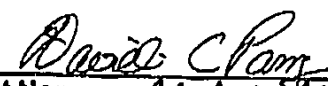
1. The Agreement of Merger (the "Agreement of Merger") dated as of January 16, 1997 by and between Illinois Tool Works Inc., VC Acquisition, VersaChem, Ronald J. Costello and A. Scott Phillips is attached hereto as Exhibit A, and incorporated by reference.
2. The effective date of the Merger shall be the date on which the Articles of Merger are filed with the Florida Secretary of State.
3. The Agreement of Merger was approved and adopted by the holders of a majority of the issued and outstanding capital stock of **VersaChem** entitled to vote on January 29, 1997.
4. The Agreement of Merger was approved and adopted by the holders of all of the issued and outstanding capital stock of **VC Acquisition** entitled to vote on January 15, 1997.

IN WITNESS WHEREOF, the parties have set their hands this 30th day of January, 1997.

VERSACHEM CORPORATION, a Florida corporation

By: 
Ronald J. Costello, President

VC ACQUISITION CORPORATION, a Delaware corporation

By: 
Print Name: DAVID C. PARRY
Its: V.P.

Michael V. Mitrione
Gunster, Yonkley, Valdez-Fauli & Stewart, P.A.
777 South Flagler Drive, Suite 500, East Tower
West Palm Beach, Florida 33401
Florida Bar NO. 0294551

H97000001759

FILED
97 JAN 30 PM 4:30
TALLAHASSEE, FLORIDA
STATE

EXHIBIT A

H97000001759

THE PLAN & AGREEMENT OF MERGER

The Plan & AGREEMENT OF MERGER ("Agreement of Merger") entered into January 16, 1997, by and among Illinois Tool Works Inc., a Delaware corporation (hereinafter referred to as "ITW"), VC Acquisition Corporation, a Delaware corporation and wholly owned subsidiary of ITW (the "Surviving Company" or the "Subsidiary"), VersaChem Corporation, a Florida corporation ("VersaChem") and Ronald J. Costello and A Scott Phillips (the "Principal Stockholders").

WHEREAS, ITW and the Boards of Directors of the Subsidiary and VersaChem have approved the acquisition of VersaChem by the Subsidiary; and

WHEREAS, in furtherance of the acquisition of VersaChem, ITW, the Subsidiary and VersaChem have deemed it advisable and in the best interests of VersaChem that it be merged into the Subsidiary and therefore have approved the merger (the "Merger") of VersaChem into the Subsidiary in accordance with the Florida Business Corporation Act and the Delaware General Corporation Law and in accordance with the terms provided herein; and

WHEREAS, the authorized capital stock of the Subsidiary consists of one thousand (1,000) shares, One Dollar (\$1.00) par value, all of which have been issued to ITW; and

WHEREAS, the capital stock of VersaChem consists of Five Million (5,000,000) shares of common stock authorized of which Five Hundred Seventy-Six Thousand One Hundred (576,100) shares are currently issued and outstanding, One Hundred Fifty Thousand (150,000) shares authorized of Preferred Stock of which Five Hundred Seventy-Five (575) shares of Series A Preferred Stock and One Hundred Thousand (100,000) shares of Series C Preferred Stock are issued and outstanding (the "Stock"); and

WHEREAS, the shareholders of VersaChem and the Principal Stockholders have appointed Ronald J. Costello, as Shareholder Representative, to act as their agent in connection with all transactions contemplated by this Agreement of Merger and Ronald J. Costello is willing to act as agent of the shareholders and Principal Stockholders in accordance with the terms and conditions of this Agreement of Merger; and

WHEREAS, ITW, the Subsidiary and VersaChem desire to make certain representations, warranties and agreements in connection with the Merger, and also desire to set forth various conditions precedent to the Merger.

NOW, THEREFORE, in consideration of the premises and the representations, warranties and agreements herein contained, the parties hereby agree as follows:

1. MERGER**1.1 Nature of Merger.**

In accordance with the terms of this Agreement of Merger, at the Effective Time of the Merger (as defined in Section 1.5 below), VersaChem will be merged into the Surviving Company in accordance with the Business Corporation Act of the State of Florida. The Surviving Company shall continue to exist by virtue of and shall be governed by the laws of the State of Delaware and shall have all of the rights, privileges, immunities and powers and shall be subject to all of the duties and liabilities granted or imposed by the Delaware General Business Corporation Act. The Surviving Company shall possess all the rights, privileges, immunities, powers and franchises, of a public as well as of a private nature, of VersaChem and all property, real, personal, intellectual and mixed, of a public as well as of the private nature, and all debts due on whatever account, including subscriptions to shares, all choses in action and all and every other interest of, or belonging to or due to, VersaChem shall be deemed to be transferred to and vested in the Surviving Company without further act or deed; the title to any real estate, or intellectual property including trademarks or interest therein, vested in VersaChem shall not revert or be in any way impaired by reason of the Merger. The Surviving Company shall be responsible and liable for all the liabilities and obligations of VersaChem and any claim existing or action or proceeding pending by or against VersaChem may be prosecuted to judgment as if the Merger had not taken place, or the Surviving Company may be substituted in its place; neither the rights or creditors nor any liens upon the property of VersaChem shall be impaired by the Merger, but such liens shall be limited to the property upon which they were liens immediately prior to the time of such Merger.

1.2 Name and Certificate of Incorporation of Surviving Company.

The name of the Surviving Company shall be changed to VersaChem Corporation at the effective time of the Merger, and the Certificate of Incorporation of the Surviving Company shall be changed to reflect this name change and to reflect a change in the purpose of the corporation, but otherwise the Certificate, as it shall exist immediately prior to the Effective Time of Merger, shall be the Certificate of Incorporation of the Surviving Company until amended.

1.3 By-Laws of Surviving Company.

From and after the Effective Time of the Merger, the By-Laws of the Surviving Company immediately prior to the Merger shall be and continue to be the By-Laws of the Surviving Company until amended.

1.4 Directors and Officers of Surviving Company.

From and after the Effective Time of the Merger, the directors and officers of the Surviving Company shall be those holding those offices immediately prior to the Effective Time of the Merger, to serve until their respective successors have been duly elected and qualified.

1.5 Effective Time of Merger.

Subject to the terms and conditions hereof, and if all of the conditions set forth have been satisfied (or waived), but in no event later than immediately subsequent to the Closing Date of January 30, 1997 (unless a later date shall be mutually agreed upon by the parties hereto), the Merger contemplated hereby shall become effective ("Effective Time") when properly executed Certificates of Merger (together with any other documents required by law to effectuate the Merger) shall be filed with the Secretary of States of Delaware and Florida.

2. CONVERSION OF STOCK.

At the Effective Time:

- 2.1 Any shares of VersaChem Common Stock which are owned by the Subsidiary, ITW or any other subsidiary of ITW or held in the treasury of VersaChem or any subsidiary of VersaChem immediately prior to the Effective Time shall be canceled.
- 2.2 All shares of outstanding VersaChem Preferred Stock shall be redeemed and canceled prior to the Closing Date resulting in the existence on the Closing Date of only the issued and outstanding Common Stock of VersaChem (see Schedule 2.2 listing amounts paid by VersaChem to redeem the Preferred Stock, recipients of redemption proceeds and canceled Preferred Stock Certificates).
- 2.3 The sum of Seven Hundred Fifty Thousand Dollars (\$750,000.00) shall be withheld from the total of the Cash Acquisition Price as set forth in Section 4.1 herein and shall be deposited in the Escrow Account as hereinafter defined in Section 12.1 and said sums shall be subject to the terms and conditions of the Escrow Agreement set forth herein as Exhibit 12.1. Said sum of money shall be designated the General Escrow Amount within the Escrow Account. Any funds remaining in the General Escrow Amount after the time for filing claims pursuant thereto, has expired, and not subject to a Claim Notice, shall be distributed pro rata to all of the VersaChem shareholders in proportions hereinafter set forth in Section 2.4 of this Agreement of Merger.

- 2.4 Each share of VersaChem Common Stock which is outstanding immediately prior to the Effective Time which is owned by VersaChem shareholders other than the Principal Stockholders shall, subject to the provisions of Section 2.1, 2.3, 2.5 and 2.6 hereof, be converted at the Effective Time into the right to receive in cash a pro rata portion of 45.21% of the remaining Acquisition Price. From the remaining 54.79% of the Acquisition Price, Two Hundred Fifty Thousand Dollars (\$250,000.00) shall be placed in the Escrow Account and shall be designated the Environmental Clean-up Fund and shall be subject to the payment of the environmental claims relating to VersaChem as of the Closing Date or stemming from the environmental claims relating to VersaChem as of the Closing Date as set forth in the Escrow Agreement attached hereto as Exhibit 12.1. The remainder shall, subject to the provisions of Sections 2.1, 2.3, 2.5 and 2.6 hereof, be converted into the right of the Principal Stockholders to receive in cash a pro rata portion of the remaining 54.79% of the Acquisition Price.

Attached as Schedule 2.4 is a list of the VersaChem shareholders, other than the Principal Stockholders, and the actual dollar amount each such shareholder shall receive based on their holdings of the issued VersaChem Common Stock.

- 2.5 Notwithstanding anything to the contrary set forth herein, any and all amounts due and owing to VersaChem by any shareholder due to loans, accounts receivables, etc., shall first be deducted to the extent available from that individual shareholder's pro rata portion of the Acquisition Price and paid to the Surviving Company in satisfaction for said amount deducted of the total due VersaChem prior to the tendering of any sums of money by the Exchange Agent (as hereinafter defined) as and for the shareholder's pro rata portion of the Acquisition Price.
- 2.6 The provisions of Section 2.4 hereof shall not apply to any shares of VersaChem Common Stock which shall have appraisal rights perfected thereon, if such appraisal rights are available, pursuant to the provisions of Section 607.1301 of the Florida Business Corporation Act (herein called "Dissenting Shares"), it being intended that any holder of such shares shall have in consideration for the cancellation of Dissenting Shares held by him only the rights, if any, given to him under Section 607.1301 of the Florida Business Corporation Act in the manner and subject to the procedures and conditions therein provided.

3.1 EXCHANGE OF AND PAYMENT FOR SECURITIES.

- 3.1 ITW will make available to Gunster, Yoakley, Valdes-Fauli & Stewart, P.A. or such other person selected by ITW and reasonably satisfactory to VersaChem (the "Exchange Agent") as promptly as practicable after the Effective Time, the cash to which holders of VersaChem Common Stock shall be entitled pursuant to Section 2 hereof which shall be held as fiduciary for the benefit of the VersaChem common

shareholders and ITW pursuant to the terms of this Agreement of Merger and the Exchange Agent Agreement as set forth as Exhibit 11.3.1.12.

- 3.2 It is agreed by the parties and the Exchange Agent that any and all funds received by the Exchange Agent for disbursement to the shareholders of VersaChem common stock (or ITW as hereinafter set forth) shall be held by the Exchange Agent and shall be disbursed only after agreement is reached in respect to the Closing Date Statement (as hereinafter defined) pursuant to Section 4 hereof.
- 3.3 Subject to the provisions regarding adjustment to the Acquisition Price as set forth in Section 4, herein, and as promptly as practicable after the Effective Time, the Exchange Agent will send a notice and transmittal form to each holder of a certificate theretofore evidencing VersaChem Common Stock, other than certificates representing VersaChem Common Stock to be canceled pursuant to Section 2.1, advising such holder of the terms of the exchange effected by the Merger and the procedure for surrendering to the Exchange Agent (who may appoint forwarding agents with the approval of ITW) such certificate or certificates for exchange for cash.
- 3.4 As soon as practicable after the Effective Time and after surrender to the Exchange Agent of any certificate which prior to the Effective Time shall have represented any shares of VersaChem Common Stock, subject to the provisions of Sections 3.5, 3.6 and 4 of this Agreement of Merger, the Exchange Agent shall cause to be distributed to the person in whose name such certificate shall have been registered, a check, payable to such person, in an amount equal to such shareholder's portion of the Acquisition Price as set forth in Schedule 2.4. Until surrendered as contemplated by the preceding sentence, each certificate which immediately prior to the Effective Time shall have represented any shares of VersaChem Common Stock shall be deemed at and after the Effective Time to represent only the right to receive upon such surrender the payment contemplated by the preceding sentence.
- 3.5 If any cash is to be paid to a name other than that in which the certificate surrendered in exchange therefor is registered, it shall be a condition of the payment or issuance thereof that the certificate so surrendered shall be properly endorsed and otherwise in proper form for transfer and that the person requesting such exchange shall pay any transfer or other taxes required by reason of the issuance of a check payable to a person other than that of the registered holder of the certificate surrendered, or shall establish to the satisfaction of the Exchange Agent that such tax has been paid or is not payable.
- 3.6 All cash, into and for which shares of VersaChem Common Stock shall have been converted and exchanged pursuant to this Section 3, shall be deemed to have been

paid in full satisfaction of all rights pertaining to such converted and exchanged shares of VersaChem Common Stock.

