

Declaration by the directors of a holding company in relation to assistance for the acquisition of shares

155(6)b

Please do not
write in this
margin

Pursuant to section 155(6) of the Companies Act 1985

**Please complete
legibly, preferably
in black type, or
bold block lettering**

To the Registrar of Companies
(Address overleaf - Note 5)

For official use

Company number

T	W	T	Th	F	S
L		L		L	
L		L		L	

00298073

Name of company

Note
Please read the notes
on page 3 before
completing this form.

* Powell Duffryn Limited

* insert full name
of company

4/We Please see attached Appendix 1

- insert name(s) and address(es) of all the directors

† delete as appropriate

~~[the sole director]~~ [all the directors][†] of the above company (hereinafter called 'this company') do solemnly and sincerely declare that:

§ delete whichever
is inappropriate

The business of this company is:

(a) that of a ~~recognised bank~~ licensed institution¹ within the meaning of the Banking Act 1979²

~~(b) that of a person authorised under section 3 or 4 of the Insurance Companies Act 1982 to carry on insurance business in the United Kingdom;~~

(c) something other than the above§

This company is ~~the~~ [a] holding company of* Humbersea Sea & Land Services Limited
(the "Subsidiary") which is

proposing to give financial assistance in connection with the acquisition of shares

in [this company] [_____]
 _____ the holding company of this company.†

Presentor's name address and
reference (if any) :

Weil, Gotshal & Manges
One South Place
London
EC2M 2WG

For official Use
General Section



The assistance is for the purpose of ~~that acquisition~~ [reducing or discharging a liability incurred for the purpose of that acquisition].† (note 1)

Please do not
write in this
margin

**Please complete
legibly, preferably
in black type, or
bold block
lettering**

The number and class of the shares acquired or to be acquired is: 78,984,893 Ordinary Shares of
50 pence each and 3,600,000 4.5% Cumulative Preference Shares of 50 pence each

The assistance is to be given to: (note 2) Prestige Acquisitions Limited
(the "Purchaser") whose registered office is at 78 Cannon Street, London
EC4P 5LN

The assistance will take the form of:

Please see attached Appendix 2

The person who [has acquired] ~~will acquire~~† the shares is:

The Purchaser

† delete as
appropriate

The principal terms on which the assistance will be given are:

Please see attached Appendix 3

The amount (if any) by which the net assets of the company which is giving the assistance will be reduced
by giving it is Nil

The amount of cash to be transferred to the person assisted is £ Nil

The value of any asset to be transferred to the person assisted is £ Nil

Please complete
legibly, preferably
in black type, or
bold block lettering

~~X~~/We have formed the opinion, as regards this company's initial situation immediately following the date on which the assistance is proposed to be given, that there will be no ground on which it could then be found to be unable to pay its debts. (note 3)

(a) ~~X~~/We have formed the opinion that this company will be able to pay its debts as they fall due during the year immediately following that date)* (note 3)

* delete either (a) or
(b) as appropriate

(b) ~~It is intended to commence the winding up of this company within 12 months of that date, and X we have formed the opinion that this company will be able to pay its debts in full within 12 months of the commencement of the winding up.* (note 3)~~

And ~~X~~/we make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

Declared at ONE SOUTH PLACE
LONDON EC2M 2WG

Declarants to sign below

Day Month Year
on

1	3	0	3	2	0	0	1
---	---	---	---	---	---	---	---

before me AC

~~A Commissioner for Oaths or Notary Public or Justice of the Peace or~~ a Solicitor having the powers conferred on a Commissioner for Oaths.

John Boden
David R
John R
M. W

NOTES

- 1 For the meaning of "a person incurring a liability" and "reducing or discharging a liability" see section 152(3) of the Companies Act 1985.
- 2 Insert full name(s) and address(es) of the person(s) to whom assistance is to be given; if a recipient is a company the registered office address should be shown.
- 3 Contingent and prospective liabilities of the company are to be taken into account - see section 156(3) of the Companies Act 1985.
- 4 The auditors report required by section 156(4) of the Companies Act 1985 must be annexed to this form.
- 5 The address for companies registered in England and Wales or Wales is:-

The Registrar of Companies
Companies House
Crown Way
Cardiff
CF14 3UZ

or, for companies registered in Scotland:-

The Registrar of Companies
Companies House
37 Castle Terrace
Edinburgh
EH1 2EB

Powell Duffryn Limited
(the "Company")
Company No: 00298073
Appendix 1 to Statutory Form 155(6)b

DIRECTOR:

ADDRESS:

Adrian Darling

Morningside
Knowle Grove
Virginia Water
Surrey
GU25 4JD

Stephen Harris

Northolt
Thames Street
Sunbury on Thames
Middlesex
TW16 6AG

Barry Hartiss

Robinswood
Burleigh Road
Ascot
Berkshire
SL5 7PA

John Holloway

Merry Lodge
Messingham Lane
Greetwell Crossroads
Scawby Brigg
North Lincolnshire
DN20 9NE

Michael Noakes

Arden House
72 Hamilton Road
High Wycombe
Buckinghamshire
HP13 5BQ

Mark Clarke

17 Wemyss Road
Blackheath
SE3 0TG

John Soden

98 Alleyn Road
Dulwich
SE21 8AH

Powell Duffryn Limited
(the "Company")
Company No: 00298073
Appendix 2 to Statutory Form 155(6)b

- 1 A debenture as supplemented, amended and extended from time to time (the "**Debenture**") to be entered into by, *inter alia*, the Chargors (including the Subsidiary) and the Chargee. Upon execution of the Debenture the Subsidiary irrevocably and unconditionally guarantees the due performance by each Relevant Company of all its obligations under or pursuant to the Finance Documents to which it is a party and the payment of all moneys and discharge of all liabilities now or after the date of the Debenture due, owing or incurred to the Finance Parties or any of them by each Relevant Company under or pursuant to the Finance Documents. These obligations are secured by way of fixed and floating charges and the provision of a guarantee by the Subsidiary.
- 2 A deed of accession (the "**Deed of Accession**") to be made between, amongst others, the Subsidiary and the Agent under which the Subsidiary accedes to the Securitisation Bridge Facilities Agreement and the Securitisation Bridge Further Terms Agreement.

Each of the documents set out above is being entered into in connection with, and the Subsidiary under the Debenture, *inter alia*, guarantees and secures the payment of all moneys and discharge of all obligations which shall from time to time be owing in relation to:

- (a) the Senior Facilities Agreement and the Senior Further Terms Agreement under which the Banks provided term loan facilities in the maximum principal amount of £125,000,000 (the "**Term Loan Facility**") comprising a refinancing facility in the maximum principal amount of £19,400,000 to the Company, an acquisition facility in the maximum principal amount of £80,600,000 to the Purchaser and a multi-currency working capital facility in the maximum principal amount of £25,000,000 (the "**Working Capital Facility**") to the Purchaser and certain of its subsidiaries. The Term Loan Facility was used by the Purchaser, amongst other things, to pay accepting shareholders in respect of the Offer, pay related costs and fees of the Offer and the repayment of existing money borrowed by the Company and certain of its subsidiaries. The Working Capital Facility is to be used for the on-going general working capital purposes of the Group;
- (b) the Securitisation Bridge Facilities Agreement and the Securitisation Bridge Further Terms Agreement under which the Banks provided a bridge facility in the maximum principal amount of £285,000,000 (the "**Bridge Loan Facility**") comprising a tranche A equal to the amount in respect of which the rating agencies referred to in the Securitisation Bridge Facilities Agreement (the "**Rating Agencies**") have indicated that an A/A2 rating would be available, a tranche B equal to the amount in respect of which the Rating Agencies have indicated that a BBB/Baa2 rating would be available and a tranche C equal to the amount in respect of which the Rating Agencies have indicated that a BB/Ba2 rating would be available. The Bridge Loan Facility has been and is being used by the Purchaser to pay accepting shareholders in respect of the Offer, pay related fees and costs of the Offer and for any required deposits in a reserve account; and