- 3.7 After the Effective Time, there shall be no further registration of transfers on the stock transfer books of the Surviving Company of the shares of VersaChem Common Stock which were outstanding immediately prior to the Effective Time. If, after the Effective Time, certificates representing such shares are presented to the Surviving Company, they shall be canceled and exchanged for a check as provided in this Section 3.
- 3.8 If, between the date of this Agreement of Merger and the Effective Time, the outstanding shares of VersaChem Common Stock shall have been changed into a different number of shares or a different class by reason of any reclassification, recapitalization, split-up, combination, exchange of shares or readjustment, or a stock dividend thereon shall be declared with a record date within said period, the amount of cash, into which VersaChem Common Stock is to be converted under Section 2.4 hereof shall be correspondingly adjusted.

4. ACQUISITION PRICE

- 4.1 Acquisition Price Amount. Subject to Section 4.2, the total acquisition price ("Acquisition Price") to be exchanged pursuant to Section 2.4 for the Stock shall equal Eight Million Three Hundred Thousand Dollars (\$8,300,000.00), plus the assumption of the VersaChem's debt obligations as stated on the Closing Date Statement (as defined herein) subject to the provisions of 4.2 below. The Escrow Account (as defined herein) shall equal the total sum of One Million Dollars (\$1,000,000.00) (General Escrow Amount plus Environmental Clean-up Fund). The Acquisition Price shall be paid by wire transfer into the account of the Exchange Agent on the Closing Date, who shall hold it as fiduciary for the benefit of the VersaChem common shareholders and ITW pursuant to the terms of this Agreement of Merger.

This Acquisition Price is expressly based upon a net worth of VersaChem at Closing of not less than One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000.00) less the redemption price paid to redeem the Preferred Stock.

- 4.2 Closing Date Statement As soon as practicable after the Closing Date (but in all events within fourteen (14) days), ITW shall consult with the Principal Stockholders and prepare and deliver to the Principal Stockholders a statement of VersaChem as of the close of business on the Closing Date listing the assets and the liabilities of VersaChem (the "Closing Date Statement"). The Closing Date Statement shall be prepared by the Comptroller of the Surviving Company and certified by an officer of ITW as being true and correct in all material respects. The Closing Date Statement

shall be prepared in accordance with generally accepted accounting principles consistently applied in accordance with VersaChem's past practice.

Any decrease in the net worth of VersaChem below One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000.00) as shown in the Closing Date Statement, shall result in a decrease in the Acquisition Price and such difference between net worth and the Closing Date Statement Net Worth shall be deducted from the Acquisition Price tendered to the Exchange Agent and returned to and paid to ITW within five (5) business days of agreement regarding the Closing Date Statement.

All funds held by the Exchange Agent shall be disbursed within five (5) business days after agreement is reached regarding the Closing Date Statement.

The net debt of VersaChem as specified in the Closing Date Statement is hereinafter referred to as the "Closing Date Net Debt." As certified in VersaChem's July 31, 1996 Audited Balance Sheet, VersaChem's net debt as of July 31, 1996 was One Million Eight Hundred Fifty-Six Thousand Thirty-Two (\$1,856,032.00) (the "Net Debt"), which is the balance of the revolving loan agreement at 1st Union Bank. To the extent the Closing Date Net Debt as set forth on the Closing Date Statement is greater than the Net Debt, the Acquisition Price shall be decreased dollar for dollar and the difference between the Net Debt and the Closing Date Net Debt shall be deducted from the Acquisition Price amount tendered to the Exchange Agent and returned and paid to ITW within five (5) business days of agreement regarding the Closing Date Statement. Any increase in Net Debt, irrespective of its effect on the Closing Date Net Worth of VersaChem, shall result in a reduction in Acquisition Price and a distribution to ITW from the Exchange Agent of the increase on a dollar-for-dollar basis.

If the Closing Date Net Debt is less than the Net Debt of One Million Eight Hundred Fifty-Six Thousand Thirty-Two Dollars (\$1,856,032.00), the difference shall result in an increase in the Acquisition Price and be returned to the VersaChem shareholders by payment to the Exchange Agent within five (5) business days of agreement regarding the Closing Date Statement for distribution on a pro rata basis to the shareholders.

Notwithstanding anything to the contrary herein, any bona fide amounts paid by VersaChem to redeem the Preferred Stock in accordance with Section 2.2 will not have any affect in the calculation of Closing Date Net Debt or Net Worth.

All funds held by the Exchange Agent on behalf of the holders of common stock of VersaChem and ITW shall be held until agreement is reached regarding the Closing Date Statement and shall be distributed within five (5) business days thereafter.

If the Shareholder Representative believes that any change is required to be made to the Closing Date Statement, within twenty (20) days after receipt of the Closing Date Statement, the Principal Stockholders shall give written notice of any such proposed change to ITW specifying in reasonable detail their proposal and the reasons therefor. Failure to so notify ITW shall constitute acceptance and approval of the Closing Date Statement. If ITW agrees that any change proposed by the Principal Stockholders is appropriate, the change shall be made to the Closing Date Statement. If the proposed change is disputed by ITW, then the Principal Stockholders and ITW shall negotiate in good faith to resolve such dispute. If, after a period of twenty (20) days following the date on which the Principal Stockholders give ITW notice of any such proposed change, any such proposed change remains disputed, then parties shall employ the dispute resolution procedures set forth in Section 16 of the Agreement.

- 4.3 **Manner of Payment of Acquisition Price** On the Closing Date, or a date mutually agreed upon by the parties, ITW shall deliver to the Exchange Agent, as fiduciary for the benefit of the shareholders of VersaChem and ITW cash in the amount of Eight Million Three Hundred Thousand Dollars, (\$8,300,000.00) less the Escrow Amount (as defined herein) pursuant to the provisions of Sections 3 and 4 hereof.

5. **REPRESENTATIONS AND WARRANTIES OF VERSACHEM** VersaChem represents and warrants to ITW, all of which representations and warranties shall be true at and as of the Closing, that:

- 5.1 **Organization** VersaChem is a corporation duly organized, validly existing and in good standing under the laws of the State of Florida, and has the corporate power to carry on its business as it is now being conducted. Except as set forth on Schedule 5.1, VersaChem is duly qualified as a foreign corporation to do business, and is in good standing, in each jurisdiction where the failure to be so qualified would have a material adverse effect on VersaChem.
- 5.2 **Subsidiaries and Affiliates** Except for Super Auto Chem, Inc., Pol Lux Labs, Inc. and John Prior, Inc., VersaChem has no subsidiaries or affiliates (as such terms are defined in Rule 405 of the General Rules and Regulations of the Securities and Exchange Commission under the Securities Act of 1933, as amended.)
- 5.3 **Officers and Directors** Schedule 5.3 sets forth the name and title of each officer and director of VersaChem, which list is true and accurate.
- 5.4 **Certificates of Incorporation and By-Laws** Copies of the Articles of Incorporation and By-Laws of VersaChem which have heretofore been furnished to ITW are true and complete copies thereof and include all amendments thereto.

- 5.5 **Capitalization of VersaChem** The capital stock of VersaChem consists of Five Million (5,000,000) shares of common stock authorized of which Five Hundred Seventy-Six Thousand One Hundred (576,100) shares are currently issued and outstanding and One Hundred Fifty Thousand (150,000) shares authorized of Preferred Stock of which Five Hundred Seventy-Five (575) shares of Series A Preferred Stock and One Hundred Thousand (100,000) authorized of Series C Preferred Stock are issued and outstanding (the "Stock").

The Stock constitutes the only securities of VersaChem. The Stock is duly authorized, validly issued, fully paid and non assessable. None of the Stock was issued in violation of preemptive rights of a stockholder of VersaChem. Except as set forth on Schedule 5.5, there are no outstanding subscriptions, options, warrants, calls, commitments or agreements to which VersaChem is a party or by which it is bound relating to the authorized or issued capital stock of VersaChem. Except as set forth on Schedule 5.5, the VersaChem shareholders have good and marketable title to the Stock free and clear of all liens, claims and encumbrances. The Stock has been issued in full compliance with all applicable laws of VersaChem's State of incorporation and, to the extent applicable, the Securities' and Exchange Commission.

All shares of issued VersaChem Preferred Stock have been redeemed and canceled prior to the Closing Date in accordance with applicable law.

- 5.6 **No Defaults** The execution and delivery of this Agreement of Merger and the consummation of the Merger contemplated hereby (including the proxy solicitation of VersaChem shareholders) will not (i) violate any provision of VersaChem's Articles of Incorporation, or By-Laws; (ii) grant to any third party the right to terminate or result in the acceleration of any material obligation under any material governmental license or other authorization, loan document, agreement, mortgage, lien, lease, instrument, order, arbitration award, judgment or decree to which VersaChem is a party or by which it is bound; (iii) violate any law applicable to VersaChem; or (iv) affect VersaChem's qualification to carry on its business. The Agreement constitutes a legal, valid and binding agreement of VersaChem enforceable in accordance with its terms, except as limited by applicable bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium or other similar laws generally affecting enforcement of creditors' rights and subject to general principles of equity.
- 5.7 **Corporate Power** VersaChem has the corporate power to enter into this Agreement of Merger and to carry out its obligations hereunder. The execution and delivery of this Agreement of Merger and the consummation of the transactions contemplated hereby have been duly authorized by VersaChem's Board of Directors and, except for the approval of the Merger by its stockholders, no other corporate proceedings on

the part of VersaChem are necessary to authorize this Agreement of Merger and the consummation of the transactions contemplated hereby. Other than in connection with or in compliance with the provisions of the Florida Business Corporation Act, the Securities Act of 1933, as amended, and the published rules and regulations thereunder (the "Securities Act"), the Securities Exchange Act of 1934, as amended, and the published rules and regulations thereunder (the "Exchange Act"), the securities or blue sky laws of the various states and the laws and regulations of various foreign jurisdictions governing changes in ownership of foreign investments, no authorization, consent or approval of, or filing with, any public body or authority is necessary for the consummation by VersaChem of the transactions contemplated by this Agreement of Merger.