- (c) the LNG Facility Agreement and LNG Further Terms Agreement, under which Deutsche Bank AG London ("**Deutsche**") in its capacity as LNG bank provided a loan note guarantee facility (the "**LNG Facility**") in the maximum principal amount of up to £90,000,000 by way of a guarantee of the obligations of the Purchaser in respect of principal on the loan notes issued by the Purchaser to certain accepting shareholders under the Offer. The Purchaser was required to fully cash collateralise Deutsche's obligations by depositing into a cash collateral account an amount equal to the nominal value of the loan notes issued to any accepting shareholder who opts for the loan note alternative.
- 3 An intra-group loan agreement as supplemented, amended and extended from time to time (the "**Intra-Group Loan Agreement**") to be made between, amongst others, the Subsidiary as lender and the Purchaser as borrower under which the Subsidiary would make available loan facilities to the Purchaser which may be used by the Purchaser to assist it in meeting its payment obligations under the Finance Documents.

Powell Duffryn Limited
(the "Company")
Company No: 00298073
Appendix 3 to Statutory Form 155(6)b

1 Under the terms of the Debenture:

1.1 the Subsidiary covenants after the date of the Debenture that it will pay to the Chargee all moneys and discharge all obligations and liabilities now or after the date of the Debenture due, owing or incurred by it to the Finance Parties or any of them including, without limitation, all moneys, obligations and liabilities due, owing or incurred under or pursuant to the Finance Documents;

1.2 the Subsidiary irrevocably and unconditionally guarantees:

- (a) the due performance by each Relevant Company of all its obligations under or pursuant to the Finance Documents to which it is a party; and
- (b) the payment of all moneys and discharge of all liabilities now or after the date of the Debenture due, owing or incurred to the Finance Parties or any of them by each Relevant Company under or pursuant to the Finance Documents

in each case when the same becomes due for payment or discharge whether by acceleration or otherwise, and whether such moneys, obligations or liabilities are express or implied; present, future or contingent; joint or several; incurred as principal or surety; originally owing to the Finance Parties or any of them or purchased or otherwise acquired by any of them; denominated in Sterling or in any other currency, or incurred on any banking account or in any other manner whatsoever;

1.3 undertakes that if for any reason any Relevant Company fails to discharge any such obligation or liability or to pay any such moneys as is referred to in clause 2.2.1 of the Debenture, the Subsidiary shall immediately on demand by the Chargee discharge such obligation or liability or, as the case may be, pay such moneys to the Chargee;

1.4 as a separate and independent stipulation, irrevocably and unconditionally agrees that if any purported obligation or liability of any Relevant Company which would have been the subject of clause 2.2.1 of the Debenture and/or clause 2.2.2 of the Debenture had it been valid and enforceable is not or ceases to be valid or enforceable against such Relevant Company on any ground whatsoever whether or not known to the Finance Parties or any of them (including, without limitation, any irregular exercise or absence of any corporate power or lack of authority of, or breach of duty by, any person purporting to act on behalf of such Relevant Company or any legal or other limitation, whether under the Limitation Acts or otherwise, any disability or Incapacity or any change in the constitution of such Relevant Company) it shall nevertheless be liable in respect of that purported obligation or liability as if the same were fully valid and enforceable and it were a principal debtor in respect thereof. The Subsidiary irrevocably and unconditionally agrees with the Chargee (as trustee for the other Finance Parties) to indemnify and keep indemnified the Finance Parties against any loss or liability arising from any failure of a Relevant Company to perform or discharge any such purported obligation or liability or from any invalidity or unenforceability of any of the same against a Relevant Company;

1.5 with full title guarantee, charges to the Chargee as a continuing security for the payment and discharge of the Secured Obligations:

- (a) by way of first legal mortgage, all freehold and leasehold property wheresoever situate (other than any heritable property in Scotland and including, without limitation, that property set out in Schedule 2 of the Debenture) now owned by the Subsidiary or in which the Subsidiary has an interest, together with all liens, charges, options, agreements, rights and interests in or over such property or the proceeds of sale of such property and all buildings and Fixtures thereon and all rights, easements and privileges appurtenant to, or benefiting, the same;
- (b) by way of first fixed charge (to the extent not the subject of a legal mortgage by virtue of clause 3.1.1 of the Debenture) all present and future freehold and leasehold property wheresoever situate (other than any heritable property in Scotland) now or from time to time after the date of the Debenture owned by the Subsidiary or in which the Subsidiary may have an interest, together with all liens, charges, options, agreements, rights and interests in or over such property or the proceeds of sale of such property and all buildings and Fixtures thereon and all rights, easements and privileges appurtenant to, or benefiting, the same;
- (c) by way of first fixed charge, all plant, machinery and other equipment now or from time to time after the date of the Debenture owned by the Subsidiary or in which the Subsidiary has an interest and the benefit of all contracts and warranties relating to the same;
- (d) by way of first fixed charge, the Securities, including all allotments, rights, benefits and advantages whatsoever at any time accruing, offered or arising in respect of or incidental to the same and all money or property accruing or offered at any time by way of conversion, redemption, bonus, preference, option, dividend, distribution, interest or otherwise in respect thereof;
- (e) by way of first fixed charge, all book and other debts, revenues and claims, whether actual or contingent, whether arising under contracts or in any other manner whatsoever now or from time to time after the date of the Debenture owned by the Subsidiary or in which the Subsidiary has an interest (whether originally owing to the Subsidiary or purchased or otherwise acquired by it) and all things in action which may give rise to any debt, revenue or claim, together with the full benefit of any Encumbrances, Collateral Instruments and any other rights relating thereto (whether as creditor or beneficiary) including, without limitation, reservations of proprietary rights, rights of tracing and unpaid vendor's liens and associated rights, but excluding any assets the subject of a charge pursuant to clause 3.1.6 of the Debenture or 3.1.7 of the Debenture;
- (f) by way of first fixed charge, the Cash Collateral Accounts, the proceeds of collection of all Debts and any and all amounts from time to time standing to the credit of the Cash Collateral Accounts and any other bank or other account (including a current account) of the Subsidiary;
- (g) by way of first fixed charge, all moneys from time to time payable to the Subsidiary under or pursuant to the Insurances including, without limitation, the right to the refund of any premiums;