- 5.8 **Financial Statements** Attached hereto as Schedule 5.8 are true and complete copies of financial statements of VersaChem consisting of: (i) an audited balance sheet and income statement as of July 31, 1996 (the "Audited Balance Sheet"); (ii) balance sheet, income statement and cash flow statement for the fiscal year ended July 31, 1995; and (iii) balance sheet, income statement and cash flow statement for fiscal year ended July 31, 1994 (collectively VersaChem's Financial Statements"). Except as set forth on Schedule 5.8, VersaChem's Financial Statements have been prepared in accordance with generally accepted accounting principles consistently applied throughout the periods indicated and, VersaChem's Financial Statements have been reviewed by the independent certified public accounting firm of McGladrey & Pullen. VersaChem's Financial Statements (including any related notes) correctly, completely and fairly present in all material respects the financial position of VersaChem, and the results of its operations as of the dates and for the periods indicated. Adequate reserves have been provided and set upon the books of account of VersaChem for any material contract, order or commitment expected to be or previously performed at a loss.
- 5.9 **Tax Liabilities** Except as set forth on Schedule 5.9, VersaChem has filed all federal, state, county, local and foreign income, excise, property, sales and other tax returns which are required to be filed for tax periods ending prior to or on the Closing Date and has paid all taxes which become due, whether pursuant to such returns or otherwise, or are payable with respect to tax periods ending prior to, or on the Closing Date whether pursuant to such returns or otherwise, or an assessment with respect to such prior tax periods made after the Closing Date or otherwise. No agreements, waivers or other arrangements with any governmental agency providing for an extension of the time for filing any returns or the assessment of any tax or deficiency is presently in effect or contemplated by VersaChem, nor are there any actions, suits, proceedings or investigations or claims pending against VersaChem in respect of any tax or assessment, or any matters under discussion between VersaChem and any federal, state, local, foreign or other governmental authority relating to any taxes or assessments asserted by any such authority against

VersaChem. Copies of the federal, state and other tax returns of VersaChem for the fiscal years ended July 31, 1993, 1994, 1995 and 1996 have been delivered to ITW. Such returns and any returns to be filed by VersaChem with respect to any period ending on or prior to the Closing Date will contain no material inaccuracies or omissions. The applicable statutes of limitation related to United States income and information tax returns for VersaChem have expired for all past years and periods through the fiscal year ended July 31, 1992. Adequate reserves have been provided and set upon VersaChem's books of account with respect to the taxes of VersaChem.

- 5.10 No Undisclosed Liabilities Except as set forth on Schedule 5.10, VersaChem has no liability (and there is no reasonable basis for the assertion of liability) of any nature, whether absolute, contingent, accrued or otherwise, which is not shown or which is in excess of the amount reserved for on the Audited Balance Sheet, other than liabilities referred to in this Agreement of Merger (including the Schedules hereto) or reasonably incurred in the ordinary course of its business after July 31, 1996.
- 5.11 Changes in Condition Except as specifically set forth on Schedule 5.11, there has not been since January 31, 1996:
- 5.11.1 Any change in the assets, liabilities, properties, business, results of operation or condition of VersaChem (financial or otherwise) which have been materially adverse to VersaChem;
 - 5.11.2 Any change, destruction or loss (whether or not covered by insurance) materially adversely affecting the assets, business, properties, results of operation or condition of VersaChem (financial or otherwise);
 - 5.11.3 Any change in the accounting methods or practices followed by VersaChem, or any change in depreciation, amortization or inventory valuation policies or rates theretofore used or adopted;
 - 5.11.4 Any sale, lease, abandonment or other disposition by VersaChem, of any real property, or, other than in the ordinary course of business, of any machinery, equipment or other operating property, or any sale, assignment, transfer, license or other disposition by VersaChem of any patent, trademark, service mark, trade name, brand name, copyright (or pending application for any patent, trademark, service mark or copyright) invention, process, know-how, formula, pattern, design, trade secret or interest thereunder or other intangible asset;
 - 5.11.5 Any declaration, setting aside or payment of any dividend or other distribution on or in respect of shares of the capital stock of VersaChem, or any direct or indirect redemption, retirement, purchase

or other acquisition by VersaChem of any such shares, other than the payment of holiday bonuses and the redemption of the Preferred Stock; or

5.11.6 Any other occurrence, event or condition which to the knowledge of VersaChem, is (i) not in the ordinary course of business; and (ii) specifically relating to the operations of VersaChem (as opposed to those relating to businesses generally or to other business enterprises engaged in lines of business in which VersaChem is engaged) which materially adversely affects the business, properties, results of operation or condition of VersaChem (financial or otherwise).

5.12 Insurance VersaChem maintains insurance on its assets, business, personnel and properties in such amounts and covering such risks as VersaChem believes customary for similar businesses in the industries in which it operates. Schedule 5.12 lists all insurance policies (specifying the insurer, the set forth amount and duration of the coverage, the type of insurance including, but not limited to whether each such policy is based on claims made or occurrence, premium allocation, the policy number and any pending claims thereunder) maintained by VersaChem on its assets, business, personnel and properties. VersaChem is not in default with respect to any provision contained in any such insurance policy, nor has it failed to pay any premiums thereunder or to give any notice or present any claim thereunder in due and timely fashion. The Principal Stockholders know of no occurrence involving VersaChem, which it reasonably believes potentially gives rise to a material claim with respect to which notice to the insurer has not been given.

5.13 Merger Fees At the Effective Time, VersaChem shall have no liability or obligation for accounting, consulting, investment banking or legal, or other professional fees, expenses or charges (including, but not limited to, brokerage or finder's fees) in connection with the negotiation, preparation, execution or performance of the Merger contemplated hereby. Any and all such amounts due and owing after Closing (as hereinafter defined) for services rendered on or before the Closing Date, shall be paid from the Escrow Account (as hereinafter defined) without deduction.

5.14 Trademarks and Patents Schedule 5.14 sets forth a list of (i) all United States and foreign registered patents, trademarks, copyrights and applications therefor and all common law trade names and trademarks owned or licensed by or to VersaChem, including licenses for software programs which are used in the ordinary course of business of VersaChem (collectively, "Intellectual Property"). Except as set forth on Schedule 5.14, VersaChem owns (or possesses adequate and enforceable licenses or other rights to use) all trademarks, trade names, patents, copyrights, inventions, formulas, software programs and processes necessary to the conduct of its business as currently conducted. All developments, inventions, formulations and similar items

known to VersaChem relating to products presently being manufactured, sold, or under development, will be, prior to the Closing, fully disclosed to ITW. Except as set forth on Schedule 5.14 no proceedings are pending or threatened which (i) charge VersaChem with infringement of patents or trademarks or the improper use of trade secrets; or (ii) makes VersaChem a party to any interferences or oppositions involving patents and trademarks; or (iii) challenge the validity of the ownership by VersaChem to the Intellectual Property nor to VersaChem's knowledge is such Intellectual Property which is not owned by VersaChem being used, except pursuant to license. VersaChem has in all material respects performed all the obligations required to be performed by it to date and is not in default in any material respect under any license agreement. No licenses or agreements transferring rights under patents or trademarks to or from VersaChem exist except as set forth on Schedule 5.14. Except as set forth on Schedule 5.14, VersaChem has complied and is in compliance in all material respects with all applicable registered user laws or regulations applicable to the Intellectual Property. Neither VersaChem nor, to the knowledge of VersaChem, any employee has disclosed or made available to any third party any trade secrets of VersaChem under circumstances constituting a breach of confidentiality. Except as set forth on Schedule 5.14, the manufacture and sale of VersaChem's products does not infringe an issued United States or foreign patent, trademark, or copyright of any third party to the best of VersaChem's knowledge.

5.15 Contracts Schedule 5.15 sets forth a specific list of each of the written contracts, agreements and commitments (other than those of a type disclosed in another schedule hereto) to which VersaChem is a party or by which it is in any way bound including all amendments and supplements thereto and modifications thereof:

- 5.15.1 Each sales agency, dealer, representative, distributorship, brokerage or franchise agreement;
- 5.15.2 Each non-competition, secrecy or consulting agreement (but only one copy of any non-competition or secrecy agreements routinely obtained by VersaChem from its employees) or agreement providing for a term of employment;
- 5.15.3 Each loan or credit agreement, security agreement, guaranty, indenture, mortgage, pledge, conditional sale or title retention agreement, equipment obligation, lease purchase agreement or other instrument evidencing indebtedness for borrowed money;
- 5.15.4 Each partnership, joint venture, joint operating or similar agreement; and

- 5.15.5 Each contract, agreement or commitment in respect of the sale of products or the performance of services, or for the purchase of inventories, equipment, raw materials, supplies, services or utilities (other than those of the types covered by the aforementioned subsections of this Section) which (i) involves payments or receipts by VersaChem of \$25,000 or more and is not terminable by VersaChem at any time and without cause; (ii) is not to be fully performed within six months from the date of this Agreement of Merger; or (iii) is otherwise material to the assets, business, results of operation or condition (financial or otherwise) of VersaChem.

Except as specifically set forth on Schedule 5.15 or other schedules delivered pursuant to this Agreement of Merger, to the knowledge of VersaChem, each of said contracts, agreements, commitments and undertakings (whether or not scheduled) constitutes a legal, valid and binding obligation of VersaChem and the other parties thereto (subject to bankruptcy, insolvency, reorganization, moratorium or other similar laws generally affecting enforcement of creditors' rights and to general principles of equity) and is in full force and effect, according to its terms subject to the changes caused by partial or complete performance prior to Closing. Except as set forth on Schedule 5.15, there exists no material default by VersaChem or, to VersaChem's knowledge, by any party thereto, nor has any event occurred which with the passage of time or giving of notice would constitute a material default by VersaChem thereunder. Copies of all of such documents have been or will be made available by VersaChem to ITW as of the Closing and are or will be true and complete and include all amendments, supplements or modifications thereto as of the Closing. No material purchase commitment of VersaChem is in excess of its ordinary business requirements or at a price materially in excess of market price at the date hereof. No contract, agreement or commitment of VersaChem is expected to be unduly burdensome to VersaChem.

Except as set forth on Schedule 5.15, VersaChem is not a party to any:

- (i) Sales agency, dealer, representative, distributorship, brokerage, or franchise agreement;
- (ii) Collective bargaining or union agreement or agreement providing for a fixed term of employment;
- (iii) Loan or credit agreement, security agreement, guaranty, indenture, mortgage, pledge, conditional sale or title retention agreement, equipment obligation, lease purchase agreement or other instrument evidencing indebtedness; or

- (iv) Partnership, joint venture, joint operating or similar agreement, to which VersaChem or ITW will be in any way bound as a result of the Merger.

If the consent or approval necessary to assign a contract has not been obtained prior to or on the Closing Date, the Principal Stockholders will not be obligated to assign such Contract at the Closing, provided that the Principal Stockholders shall thereafter use their best efforts to obtain such consent or approval. If the Principal Stockholders are still not able to obtain such consent or approval, the Principal Stockholders will cooperate with ITW, at their expense, to provide ITW with the benefits of their interest under any such contract.

- 5.16 Claims Except as set forth on Schedule 5.16, there is (i) no suit, action or claim delivered to VersaChem; (ii) no investigation or inquiry, to the knowledge of VersaChem, by any administrative agency or governmental body; and (iii) no legal, administrative or arbitration proceeding pending or, to the knowledge of VersaChem, threatened against VersaChem or any of its properties, assets or business or to which VersaChem is a party, including product liability, workers' compensation and unemployment compensation claims. Except as specifically set forth in Schedule 5.16, there is no outstanding order, writ, injunction or decree of any court, administrative agency or governmental body or arbitration tribunal, issued in a proceeding to which VersaChem was a party or of which VersaChem otherwise has knowledge, against VersaChem or any of the capital stock, properties, assets or business of VersaChem. Except as provided in Schedule 5.16, VersaChem has not received or suffered any claim(s) in the past five (5) years which individually exceed Ten Thousand Dollars (\$10,000.00) involving: (i) personal injuries or property damage which were caused or alleged to have been caused by the products of VersaChem; or (ii) product defects or warranty nonconformities.