- (h) by way of first fixed charge, the goodwill and uncalled capital of the Subsidiary; and
 - (i) by way of first fixed charge, all Intellectual Property Rights now or from time to time after the date of the Debenture owned by the Subsidiary (including, without limitation, all those Intellectual Property Rights set out in Schedule 3 of the Debenture);
- 1.6 the fixed security from time to time constituted by or pursuant to the Debenture other than pursuant to any notice served in accordance with clause 3.6 of the Debenture shall not extend to the Subsidiary's interests in any Excluded Assets unless and until the relevant third party consent has been obtained;
- 1.7 the Subsidiary, with full title guarantee, charges to the Chargee by way of first floating charge as a continuing security for the payment and discharge of the Secured Obligations its undertaking and all its property, assets and rights whatsoever and wheresoever both present and future, other than any property or assets from time to time effectively charged by way of legal mortgage or fixed charge or assignment pursuant to clause 3.1 of the Debenture or otherwise pursuant to the Debenture but including (without limitation and whether or not so effectively charged) any of its property and assets situated in Scotland;
- 1.8 under clause 9.4 of the Debenture the Subsidiary undertakes to indemnify and keep indemnified the Chargee, each of the other Finance Parties, any Receiver and any attorney, agent or other person appointed by the Chargee under the Debenture and the Chargee's officers and employees (each an "**Indemnified Party**") in respect of all costs, losses, actions, claims, expenses, demands or liabilities (save to the extent caused by their negligence or wilful default) whether in contract, tort or otherwise and whether arising at common law, in equity or by statute which may be incurred by, or made against, any of the Indemnified Parties (or by or against any manager, agent, officer or employee for whose liability, act or omission any of them may be answerable) at any time relating to or arising directly or indirectly out of or as a consequence of:
 - (a) anything done or omitted to be done in the exercise or purported exercise of the powers contained in the Debenture; or
 - (b) any breach by the Subsidiary of any of its obligations under the Debenture; or
 - (c) an Environmental Claim made or asserted against an Indemnified Party which would not have arisen if the Debenture had not been executed and which was not caused by the negligence or wilful default of the relevant Indemnified Party;
- 1.9 the obligations of the Subsidiary under the Debenture (including, without limitation, the Guarantee) shall extend to the ultimate balance from time to time owing in respect of the Secured Obligations and shall be a continuing security notwithstanding any intermediate payment, partial settlement or other matter whatsoever; and
- 1.10 the Debenture contains a covenant for further assurances.

- 2 By executing the Deed of Accession the Subsidiary accedes to the Securitisation Bridge Facilities Agreement and the Securitisation Bridge Further Terms Agreement in the capacity as Obligor.
- 3 By executing the Intra-Group Loan Agreement the Subsidiary, *inter alia*, agrees to make available to the Purchaser certain loan facilities which may be used by the Purchaser in reducing or discharging liabilities incurred in connection with its acquisition of the entire issued share capital of the Company.

Powell Duffryn Limited
(the "Company")
Company No: 00298073
Definitions to Statutory Form 155(6)b

"Accountants' Reports" means the agreed form customer analysis report, group financial due diligence report, supplementary financial due diligence analysis, ports and shipping services financial summary, ports services financial due diligence report and Teesside Holdings financial due diligence report, each dated on or about 3 November 2000, compiled by PricewaterhouseCoopers and addressed to (among others) the Purchaser and the Security Agent;

"Agent" means Deutsche Bank AG London and includes any of its successors and assigns;

"Appropriate Accounting Principles" means:

- (a) the accounting principles, policies, standards, practices and bases stated in the Accountants' Report (being generally accepted in the United Kingdom), as adopted in the Projections; or
- (b) where any change in (a) above has been agreed under clause 8.1.16 of the Securitisation Bridge Further Terms Agreement such accounting principles, standards, practices and bases as have been so agreed;

"Banks" means, in relation to the Senior Further Terms Agreement and the Senior Facilities Agreement, the banks and financial institutions named in Schedule 1 of the Senior Facilities Agreement as lenders and, in relation to the Securitisation Bridge Facilities Agreement and the Securitisation Bridge Further Terms Agreement, the banks and financial institutions named in Schedule 1 of the Securitisation Bridge Facilities Agreement;

"Bidco 2" means Prestige (US) Limited (Company no. 4066335), whose registered office is at 78 Cannon Street, London EC4P 5LN;

"Business Plan" means the agreed form business plan for the Group prepared by the Management Team (and including the Projections);

"Cash Collateral Accounts" means each "Cash Collateral Account" (as defined in the Securitisation Bridge Further Terms Agreement) and **"Cash Collateral Account"** means any of them;

"Charged Assets" means, in relation to the Subsidiary, all assets of the Subsidiary described in clauses 3.1 and 3.3 of the Debenture;

"Chargee" means Deutsche Bank AG London acting as Security Agent for the Finance Parties from time to time pursuant to the Finance Documents or such other person as may be appointed Security Agent pursuant to the Finance Documents;

"Chargors" means the Subsidiary and those other companies whose names, registered numbers and registered offices are set out in Schedule 1 of the Debenture and any other company which enters into a deed supplemental to the Debenture for the purpose of assuming the rights and obligations of a **"Chargor"**, and **"Chargor"** means any one of them;

"Collateral Instruments" means negotiable and non-negotiable instruments, guarantees and any other documents or instruments which contain or evidence an obligation (with or without

security) to pay, discharge or be responsible directly or indirectly for, any liabilities of any person and includes any document or instrument creating or evidencing an Encumbrance;

“Control”, in relation to a body corporate, means the right, by virtue of holding shares in such body corporate, or by virtue of any contract or other arrangement with any holder of shares in such body corporate, to exercise or control the exercise of more than 50 per cent. of the total voting rights conferred upon the holders of the entire issued share capital for the time being of that body corporate and **“Controlled”** shall be construed accordingly;

“Controlled Subsidiary” of a person means any company or entity directly or indirectly Controlled by such person other than an Excluded Company and (in the case of the Purchaser) a member of the Other Group;

“Debts” means the assets of the Subsidiary described in clause 3.1.5 of the Debenture;

“Derivative Securities” include:

- (a) allotments, rights, money or property arising from the Securities by way of conversion, exchange, redemption, bonus, preference, option or otherwise;
- (b) dividends, distributions, interest and other income from the Securities; and
- (c) stock, shares and securities offered in addition to the substitution for the Securities;

“Encumbrances” means any mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, standard security, assignment, trust arrangement for the purpose of providing security or other security interest of any kind securing any obligation of any person (including without limitation title transfer and/or retention arrangements having a similar effect);

“Environmental Claim” means any claim, notice prosecution, demand, legal action, official warning, abatement or other order (conditional or otherwise) relating to Environmental Matters or any notification or order requiring compliance with the terms of any Environmental Licence or Environmental Law;

“Environmental Law” means all laws (including, without limitation, common law), regulations, treaties, by-laws, orders, demands, directives, codes of practice, circulars, guidance notices and the like having legal effect concerning Environmental Matters and in the case of codes of practice, circulars, guidance notices and the like with which it is customary for persons carrying on a similar business to the Group to comply;

“Environmental Licence” includes any permit, licence, authorisation, consent or other approval required at any time by any Environmental Law;

“Environmental Matters” includes (a) the generation, deposit, disposal, keeping, treatment, transportation, transmission, handling, importation, exportation, processing, collection, sorting, presence or manufacture of any waste (as defined in the Environmental Protection Act 1990) of any Environmentally Hazardous Materials; (b) nuisance, noise, defective premises, health and safety at work or elsewhere; and (c) the pollution, conservation or protection of the environment (both natural and built) or of man or any living organisms supported by the environment or any other matter whatsoever affecting the environment or any part of it;

“Environmentally Hazardous Material” means any substance whatsoever (whether in a solid or liquid form or in the form of a gas or vapour and whether alone or in combination with any other

substance) or waste (as defined in the Environmental Protection Act 1990) which gives rise to a risk of causing harm to man or any other living organism supported by the environment, or damaging the environment or public health or welfare;

“Excluded Assets” means:

- (a) the Subsidiary’s interest in the whole or any part of the Properties and the fixtures or any other interest or right in any Property of the Subsidiary where the creation of any security interest therein is prohibited either absolutely or without the consent of a third party including a lessor; and
- (b) the Subsidiary’s interest under any Finance Lease where the creation of any security interest therein is prohibited either absolutely or without the consent of a third party including a lessor;

“Excluded Company” means each of the companies listed in part C of schedule 3 to the Securitisation Bridge Further Terms Agreement;