- 5.17 Company Employee Benefit Plans Set forth on Schedule 5.17 is a list of all employee benefit plans as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), to which (i) VersaChem contributes or is a party or is bound or under which it may have liability and (ii) any employees of VersaChem (or their beneficiaries) are eligible to participate or entitled to a benefit including, but not limited to, all pension, profit sharing, bonus, disability, welfare or group insurance, deferred compensation, stock option, paid vacation and all other presently effective employee benefit plans, agreements or commitments, written or oral of VersaChem (the "Company Benefit Plans"). Except as set forth on Schedule 5.17, no Company Benefit Plan is a "defined benefit pension plan" as defined in Section 3(35) of ERISA subject to Title IV of ERISA, and no Company Benefit Plan is subject to the minimum funding standards of Section 302 of ERISA. A copy of each Company Benefit Plan, as amended, together with audited financial statements, if any, and Form 5500, if required, for the most recent fiscal year of each such Plan and a copy of each Internal Revenue Service determination letter with

respect to any plan, has been provided by VersaChem to ITW. Each Company Benefit Plan, if applicable, is qualified under Section 401(a) of the Internal Revenue Code of 1986, as amended ("the Code") and each related trust is exempt from taxation pursuant to Section 501 of such Code. Except as set forth on Schedule 5.17, each Company Benefit Plan is operated in material compliance with the provisions of ERISA and has complied in all material respects with the reporting and disclosure requirements of applicable federal and state laws and regulations. No Company Benefit Plan has any unfunded past service cost as of its most recent actuarial evaluation nor has any pension plan incurred any "accumulated funding deficiency" as defined in ERISA. No Company Benefit Plan or related trust has had a "reportable event" as such term is defined in ERISA nor has any such plan or any "fiduciary" or "party-in-interest" or "disqualified person" entered into any "prohibited transaction" as such terms are defined in ERISA or the Code. There are no actions, suits, or claims (other than routine claims for benefits) pending or, to the knowledge of VersaChem, threatened which could give rise to any such actions, suits or claims against any Company Benefit Plan or the assets thereof.

- 5.18 Minute Book and Stock Ledger The minute books of VersaChem contain complete minutes of all annual, special and other meetings of the Board of Directors and stockholders of VersaChem and any consents in lieu thereof, and the signatures therein are the true signatures of the persons purporting to have signed them. The stock ledgers of VersaChem are complete and all documentary stamp taxes, if any, required in connection with the issuance and transfer of the Stock or have been affixed and canceled.
- 5.19 Leases Set forth on Schedule 5.19, is a brief description (including in each case the current annual rental payable, the expiration date, a brief description of the property covered and the name of the Lessor) of each lease agreement (excluding personal property leases involving payments of less than \$10,000 per year or which may be terminated by VersaChem on notice of 60 days or less without cause or penalty) under which VersaChem is lessee of, or holds or operates any property owned by any third party, including the Principal Stockholders or any of them. Except as specifically set forth on Schedule 5.19, each such lease or agreement is in full force and effect and to the knowledge of VersaChem, constitutes a legal, valid and binding obligation of the respective parties thereto, subject to general principles of equity affecting the enforceability of agreements generally and applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws of general application affecting enforcement of creditor's rights.
- 5.20 Machinery and Equipment Except as set forth on Schedule 5.20, the machinery and equipment regularly being used by VersaChem in its business are in all material respects (i) adequate to operate the business of VersaChem as currently conducted; (ii) in good working order and repair (reasonable wear and tear excepted), (iii) in

conformity with, to the knowledge of VersaChem, all applicable ordinances, regulations and other laws. Except as set forth on Schedule 5.20, all such material and equipment is either owned by VersaChem, free and clear of all liens or encumbrances whatsoever or are leased under valid leases which will not be affected by the consummation of the Merger contemplated by this Agreement of Merger.

- 5.21 Title of Property Except as set forth on Schedule 5.21, VersaChem has good and marketable title to all of its assets including the assets reflected on the Audited Balance Sheet (or any other balance sheet of VersaChem as of a date subsequent thereto and delivered to ITW) and all assets acquired by VersaChem after the date of the Audited Balance Sheet (or such other balance sheet) except to the extent that such assets have thereafter been disposed of for fair value in the ordinary course of business subject to no liens, mortgages, conditional sales agreement, pledges, encumbrances or charges of any kind, including leasehold interests, except (i) liens for property taxes not yet due and payable or being contested by appropriate proceedings; (ii) minor imperfections in title, which are not substantial in amount, do not materially detract from the value of the property for the use to which it is currently put or impair operations of VersaChem, (iii) assets leased under valid leases listed on Schedule 5.19.

- 5.22 Inventory The inventory shall be valued at net book value determined pursuant to GAAP, with such adjustments as may be consistent with generally accepted inventory valuation methods, or as otherwise agreed. For purposes of this Agreement of Merger, any inventory of products which have not been sold in the last twelve (12) months shall be deemed obsolete and valued at zero. Also, in the case of any inventory where there is more than a six-month supply on hand, such inventory shall be valued at fifty percent (50%) of Net Book Value. (A six-month supply for any inventory shall be determined by the average monthly sales of such inventory over the last twelve (12) months.) Notwithstanding the above, any inventory not sold in the previous twelve (12) months and any inventory in excess of six (6) months supply shall not be deemed obsolete or slow moving and shall be valued as set forth above to the extent of any current purchase orders thereon. In accordance with the terms of the Escrow Agreement attached hereto as Exhibit 12.1, an Escrow Account has been established consisting of funds set aside and held in escrow to provide a fund sufficient to satisfy without deduction, any and all claims pertaining to Inventory. Notwithstanding anything to the contrary, any escrowed amounts attributable to inventory that is eventually sold in the normal course of business during the twelve (12) month period after the Closing Date shall be released from the restrictions of the escrow and shall be paid to the Principal Stockholders pursuant to the terms and restrictions of the Escrow Agreement.

- 5.23 Accounts Receivable Except as set forth on Schedule 5.23, the accounts receivable as specifically set forth on the Audited Balance Sheet arose from bona fide

transactions in the ordinary course of VersaChem's business and shall be good and collectible within six (6) months of the Closing Date. To the extent such receivables have not been collected within six (6) months, ITW shall receive a distribution from the Escrow Account without deduction (in accordance with the provisions of Section 10.1 herein) for the amount of the remaining uncollected receivables (net of the reserve on the Closing Date Statement), and such receivables shall be assigned to the Principal Stockholders for collection on behalf of all shareholders of VersaChem.

- 5.24 **Bank Accounts and Powers** Set forth on Schedule 5.24 is (i) a list of accounts, currently effective banking resolutions, safe deposit boxes and current receivable collection boxes maintained by VersaChem at any bank or other financial institution and the names of the persons currently authorized to effect transactions in such accounts pursuant to such resolutions or with access to such accounts and boxes; and (ii) the names of all persons, firms, associations, corporations or business organizations holding general or special powers of attorney from VersaChem and a brief description of the terms thereof.
- 5.25 **Real Property** Schedule 5.25 sets forth a list of all real property, including buildings and other improvements thereon, owned by VersaChem. Such real property is adequate in all material respects for conducting VersaChem's present and planned future operations. Except as set forth on Schedule 5.25, VersaChem has good and marketable title in the fee simple to such real property, free of all mortgages, liens claims, security interest or other encumbrances whatsoever. All material improved structures or building included in the real property are in good operating condition and all such real property conforms in all material respects with all applicable ordinances, regulations, building and zoning, environmental pollution control and other laws.
- 5.26 **Environmental Matters** Except as set forth on Schedule 5.26:
- (i) VersaChem holds all material permits, licenses, variances, exemptions, and approvals from governmental authorities and has made, in all material respects, all notifications, reports and applications to governmental authorities which are legally required under the laws or regulations governing the environment or Hazardous Substances (as defined below) for the operation of the business or the ownership of the properties and assets of VersaChem (collectively "Permits"); VersaChem has complied, in all material respects, with the terms of all Permits; Schedule 5.26 lists all unexpired Permits currently held or applied for by VersaChem; and the business of VersaChem has not been and is not being conducted in material violation of any applicable law, ordinance, rule, regulation or other legal requirement regarding the environment or Hazardous Substances.

- (ii) During the last five (5) years VersaChem has not filed or made any notifications to any governmental authority under Section 103(a) or 103(c) of the Comprehensive Environmental Compensation and Liability Act of 1986, reporting any release or past or present treatment, storage or disposal of a Hazardous Substance and has not been and is not burying, dumping, leaking, spilling, disposing or discharging (including underground injection and tank failures) from any of its manufacturing operations any Hazardous Substances in, on or upon premises owned or leased by VersaChem or any third party.
- (iii) There are no pending or, to the knowledge of VersaChem, any threatened claims or the basis for any threatened claims against VersaChem under any federal, state or local law or the common law relating to human health, safety or the environment.
- (iv) VersaChem does not own or control any transformers, equipment or product containing polychlorinated biphenyls (PCB) or PCB contaminated fluids or other material subject to the regulation by the United States Environmental Protection Agency.
- (v) None of the facilities owned or leased by VersaChem generates, treats, recycles, stores, or disposes of any Hazardous Substance except for those used in immaterial quantities during routine maintenance and operation of those facilities and except for the products which VersaChem sells.
- (vi) To the knowledge of VersaChem, there are no pending or proposed environmental regulations, rules, ordinances, orders or other official actions of any authority which would have a material adverse effect specifically relating to the business or operations of VersaChem or to other business enterprises engaged in the lines of business in which VersaChem is engaged as opposed to those relating to businesses generally.
- (vii) "Hazardous Substances" means any petroleum product, any hazardous substance or waste as such terms may be defined under any applicable federal, state or local statute, law, regulation, code or ordinance relating to the environment and shall include, without limitation, statutes, laws, regulations, codes or ordinances relating to emissions, discharges, releases or threatened releases of hazardous substance into ambient air, surface water, ground water or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of hazardous substance as in effect on the date hereof, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Superfund Amendments and Reauthorization Act of 1986, the

Resource Conservation and Recovery Act of 1976, the Toxic Substances Control Act, the Federal Water Pollution Control Act, Safe Drinking Water Act, Hazardous Materials Transportation Act and the Clean Air Act, all as amended from time to time.

- 5.27 **Proxy Statement** The Proxy Statement (or Information Statement, "Proxy Statement"), as set forth as Exhibit 11.3.1 herein, to be provided by VersaChem to its stockholders shall contain all material and other information which is required to be included therein in accordance with applicable laws; the Proxy Statement shall be true and correct in all material respects without omission of any material fact which is required to make the Proxy Statement not false or misleading and unless, in the opinion of counsel for VersaChem, such approval would constitute a breach of its fiduciary duty, VersaChem's Board of Directors shall recommend in the Proxy Statement that its stockholders vote to approve the Agreement of Merger.
- 5.28 **Accuracy of Information** None of the information included in this Agreement of Merger and the schedules or other documents expressly required under the terms of this Agreement of Merger to be furnished by VersaChem to ITW, or any of its authorized representatives on or prior to the Closing pursuant to this Agreement of Merger, to the knowledge of VersaChem, is, or will on and as of the Closing Date be, false or misleading with respect to a material fact or make an omission as to any material fact required to be stated in order to make any of the statements therein not misleading.
6. **REPRESENTATIONS AND WARRANTIES OF ITW** ITW represents and warrants to VersaChem all of which representations and warranties shall be true at and as of the Closing, that:
- 6.1 **Organization** ITW and the Subsidiary are corporations duly organized, validly existing and in good standing under the laws of the State of Delaware, and ITW and the Subsidiary have the corporate power to carry on their respective business as it is now being conducted. ITW and the Subsidiary are duly qualified as foreign corporations to do business, and are in good standing, in each jurisdiction where the failure to be so qualified would have a material adverse effect on ITW or the Subsidiary.
- 6.2 **No Defaults** The execution and delivery of this Agreement of Merger and the consummation of the Merger contemplated hereby will not (i) violate any provision of ITW's or the Subsidiary's Certificate of Incorporation or By-Laws; (ii) violate any provision of, grant to any third party the right to terminate or result in the acceleration of any obligation under, any governmental license or other authorization, loan document, agreement, mortgage, lien, lease, instrument, order, arbitration award, judgment or decree to which ITW or the Subsidiary is a party or by which it is bound;

(iii) violate any law applicable to ITW or the Subsidiary; or (iv) affect its qualification to carry on its business. This Agreement of Merger and each document delivered by ITW and the Subsidiary in connection with this Agreement of Merger constitutes a legal, valid and binding agreement of ITW and the Subsidiary enforceable in accordance with its terms, except as limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws generally affecting enforcement of creditors' rights and subject to general principles of equity.

6.3 **Corporate Power** ITW and the Subsidiary have the corporate power to enter into this Agreement of Merger and all related documents and to carry out its obligations thereunder. The execution and delivery of this Agreement of Merger and each document delivered by ITW and the Subsidiary in connection with this Agreement of Merger, and the consummation of the Merger contemplated hereby have been duly authorized by ITW's Board of Directors, and by the Subsidiary's Board of Directors and sole shareholder, and, no other corporate proceedings on the part of ITW or the Subsidiary are necessary to authorize this Agreement of Merger and each document delivered by ITW and the Subsidiary in connection with this Agreement of Merger and the consummation of the Merger contemplated hereby. No authorization, consent or approval of, or filing with, any public body or authority is necessary for the consummation by ITW or the Subsidiary of the Merger contemplated by this Agreement of Merger.

6.4 **Accuracy of Information** None of the information included in this Agreement of Merger (including the schedules) or other documents expressly required under the terms of this Agreement of Merger to be furnished by ITW to VersaChem, or its authorized representatives pursuant to this Agreement of Merger, to the knowledge of ITW, is or will on and as of the Closing Date be false or misleading or make an omission as to any material fact required to be stated in order to make any of the statements therein not misleading.

7. **COVENANTS BY VERSACHEM**

7.1 **Conduct of Business** During the period from July 31, 1996 to the Closing, except as set forth on Schedule 7.1 or as otherwise consented to by ITW in writing or specifically referred to in this Agreement of Merger (including any Schedules hereto), VersaChem will, and will cause each of its subsidiaries to:

7.1.1 Carry on its business in, and only in, the usual, regular and ordinary course in substantially the same manner as heretofore conducted and, to the extent consistent with such business, use all reasonable efforts to preserve intact its present business organizations, keep available the services of its present officers and employees, and preserve its relationships with customers, suppliers and others having business dealings with it;

- 7.1.2 Not amend its Articles of Incorporation or By-Laws;
- 7.1.3 Not acquire by merging or consolidating with, or agreeing to merge or consolidate with, or purchase substantially all the assets of, or otherwise acquire any business or any corporation, partnership, association or other business organization or division thereof;
- 7.1.4 Not sell, lease or otherwise dispose of any of its assets, except in the ordinary course of business;
- 7.1.5 Not declare, set aside, make or pay any dividend or other distribution in respect of its capital stock or purchase or redeem, directly or indirectly, any shares of its capital stock (except as set forth on Schedule 7.1.5 [Fiscal year ending bonuses, year beginning salary increases and Christmas Bonuses]);
- 7.1.6 Not issue or sell any shares of its capital stock of any class or any options, warrants, conversion or other rights to purchase any such shares or any securities convertible into or exchangeable for such shares;
- 7.1.7 Not incur any indebtedness for borrowed money or issue or sell any debt securities other than in the ordinary course of business consistent with prior practice;
- 7.1.8 Not grant to any officer or employee any increase in compensation in any form in excess of the amount in effect as of July 31, 1996, or any severance or termination pay, except in accordance with VersaChem's normal policies and consistent with prior year's amounts, or enter to any employment agreement with any officer or employee except with ITW's consent;
- 7.1.9 Promptly advise ITW orally and in writing of any change in the properties, assets, liabilities, results of operations, or condition (financial or otherwise) which is or may be materially adverse to any aspect of its business;
- 7.1.10 Promptly advise ITW orally and in writing of any inquiry or proposal for the acquisition of the stock, assets or business of VersaChem or any of its subsidiaries other than in the ordinary course of business; and
- 7.1.11 Use its reasonable best efforts to comply promptly with all filing requirements which United States Federal or state or foreign law may impose on VersaChem or any of its subsidiaries with respect to the Merger and the solicitation of proxies in connection therewith and cooperate with and promptly furnish information to ITW in connection with any such filing

requirements imposed upon it or on the Subsidiary or on any of the other subsidiaries of ITW in connection with the Merger.

7.1.12 Redeem all issued and outstanding shares of VersaChem Preferred Stock prior to the Closing Date.

8. COVENANTS BY ITW.

- 8.1 ITW will use its reasonable best efforts to comply promptly with all filing requirements which United States Federal or state or foreign law may impose on it or any of its subsidiaries with respect to the Merger.
- 8.2 ITW will use its reasonable best efforts to obtain any consent, authorization or approval of, or exemption by, any United States Federal or state or foreign government or governmental authority required to be obtained or made by it or any of its subsidiaries in connection with the Merger or the taking of any action in connection with the consummation thereof.
- 8.3 ITW will assist the Principal Stockholders in collecting any accounts receivable assigned to them under Section 5.23. Except in respect to disputed accounts, all funds received from account debtors shall be applied to invoices in order of age, oldest receivables first.

9. ADDITIONAL AGREEMENTS

9.1 Due Diligence Review

- 9.1.1 VersaChem shall afford to ITW, and to its accountants, counsel and other representatives, reasonable access, during the period prior to the Closing, during normal business hours and with reasonable prior notice, to all of VersaChem's properties, books, contracts, commitments and records for the purpose of confirming the accuracy of VersaChem's representations and warranties contained herein and, during such period, shall furnish promptly (i) a copy of each report, schedule and other document filed or received by them during such period pursuant to the requirements of federal and state securities laws; and (ii) all other information concerning its business, properties and personnel as ITW may reasonably request. During this period, ITW shall perform its customary business, financial, tax and legal audit (the "Audit") for the purpose of confirming the accuracy of VersaChem's representations and warranties contained herein. Such Audit may include, but need not be limited to, corporate and employment records, financial records, product liability and environmental compliance experience and status of contractual commitments with suppliers, distributors and customers. Such

Audit shall be carried out promptly and at such times and places as the parties may mutually agree is appropriate.

- 9.1.2 If, during the Audit or otherwise, ITW or its accountants, counsel and other representatives shall learn of (i) any facts or conditions which constitute a breach of a representation or warranty contained in Section 5 or (ii) facts (whether disclosed on the Schedules or not) which should have been, but were not, reflected or disclosed as required in connection with generally accepted accounting principles in VersaChem's Financial Statements, ITW shall so notify VersaChem, who shall have the option, in the case of breaches referred to in clause (i), to attempt to cure such breach. In the event that the breach is of the type referred to in clause (ii) or the cure attempted by VersaChem is not reasonably satisfactory to ITW, then VersaChem and ITW will discuss in good faith whether and on what terms, to proceed with the Merger. If the parties are unable to reach agreement, then ITW may terminate this Agreement of Merger by providing VersaChem with five (5) days written notice. In such event, no party shall have any further liability to the other party as a result of such termination.

9.2 Access and Information

- 9.2.1 During the period prior to the Closing, VersaChem shall continue to afford to ITW, and to its accountants, counsel and other representatives, full access during normal business hours, upon reasonable prior notice, to all of VersaChem's properties, books, contracts, commitments and records and, to furnish promptly (i) a copy of each report, schedule and other documents filed or received by it during such period pursuant to the requirements of federal and state securities laws; and (ii) all other information concerning its business, properties and personnel as ITW may reasonably request.
- 9.2.2 After the Closing, the parties shall retain the books, records, documents, instruments, accounts, correspondence, writings, evidences of title and other papers relating to VersaChem in their possession (the "Books and Records") for the period of time set forth in their respective records retention policies as in effect on the Closing Date, but in no event less than six (6) years. For a reasonable period of time after the Closing Date, the parties will allow each other reasonable access to such Books and Records for legitimate business reasons, such as the preparation of tax returns or the defense of litigation. Copies of such Books and Records shall be made at the cost of the requesting party. The requesting party shall not use, and will hold in confidence, all confidential information identified as such by, and obtained from, the disclosing party, and any of its officers, agents, representatives or employees unless disclosure is required by applicable law or court process; provided,

however, that information shall not be deemed to be confidential information where such information was in the public domain, was in fact known to the requesting party prior to disclosure by the disclosing party, its officers, agents, representatives or employees, or becomes known to the requesting party from or through a third party not under an obligation of confidentiality to the disclosing party.

- 9.3 **Expenses** Whether or not the Merger is consummated, any and all costs and expenses (legal or otherwise) incurred in connection with this Agreement of Merger and the Merger contemplated hereby shall be paid by the party (ITW or the VersaChem shareholders/Principal Stockholders) incurring such expense, subject to Section 4.2.
- 9.4 **Publicity** At all times throughout including prior to and after the Closing, each party shall promptly advise and cooperate with and, obtain the consent of the other prior to issuing, or permitting any of its subsidiaries, directors, officers, employees or agents, to issue any press release or other public announcement with respect to this Agreement of Merger or the Merger except as and to the extent that any such party shall be so obligated by law, in which event the other parties shall be advised and the parties will use their best efforts to cause a mutually agreeable release or announcement to be issued.
- 9.5 **Additional Tax Matters** VersaChem shall cause to be filed all returns required to be filed which relate to tax periods ending on or before the Closing Date. ITW shall cause to be filed all such returns relating to tax periods ending after the Closing Date.
- 9.6 **Sales Representative/Distributor Termination** VersaChem shall have effectuated the termination of John Prior, Inc. as Representative/Distributor for VersaChem effective as of the Closing Date and shall have secured from John Prior, Inc. and its shareholders the Non-Competition Agreement attached hereto as Exhibit 11.2.1.8.
- 9.7 **Status of Employees** The employment status of the VersaChem employees will survive the Closing Date and said employees will have a benefit situation immediately following the Closing, but with no continuing guarantee, substantially similar in the aggregate to that which they now enjoy and will receive seniority credit only in respect to benefits they may presently be receiving. In the event that ITW elects to provide health/medical coverage under one of its plans, ITW shall make reasonable arrangements to insure that any VersaChem employees and eligible dependents have continuous health/medical coverage and will not be subject to any waiting period or pre-existing condition requirement under ITW's medical plan, except to the extent such employees and eligible dependents are currently subject to any such pre-existing condition.

9.8 Miscellaneous Agreements Subject to the terms and conditions provided herein and to fiduciary obligations under applicable law as advised by counsel, each of the parties hereto agrees to use all reasonable efforts to take, or cause to be taken, all action and to do, or cause to be done, all things necessary, proper or advisable to consummate and make effective as promptly as practicable the Merger contemplated by this Agreement of Merger and to cooperate with each other in connection with the foregoing, including using best efforts to obtain all necessary material consents, approval and authorizations as are required to be obtained under any federal, state or foreign law or regulations, to defend all lawsuits or other legal proceeding challenging this Agreement of Merger or the consummation of the Merger contemplated hereby, to cause to be lifted or rescinded any injunction or restraining order or other order adversely affecting the ability of the parties to consummate the Mergers contemplated hereby, and to effect all necessary registrations and filings and submissions of information requested by governmental authorities. In case at any time after the Effective Time any further action is necessary or desirable to carry out the purposes of this Agreement of Merger, or to vest the Surviving Corporation with full title to all properties, assets, rights, approvals, immunities and franchises of either VersaChem or the Subsidiary, the proper officers or directors of VersaChem, ITW or the Subsidiary, as the case may be, shall take all such necessary action.

9.9 Corporate Approvals VersaChem shall prepare and mail to its shareholders, as soon as is reasonable practicable, the Proxy Statement as heretofore represented. VersaChem shall thereafter call a meeting of its stockholders to be held for the purpose of voting upon the Merger. VersaChem will, through its Board of Directors, use its best efforts to solicit the requisite approval of its stockholders at such meeting.

9.10 Filings Subject to the terms and conditions of this Agreement of Merger, VersaChem and ITW will take all such action as may be necessary under the Federal securities laws applicable to or necessary for and will file and, if appropriate, use their reasonable best efforts to have declared effective or approved all documents and notifications with the SEC and other governmental authorities which they deem necessary or appropriate for the consummation of the Merger and the transactions contemplated hereby, and each party shall give the other information reasonably necessary to enable such other party to take such actions, and VersaChem and ITW shall file in a timely manner all reports and documents required to be so filed by or under the Exchange Act.

10. CONDITIONS

10.1 Conditions to ITW's and the Subsidiary's Obligations Notwithstanding any other provisions of this Agreement of Merger, the obligation of ITW and the Subsidiary to effect the Merger shall be subject to the fulfillment of the following conditions any of which may be waived by ITW:

- 10.1.1 The Merger shall have been validly approved and adopted by the holders of a majority of the outstanding shares of VersaChem stock.
- 10.1.2 All material permits, approvals and consents of any federal, state or other government or governmental authority necessary or appropriate for consummation of the Merger shall have been obtained;
- 10.1.3 There shall not be any action taken, or any statute, rule, regulation or order enacted, entered, enforced or deemed applicable to the Merger by any federal or state government or governmental authority and there shall not be in effect an order entered by any federal or state court which, in the sole reasonable judgment of ITW, (i) makes the consummation of the Merger illegal; (ii) results in a material delay in the ability of ITW to consummate the Merger; (iii) requires the divestiture by ITW or any subsidiary of any shares of VersaChem Common Stock or of a material portion of the business of either ITW and its subsidiaries, taken as a whole; or (iv) imposes material limitations on the ability of ITW and its subsidiaries effectively to exercise full rights of ownership of the Stock or of a material portion of the assets or business of VersaChem;
- 10.1.4 The representations and warranties of VersaChem contained in Section 5 shall be true in all material respects on and as of the Closing Date as though made on and as of the Closing Date, except as otherwise contemplated by this Agreement of Merger; VersaChem shall have duly performed and complied with all agreements, covenants and conditions required by this Agreement of Merger to be performed or complied with by it prior to or at the Closing; and VersaChem shall have delivered to ITW a certificate dated the day of the Closing Date and signed by it to the effect set forth in this Section; and
- 10.1.5 Except as set forth on Schedule 10.1.5, any required consent to the Merger under any agreement, contract or license (other than such as may be required from any government or governmental authority), the withholding of which might have a material adverse effect on the condition (financial or otherwise), properties, assets, business, or results of operations or prospects of VersaChem, taken as a whole, shall have been obtained.
- 10.1.6 ITW shall have received the favorable opinion, dated the Closing Date, of legal counsel for VersaChem and the Principal Stockholders, in form and substance reasonably satisfactory to ITW and its counsel.

- 10.1.7 All issued and outstanding shares of VersaChem Preferred Stock shall have been redeemed to the satisfaction of ITW prior to the Closing Date.
- 10.1.8 All matters, proceedings, instruments and documents required to be delivered by VersaChem to carry out this Agreement of Merger or incidental thereto and all other reasonable legal or business matters shall have been approved at or before the Closing Date by corporate counsel for and management of ITW.
- 10.1.9 Principal Stockholders Ronald J. Costello and A. Scott Phillips shall enter into Incentive/Non-Competition Agreements as set forth in Exhibits 11.2.1.9 and 11.2.1.10.
- 10.1.10 Stockholder John Prior Inc. and its shareholders, individually, shall execute a Non-Competition Agreement as set forth in Exhibit 11.2.1.8.
- 10.1.11 The termination of John Prior, Inc. as a sales representative of VersaChem effective as of the Closing Date.
- 10.1.12 VersaChem shall have entered into the Escrow Agreement as set forth and attached hereto as Exhibit 12.1.
- 10.1.13 The delivery by VersaChem of all documents set forth in Section 11.3 herein.
- 10.1.14 VersaChem and the Principal Stockholders shall have entered into the Exchange Agent Agreement as set forth as Exhibit 11.3.1.12.
- 10.2 Conditions to VersaChem's Obligations Notwithstanding any other provisions of this Agreement of Merger, the obligation of VersaChem to effect the Merger shall be subject to the fulfillment of the following conditions, any of which may be waived by the Principal Stockholders:
 - 10.2.1 The Merger shall have been validly approved and adopted by the holders of a majority of the outstanding shares of VersaChem Common Stock.
 - 10.2.2 All material permits, approvals and consents of any federal, state or other government or governmental authority necessary or appropriate for consummation of the Merger shall have been obtained;

- 10.2.3 There shall not be any action taken, or any statute, rule, regulation or order enacted, entered, enforced or deemed applicable to the Merger by any federal or state government or governmental authority and there shall not be in effect an order entered by any federal or state court which, in the sole reasonable judgment of VersaChem, (i) makes the consummation of the Merger illegal; (ii) results in a material delay in the ability of VersaChem to consummate the Merger; or (iii) imposes material limitations on the ability of VersaChem effectively to transfer full rights of ownership of the Stock or of a material portion of the assets or business of VersaChem to ITW;
- 10.2.4 The representations and warranties of ITW contained in Section 6 shall be true in all material respects as of the Closing Date as though made on and as of the Closing Date, except as otherwise contemplated by this Agreement of Merger; ITW shall have duly performed and complied with all agreements, covenants and conditions required by this Agreement of Merger to be performed or complied with by it prior to or at the Closing Date; and ITW shall have delivered to VersaChem a certificate dated the day of the Closing Date and signed by its President, a Vice President or Division General Manager to the effect set forth in this Section; and
- 10.2.5 Except as set forth on Schedule 10.2.5, any required consent to the Merger under any agreement, contract or license (other than such as may be required from any government or governmental authority), the withholding of which might have a material adverse effect on the condition (financial or otherwise), properties, assets, business, or results of operations of VersaChem, shall have been obtained.
- 10.2.6 VersaChem shall have received the favorable opinion dated the Closing Date, of legal counsel for ITW and the Subsidiary, in form and substance satisfactory to VersaChem and its counsel.
- 10.2.7 All matters proceedings, instruments and documents required to be delivered by ITW or the Subsidiary to carry out this Agreement of Merger or incidental thereto and all other reasonable legal or business matters shall have been approved at or before the Closing Date by counsel for VersaChem.
- 10.2.8 ITW shall enter into Incentive/Non-Competition Agreements with Principal Stockholders Ronald J. Costello and A. Scott Phillips as set forth in Exhibits 11.2.1.9 and 11.2.1.10.

- 10.2.9 ITW shall have entered into the Escrow Agreement as set forth and attached hereto as Exhibit 12.1.
- 10.2.10 ITW shall issue employment letters to Principal Stockholders Ronald J. Costello and A. Scott Phillips as set forth in Exhibits 11.3.2.6 and 11.3.2.7.
- 10.2.11 ITW shall have entered into the Exchange Agent Agreement as set forth as Exhibit 11.3.1.12.

11. CLOSING

11.1 Closing Date The closing of the Merger hereunder (the "Closing"), shall take place at the offices of Gunster, Yoakley, Valdes-Fauli & Stewart, P.A., on or before January 30, 1997, or at such other time and place as ITW and the Principal Stockholders may mutually agree upon. If the Closing has not occurred by January 31, 1997, ITW, the Subsidiary and VersaChem shall each have the right at any time thereafter and prior to the Closing, by delivery of written notice to the other parties hereto, to terminate all of their respective obligations under all provisions of this Agreement of Merger provided, however, that the terminating party is not then in material breach of any terms or provisions of this Agreement of Merger.

11.2 Effective Time The Effective Time of the Merger shall be when properly executed Certificates of Merger (together with any other documents required by law to effectuate the Merger) shall be filed with the Secretary of States of Delaware and Florida.

11.3 Certain Deliveries

11.3.1 VersaChem Deliveries At the Closing, VersaChem shall deliver to ITW (each executed instrument to be in such form and substance reasonably satisfactory to ITW):

- 11.3.1.1 the Proxy Statement as set forth in Exhibit 11.3.1.1;
- 11.3.1.2 the minutes of the Board of Directors meeting authorizing the Merger;
- 11.3.1.3 the certificate of VersaChem as described in Section 10.1.4;
- 11.3.1.4 the Escrow Agreement as set forth in Exhibit 12.1;

- 11.3.1.5 the resignations of the directors of VersaChem, and the original stock books, stock ledgers and minute books of VersaChem (the Principal Stockholders shall be permitted to retain copies of the foregoing for their own records);
 - 11.3.1.6 any other documents reasonably necessary to consummate the Merger;
 - 11.3.1.7 all documentation signifying the termination of John Prior, Inc. as a sales representative of VersaChem effective as of the Closing Date of this Agreement of Merger.
 - 11.3.1.8 The Non-Competition Agreement executed by John Prior, Inc., the corporate entity, and by its shareholders, individually, as set forth in Exhibit 11.3.1.8.
 - 11.3.1.9 The Incentive/Non-Competition Agreement executed by Ronald J. Costello as set forth in Exhibit 11.3.1.9.
 - 11.3.1.10 The Incentive/Non-Competition Agreement executed by A. Scott Phillips as set forth in Exhibit 11.3.1.10.
 - 11.3.1.11 The minutes of the Board of Directors meeting authorizing the redemption of the issued and outstanding Preferred Stock and all documentation reflecting same as set forth in Exhibit 11.3.1.11.
 - 11.3.1.12 The Exchange Agent Agreement as set forth in Exhibit 11.3.1.12.
- 11.3.2 ITW's Deliveries At the Closing, ITW shall deliver to VersaChem (each executed instrument to be in such form and substance reasonably acceptable to the Principal Stockholders):
- 11.3.2.1 the Acquisition Price as determined in accordance with the provisions of Sections 2.3 and 4.1;
 - 11.3.2.2 the certificate of ITW described in Section 10.2.4;
 - 11.3.2.3 the Escrow Agreement as set forth in Exhibit 12.1;
 - 11.3.2.4 any other documents reasonably necessary to consummate the Merger;

- 11.3.2.5 Incentive Non-Competition Agreements for Ronald J. Costello and A. Scott Phillips as set forth in Exhibits 11.3.1.9 and 11.3.1.10;
- 11.3.2.6 The employment letter issued by ITW to Ronald J. Costello as set forth in Exhibit 11.3.2.6; and
- 11.3.2.7 The employment letter issued by ITW to A. Scott Phillips as set forth in Exhibit 11.3.2.7.
- 11.3.3.8 The Exchange Agent Agreement as set forth in Exhibit 11.3.1.12.

12. Indemnification

12.1 Escrow Account

12.1.1 Escrow Account — General Escrow Amount As heretofore set forth at Section 2.3, the sum of Seven Hundred Fifty Thousand Dollars (\$750,000.00) shall be withheld from the total of the cash Acquisition Price to be paid to all of the common shareholders of VersaChem and has been deposited into the Escrow Account established pursuant to the terms of this Agreement of Merger and the Escrow Agreement created hereby and is specially designated the General Escrow Amount. The terms and conditions of the Escrow are as set forth in the Escrow Agreement attached hereto as Exhibit 12.1.

12.1.2 Escrow Account — Environmental Clean-up Fund Environmental Clean-up Fund shall mean Two Hundred Fifty Thousand Dollars (\$250,000.00) to be withheld from the pro rata portion of the Acquisition Price to be paid to the Principal Stockholders by ITW and deposited by ITW in an Escrow Account with First National Bank of Chicago. The Environmental Clean-up Fund shall be subject to the payment of environmental claims relating to VersaChem as of the Closing Date or stemming from the environmental claims relating to VersaChem as of the Closing Date. The terms and conditions of the escrow are set forth in an Escrow Agreement attached hereto as Exhibit 12.1.

12.2 Principal Stockholders It is the agreement of VersaChem and its Principal Stockholders, Ronald J. Costello and A. Scott Phillips, individually, that following consummation of the Merger, the Principal Stockholders agree that, notwithstanding the Closing and as the sole and exclusive remedy of ITW and the Surviving

Company, the Principal Stockholders (Costello and Phillips) will severally indemnify and save and hold ITW, the Subsidiary and VersaChem harmless severally from and against any cost, expense, damage, liability, loss or deficiency suffered or incurred by ITW, the Surviving Company or VersaChem arising out of or resulting from any act, error or omission of VersaChem occurring or originating on or prior to the Closing Date, and will pay ITW, the Surviving Company or VersaChem on demand the full amount (except as set forth below) of any sum which ITW, the Surviving Company or VersaChem may be obligated to pay or shall reasonably have paid in respect of:

- 12.2.1 Any material inaccuracy in any representation or the material breach of any warranty made by VersaChem in or pursuant to this Agreement of Merger;
- 12.2.2 Any product liabilities arising in connection with products manufactured or sold on or prior to Closing or employment related or other litigation claims resulting from the conduct or operation of VersaChem's business occurring on or prior to the Closing;
- 12.2.3 Any environmental liabilities arising from VersaChem's operations, occupancy or use of any owned or leased real property on or prior to the Closing if any amounts are remaining to be paid to clean-up any contamination of the soil and ground water under and about the VersaChem facility in West Palm Beach, Florida after final and total disbursement of monies from the Environmental Clean-up Fund and General Escrow Amount and stated amounts from the Incentive/Non-competition Agreements of the Principal Stockholders;
- 12.2.4 Any environmental liabilities, not known as of the Closing Date, arising from VersaChem's operation, occupancy or use of any owned or leased real property on or prior to the Closing Date;
- 12.2.5 Any claim by the owner/lessor of the real property upon which VersaChem conducts its business on or prior to the Closing Date pertaining to the environmental conditions of the property in respect to any local, state or federal environmental law, rule or regulation which is claimed to affect the condition or marketability of said property;
- 12.2.6 Any failure of VersaChem duly to perform or observe any term provision, covenant, agreement or condition in this Agreement of Merger required on the part of VersaChem to be performed or observed prior to, at or after the Closing (except that the Principal

H97000001759

Stockholders shall not be liable for any failure of VersaChem to perform or observe any covenant after the Closing);

provided further that the Principal Stockholders shall not be obligated to ITW or VersaChem under this Section on account of any tax liability resulting from adjustment of the income or deductions of VersaChem to the extent that such adjustments merely postpone to a later period the tax benefit of such adjusted items. This indemnity shall not apply to any claim under 12.2 above until the aggregate of all such claims which have become final totals Fifty Thousand Dollars (\$50,000.00) in which event this indemnity shall apply to all such claims in excess of such amount which become final. An amount for which ITW, or the Subsidiary, is entitled to receive indemnification under this Agreement of Merger is an "Indemnified Loss."

All claims as heretofore and hereafter discussed shall be paid from the Escrow Account as funds permit and thereafter shall be the obligation of the Principal Stockholders. Any amount unable to be paid from the Escrow Account shall be construed as an Indemnified Loss without deduction.

The foregoing deductions shall not apply in the event that Merger Fees as defined in Section 5.13 of this Agreement of Merger are due and owing after the Closing Date.

The foregoing deductibles shall not apply to environmental claims known by the parties as of the Closing Date.

The foregoing deductibles shall not apply in respect to matters concerning inventory.

The foregoing deductibles shall not apply in the event ITW has a claim against the Principal Stockholders for accounts receivable not collected within six (6) months of the Closing Date in accordance with the provisions of Section 5.23 of this Agreement of Merger.

The foregoing deductibles shall also not apply in the event that there is a decrease in net worth of VersaChem below One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000.00) as calculated under Section 4.2. Any decrease in the net worth of VersaChem below One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000.00) as shown in the Closing Date Statement as calculated under Section 4.2, shall result in a decrease in the Acquisition Price and such difference shall be deducted from the Acquisition Price amount tendered to the Exchange Agent and returned and paid to ITW within five (5) business days of agreement regarding the Closing Date Statement.

The foregoing deductibles shall also not apply in the event ITW has a claim resulting from the Closing Date Net Debt being greater than a One Million Eight Hundred

Fifty-Six Thousand Thirty-Two Dollars (\$1,856,032.00) in accordance with the provisions of Sections 4.2 of this Agreement of Merger. Any difference between the Net Debt and Closing Date Net Debt set forth in the Closing Date Statement resulting in an increase in the July 31, 1996 Net Debt shall be paid to ITW by the Exchange Agent from the amount tendered to the Exchange Agent as the Acquisition Price.

The Principal Stockholders' maximum several liability in respect to Section 12.2 above, shall be limited to their pro rata share of the Acquisition Price.

- 12.3 ITW Following consummation of the Merger, ITW agrees that, notwithstanding the Closing, and as the sole and exclusive remedy of the stockholders of VersaChem, ITW will indemnify and save and hold all of the stockholders of VersaChem harmless from and against any cost, expense, damage, liability, loss or deficiency suffered or incurred by the stockholders of VersaChem arising out of or resulting from, and will pay the stockholders of VersaChem on demand the full amount (except as set forth below) of any sum which the stockholders of VersaChem may be obligated to pay or shall reasonably have paid in respect of:

- 12.3.1 Any material inaccuracy in any representation or the material breach of any warranty made by ITW, in or pursuant to this the Agreement;
- 12.3.2 The conduct of the business after the Closing;
- 12.3.3 Any failure of ITW or the Subsidiary duly to perform or observe any term, provision, covenant, agreement or condition in this Agreement of Merger required on the part of ITW or the Subsidiary, to be performed or observed prior to, at or after the Closing;

provided that ITW shall not be obligated to the stockholders of VersaChem under this Section on account of any tax liability resulting from adjustment of the income or deduction of the stockholders of VersaChem to the extent that such adjustment merely postpone to a later period the tax benefit of such adjusted items. This indemnity shall not apply to any claim under 12.3 above until the aggregate of all such claims which have become final totals Fifty Thousand Dollars (\$50,000.00) in which event this indemnity shall apply to all such claims which become final. An amount for which the stockholders of VersaChem are entitled to receive indemnification under this Agreement of Merger, after giving effect to the foregoing deductibles as limitations on liability is an "Indemnified Loss". The foregoing deductibles shall not apply in the event the stockholders of VersaChem have a claim against ITW for its failure to pay the Acquisition Price or a violation of the last sentence of Section 6.2.

In the event of a dispute between the parties, the parties shall follow the procedure set forth in Section 16 hereby. All covenants, agreements, representations and warranties made by

ITW, VersaChem or the Principal Stockholders in or pursuant to this Agreement of Merger shall survive the Closing and remain effective for the term provided in Section 13.1.

13. Limitation on Indemnification

13.1 Term ITW's right to indemnification under Section 12.2 shall apply (i) with respect to the matters covered by Sections 12.2.1, 12.2.2, and 12.2.4 only to those matters written notice of which shall have been delivered by hand or by mail by ITW to the Principal Stockholders not later than one (1) year from the Closing Date; except that with respect to any liability or expense covered by Section 5.9 of the Agreement such right shall apply until the expiration of the applicable statutes of limitation or any extension thereof. The Principal Stockholders' indemnification obligation under Sections 12.2.3 and 12.2.5 shall be limited to three (3) years from the Closing Date.

The Principal Stockholders' right to indemnification under Section 12.3 shall apply (i) with respect to matters covered by Sections 12.3.1, 12.3.2 and 12.3.3 only to those matters written notice of which shall have been delivered by hand or by mail by the Principal Stockholders to ITW not later than one (1) year from the Closing Date, provided, however, that ITW's indemnity obligation under the last sentence of Section 6.2 shall be limited to five (5) years from the Closing Date.

13.2 Extension for Certain Claims If prior to the expiration of any of said periods set forth in Section 13.1 above, ITW or the Principal Stockholders as the case may be (the "Indemnifying Party") identifying any Indemnified Loss, setting forth in reasonable detail facts and circumstances showing that the Indemnified Party has suffered or incurred or may suffer or incur such Indemnified Loss, then the indemnity contained in Section 12 above shall survive with respect to such covenant, agreement, representation or warranty until the Indemnifying Party has indemnified and saved and held Indemnified Party harmless therefrom or such matter is otherwise resolved.

13.3 Indemnified Loss Claim Notwithstanding anything to the contrary set forth above, the parties shall have sixty (60) days after the expiration of any indemnity claim period to file an Indemnified Loss Claim. Any amounts held in the Escrow Account shall not be distributed to the shareholder during this sixty (60) day period and any amounts subject to a claim disputed by the shareholder shall remain in the Escrow Account pending resolution of the claim. If ITW in good faith determines that it will not issue a notice of indemnification of loss claim during this sixty (60) day period of time, ITW shall notify the Escrow Agent to make a distribution of any escrowed amount that will not be subject to an Indemnified Loss Claim or are not in dispute.

14. COOPERATION Each party (the "Indemnitee") will give prompt written notice to the other (the "Indemnitor") of any claim which it discovers or of which it receives notice after

the Closing and which might give rise to a claim against the Indemnitor under Section 12, stating the nature, basis and amount thereof. The failure to give such notice shall not relieve the Indemnitor of any of its indemnification obligations contained herein, except where the failure to give such Notice actually and materially prejudices the rights of the Indemnitor. The Indemnitee shall have the right to be represented, at their own expense, by advisory counsel and accountants, in case of any claim by a third party, any suit or claim by any governmental body, or any legal, administrative or arbitration proceeding, with respect to which the Indemnitor may have liability under the provisions of Section 12. The Indemnitee shall make available to the Indemnitor and its attorneys and accountants, at all reasonable times during normal business hours, all books and records within the Indemnitee's possession or control relating to such suit, claim or proceeding, and the Indemnitee will render to the Indemnitor such assistance as may reasonably be required in order to insure proper and adequate defense of any such suit, claim or proceeding. In the event of a claim by a third party against the Indemnitee, the Indemnitor shall defend such claim or action at the Indemnitor's expense. If the Indemnitor shall desire to effect a compromise or settlement of any such suit, claim or proceeding pursuant to an offer of compromise or settlement by the claimant or plaintiff and the Indemnitee shall refuse to consent to such compromise or settlement then the Indemnitor's liability under Section 12, with respect to such suit, claim or proceeding shall be limited to the amount so offered in compromise or settlement; if the Indemnitor desires to effect a compromise or settlement where no offer has been made by the claimant or plaintiff the Indemnitor's liability shall be limited to an amount determined by agreement between the Indemnitor and the Indemnitee.

ITW shall make available to the Principal Stockholders, their attorneys and accountants at all times during normal business hours, all books and records of VersaChem which are reasonably required by the Principal Stockholders, in the event the Principal Stockholders are the subject of any suit, claim by any governmental agency, or legal or administrative proceeding involving their relationship to VersaChem prior to the Closing.

15. Termination, Amendments and Waiver

15.1 Termination This Agreement of Merger may be terminated at any time prior to the Closing:

- 15.1.1 By mutual consent of ITW and VersaChem; or
- 15.1.2 By ITW if the Merger shall not have been consummated on or before January 31, 1997; or
- 15.1.3 By VersaChem if the Merger shall not have been consummated on or before January 31, 1997; or

- 15.1.4 By ITW, the Subsidiary or VersaChem if the costs of clean-up of the environmental claims relating to VersaChem as of the Closing Date or stemming from the environmental claims relating to VersaChem as of the Closing Date is substantially greater than originally estimated by such party.

provided that the noticing party is not in material default under the provisions of the Agreement at the time.

- 15.2 Notice of Termination Any party desiring to terminate this Agreement of Merger pursuant to Section 15.1 above shall give notice of such election to the other party to this Agreement of Merger as provided in Section 19.1.

- 15.3 Effect of Termination In the event of termination of this Agreement of Merger by either ITW or VersaChem, as provided in this Section 15 hereof, this Agreement of Merger shall forthwith become void and there shall be no liability on the part of either ITW or the Principal Stockholders or their respective officers or directors.

- 15.4 Amendment This Agreement of Merger and the Schedules hereto may not be amended except by an instrument in writing signed on behalf of each of the parties hereto.

- 15.5 Waiver No consent or waiver, express or implied, by any party to or of any breach or default by any other party in the performance by such other party of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance by such other party of the same of any other obligations hereunder. Failure on the part of any party to complain of any breach, act or failure to act by any other party or to declare such other part in default, irrespective of how long such failure continues, shall not constitute a waiver by such party of its rights hereunder. Each party's election of any remedy available to it shall not be deemed to waive or limit its rights to seek any other remedy available to it under this Agreement of Merger, at law or in equity.

16. DISPUTE RESOLUTION

Any dispute arising out of or relating to this Agreement of Merger, including, but not limited to, claims for indemnification pursuant to Section 12 shall be resolved in accordance with the procedures specified in this Section 16, which shall be sole and exclusive procedures for the resolution of any such disputes.

- 16.1 Negotiation Between Executives

- (i) The parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement of Merger promptly by negotiation between VersaChem or the Principal Stockholders, as the case may be, or their appointed representative and executives of ITW who, if possible, are at a higher level of management than the persons with direct responsibility for administration of this Agreement of Merger. Any party may give the other party written notice of any dispute not resolved in the normal course of business. Within 15 days after delivery of the notice, the receiving party shall submit to the other a written response. The notice and response shall include (a) a statement of each party's position and a summary of arguments supporting that position, and (b) the name and title of the executive who will represent that party and of any other person who will accompany the executive. Within 30 days after delivery of the disputing party's notice, the executives of both parties shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to attempt to resolve the dispute. All reasonable requests for information made by one party to the other will be honored.
- (ii) If the matter has not been resolved by these persons within 45 days of the disputing party's notice, or if the parties fail to meet within 30 days, either party may initiate whatever legal remedy is available and reasonable.
- (iii) All negotiations pursuant to this clause are confidential and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and State rules of evidence.

16.2 Performance to Continue Each party is required to continue to perform its obligations under this Agreement of Merger pending final resolution of any dispute arising out of or relating to this Agreement of Merger.

17. GOVERNING LAW

This Agreement of Merger and the legal relations between the parties hereto shall be governed by and construed and enforced in accordance with the laws of the State of Illinois and may not be modified, amended or supplemented in any respect except by a subsequent written agreement entered into by and between the parties herein.

18. JURISDICTION AND VENUE Any civil action or legal proceeding arising out of or relating to this Agreement of Merger shall be brought in the courts of record of the State of Florida in Palm Beach County, Florida. Each party consents to the jurisdiction of such court in any such civil action or legal proceeding and waives any objection to the laying of venue of any such civil action or legal proceeding in such court.

19. GENERAL PROVISIONS

19.1 Notices. All notices, requests, demands, elections, consents and other communications required or permitted under this Agreement of Merger shall be in writing (including electronic transmission) and shall be (as elected by the person giving such notice) hand delivered by messenger or courier service, electronically transmitted, or mailed (airmail if international) by registered or certified mail (postage prepaid), return receipt requested. Each such notice shall be deemed delivered by the party serving such notice (a) on the date delivered if by personal delivery; (b) on the date of transmission with confirmation of transmission if by electronic transmission; and (c) on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as not deliverable, as the case may be, if mailed, to the other party as follows:

If to ITW: Illinois Tool Works Inc.
Attention: Corporate Secretary
3600 West Lake Avenue
Glenview, IL 60025

If to the Principal
Stockholders: Ronald J. Costello
14346 Cypress Island Court
Palm Beach Gardens, FL 33410

With a copy to: Michael V. Mitrione, Esq.
Gunster, Yoakley, Valdes-Fauli & Stewart, P.A.
Attorneys At Law
Phillips Point, Suite 500 East
777 South Flagler Drive
West Palm Beach, FL 33401-6194

19.2 Miscellaneous This Agreement of Merger (including the Schedules, documents and instruments referred to herein or therein) (i) constitutes the entire agreement and supersedes all other prior agreements and undertakings, both written and oral, among the parties, or any of them, with respect to the subject matter hereof; (ii) shall not be assigned or transferred by operation of law or otherwise; (iii) each said individual instrument comprising the whole may be enforceable in its own right by its own terms; and (iv) shall be governed in all respects, including validity, interpretation and effect, by the laws of the State of Illinois. This Agreement of Merger may be executed in two or more counterparts which together shall constitute a single agreement.

- 19.3 Incentive/Non-Competition Agreements The Incentive/Non-Competition Agreements set forth as Exhibits are enforceable in their own right and any redress regarding said agreements may be sought without reference to the terms of this Agreement of Merger.
- 19.4 Schedules and Exhibits The Schedules referred to herein shall be construed with and as an integral part of this Agreement of Merger to the same extent as if they were set forth verbatim herein. The specification of any dollar amount in the representations and warranties contained in this Agreement of Merger or the inclusion of any specific item in any Schedules hereto is not intended to imply that such amounts, or higher or lower amounts, or the items so included or other items, are or are not material, and neither party shall use the fact of the setting of such amounts or the inclusion of any such item in any dispute or controversy between the parties as to whether any obligation, item or matter not described herein or included in a Schedule is or is not material for purposes of this Agreement of Merger.
- 19.5 Third Party Beneficiaries This Agreement of Merger is not intended to and does not create any rights, claims, remedies or benefits accruing to any person that is not a party hereto nor create or establish any third party beneficiary hereto other than the shareholders of VersaChem.
- 19.6 Interpretation The section headings contained in this Agreement of Merger are for reference purposes only and shall not affect the interpretation of this Agreement of Merger. All references to Section numbers refer to the Sections of this Agreement of Merger. The parties hereto acknowledge and agree that this Agreement of Merger was drafted jointly by both parties and its provision shall be given their fair meaning.
- 19.7 Best Knowledge For purposes of this Agreement of Merger, any reference to "the knowledge of" or "the best knowledge of" a party hereto, when modifying any representation and warranty, shall mean that such party has no knowledge that such representation and warranty is not true and correct to the same extent as provided in the applicable representation and warranty, and that:
- (i) such party has made appropriate inquiries of its officers and responsible employees; and
 - (ii) nothing has come to its attention in the course of such investigation and review or otherwise which would cause such party, in the exercise of due diligence, to believe that such representation and warranty is not true and correct in all material respects.
- 19.8 Partial Invalidity Wherever possible, each provision hereof shall be interpreted in such manner as to be effective and valid under applicable law, but in case any one or

H97000001759

more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such provision shall be ineffective to the extent, but only to the extent, of such invalidity, illegality or unenforceability without invalidating the remainder of such invalid, illegal or unenforceable provision or provisions or any other provisions hereof, unless such a construction would be unreasonable.

H97000001759

H97000001759

IN WITNESS WHEREOF, ITW, the Subsidiary, VersaChem, Ronald J. Costello and A. Scott Phillips have caused this Agreement of Merger to be signed by their respective officers thereunto duly authorized, and themselves, all as of the date first written above.

Illinois Tool Works Inc.

By *Ronald J. Costello*
Title General Manager Worldwide

Attest

Elizabeth E. Michael

V.C. Acquisition Corporation

By *William J. Malone*
Title _____

Attest

Elizabeth E. Michael

VersaChem Corporation,

By *[Signature]*
Title PRESIDENT

Attest

Susan H. Bonins

Shareholder Representative

[Signature]
Ronald J. Costello

Attest

Susan H. Bonins

Principal Stockholder (as heretofore defined)

[Signature]
Ronald J. Costello

Attest

Susan H. Bonins

Principal Stockholder (as heretofore defined)

[Signature]
A. Scott Phillips

Attest

Susan H. Bonins

- 42 -

- 43 -

H97000001759

01/30/97 THU 16:24 FAX 561 855 5877
01/30/97 THU 14:46 FAX 561 857 4529

GUNSTER YOAKLEY VALDES F
ATTORNEYS AT LAW

0003
-34106

H97000001759

PROFIT CORPORATION
APPLICATION BY FOREIGN PROFIT CORPORATION TO FILE AMENDMENT TO
APPLICATION FOR AUTHORIZATION TO TRANSACT BUSINESS IN FLORIDA
(Pursuant to s. 607.1504, F.S.)

SECTION I
(1-3 MUST BE COMPLETED)

1. VC ACQUISITION CORPORATION
Name of corporation as it appears on the records of the Department of State.
2. DELAWARE 3. JANUARY 13, 1997
Incorporated under laws of Date authorized to do business in Florida

SECTION II
(4-7 COMPLETE ONLY THE APPLICABLE CHANGES)

4. If the amendment changes the name of the corporation, when was the change effected under the laws of its jurisdiction of incorporation? JANUARY 30, 1997
5. VERSACHEM CORPORATION
Name of corporation after the amendment, adding suffix "corporation", "company", or "incorporated," or appropriate abbreviation, if not contained in new name of the corporation.
6. If the amendment changes the period of duration, indicate new period of duration.
N/A
New Duration
7. If the amendment changes the jurisdiction of incorporation, indicate new jurisdiction.
N/A
New Jurisdiction


Signature

January 30, 1997
Date

Frederick N. Bates

Typed or printed name

Assistant Secretary

Title

Michael V. Mitrione
Gunster, Yoakley, Valdes-Fauli & Stewart, P.A.
777 South Flagler Drive, Suite 500, East Tower
West Palm Beach, Florida 33401

H97000001759

State of Delaware

PAGE 1

H97000001759

Office of the Secretary of State

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF MERGER, WHICH MERGES:

"VERSACHEM CORPORATION", A FLORIDA CORPORATION,
WITH AND INTO "VC ACQUISITION CORPORATION" UNDER THE NAME OF
"VERSACHEM CORPORATION", A CORPORATION ORGANIZED AND EXISTING
UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED
IN THIS OFFICE THE THIRTIETH DAY OF JANUARY, A.D. 1997, AT 11
O'CLOCK A.M.

A CERTIFIED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO
THE NEW CASTLE COUNTY RECORDER OF DEEDS FOR RECORDING.



A handwritten signature in cursive script, reading "Edward J. Freel".

Edward J. Freel, Secretary of State

2704222 8100M

971031961

AUTHENTICATION:

DATE:

8309621

01-30-97

H97000001759

**CERTIFICATE OF MERGER
OF
VERSACHEM CORPORATION
WITH AND INTO
VC ACQUISITION CORPORATION**

H97000001759

(Under Section 252 of the Delaware General Corporation Law)

VC Acquisition Corporation, a corporation organized and existing under the laws of the State of Delaware, does hereby certify:

1. The names of the corporations participating in the merger and the states under the laws of which they are respectively organized are as follows:

VC Acquisition Corporation
VersaChem Corporation

Delaware
Florida

2. The Agreement of Merger (the "Agreement of Merger") dated as of January 16, 1997 by and between Illinois Tool Works Inc., VC Acquisition Corporation, VersaChem, Ronald J. Costello and A. Scott Phillips was approved, adopted, certified, executed and acknowledged by VC Acquisition Corporation and VersaChem Corporation in accordance with the provisions of Section 252(c) of the Delaware General Corporation Law.
3. VC Acquisition Corporation shall be the surviving corporation resulting from the Merger, shall continue to be governed by the laws of the State of Delaware, and its name shall change to VersaChem Corporation upon the effective time of the Merger.
4. The name of the surviving corporation, VC Acquisition Corporation, shall be changed to VersaChem Corporation at the effective time of the Merger, and the Certificate of Incorporation of the surviving corporation shall be changed to reflect this name change, but otherwise the Certificate of Incorporation, as it shall exist immediately prior to the effective time of Merger, shall be the Certificate of Incorporation of the surviving company until amended. Therefore, Article I of the Certificate of Incorporation of the surviving corporation shall read after the Merger as follows:

"1. The name of the corporation is VersaChem Corporation."
5. The executed Agreement of Merger is on file at the office of VC Acquisition Corporation at 3600 West Lake Avenue, Glenview, Illinois 60025.
6. A copy of the executed Agreement of Merger will be furnished by VC Acquisition Corporation, on request and without cost, to any stockholder of any constituent corporation.
7. VersaChem Corporation's authorized capital stock consists of 5,000,000 shares of common stock, \$.01 par value per share, and 750,000 shares of preferred stock, \$1.00 par value per share.

01/30/97 THU 16:25 FAX 581 655 5877

GUNSTER YOAKLEY VALDES P

0006

H97000001759

IN WITNESS WHEREOF, the corporation has caused this Certificate of Merger to be signed by its duly authorized officer, this 27 day of January, 1997.

VC ACQUISITION CORPORATION, a
Delaware corporation

By: David C. Perry
Print Name: David C. Perry
Its: K.P.

0252144.01

H97000001759