“Finance Documents” means, together, the “Finance Documents” (as defined in the Senior Further Terms Agreement), the “Finance Documents” (as defined in the Securitisation Bridge Further Terms Agreement) and the “Finance Documents” (as defined in the LNG Further Terms Agreement), and **“Finance Document”** means any one of them each of which as from time to time supplemented, amended, novated or replaced;

“Finance Lease” means any lease under which a member of the Group is the lessee which is or should be treated as a finance lease under the Appropriate Accounting Principles (and includes any hire purchase contract or other arrangement which is or should be similarly treated under the Appropriate Accounting Principles);

“Finance Parties” means together, the “Finance Parties” (as defined in the Senior Further Terms Agreement), the “Finance Parties” (as defined in the Securitisation Bridge Senior Facilities Agreement) and the “Finance Parties” (as defined in the LNG Facility Agreement), and **“Finance Party”** means any of them from time to time;

“Fixtures” means, in relation to a property, all fixtures and fittings (including trade fixtures and fittings but excluding, in the case of leasehold property, landlord’s fixtures and in the case of freehold property which is let to a third party, tenant’s and trade fixtures and fittings legally and beneficially owned by such third party), fixed plant and machinery and other items attached to that property, whether or not constituting a fixture at law;

“Floating Charge Assets” means the assets of the Subsidiary from time to time charged by the Debenture by way of floating charge;

“Further Terms Agreements” means together, the Senior Further Terms Agreement, the Securitisation Bridge Further Terms Agreement and the LNG Further Terms Agreement;

“Group” means the Purchaser and the companies listed in part A of schedule 3 of the Securitisation Bridge Further Terms Agreement, any Controlled Subsidiaries of them whose principal business is of the same or a similar nature to that carried on by the companies listed in Part A of Schedule 3 of the Securitisation Bridge Further Terms Agreement and any company whose only material business is acting as a Holding Company for another member of the Group or issuing debt securities for the (direct or indirect) purpose of repaying the Indebtedness under the Finance Documents other than, in each case, any Excluded Company provided that, for the

purposes of clauses 7.1.1, 7.1.2, 7.3 and Schedule 4 of the Securitisation Bridge Further Terms Agreement, Indebtedness under the Other Facilities shall be ignored;

"Guarantee" means, in relation to the Subsidiary, the obligations of the Subsidiary under clause 2.2 of the Debenture;

"Holding Company" means an entity of which another person is a Controlled Subsidiary;

"Incapacity" in relation to a person, means the insolvency, liquidation, dissolution, winding-up, administration, receivership, amalgamation, reconstruction or other incapacity of that person whatsoever (and, in the case of a partnership, includes the termination or change in the composition of the partnership) or any analogous proceeding occurring in relation to that person whatsoever;

"Indebtedness" means any obligation for payment or repayment of money, whether as principal or as surety and whether present, actual or contingent;

"Insurances" means, in relation to the Subsidiary, all present and future contracts or policies of insurance (including life assurance policies) taken out by the Subsidiary or in which the Subsidiary from time to time has an interest;

"Intellectual Property Rights" means all copyrights (including rights in computer software), trade marks, service marks, business names, patents, rights in inventions, registered designs, design rights, database rights and topographical or similar rights, rights in trade secrets or other confidential information and any other intellectual property rights and any interests (including by way of licence) in any of the foregoing (in each case whether registered or not and including all applications for the same) which may subsist anywhere in the world;

"LNG Facility Agreement" means, subject to clause 1.4.2 of the Debenture, the loan note guarantee facility agreement dated 3 November 2000 and amended by amendment letters dated 21 December 2000 and on or around the date of this declaration and made between the Purchaser and Deutsche in its capacity as LNG arranger and LNG bank as from time to time supplemented, amended, novated or replaced;

"LNG Further Terms Agreement" means, subject to clause 1.4.2 of the Debenture, the loan note guarantee further terms agreement dated 3 November 2000 and made between the Purchaser and Deutsche in its capacity as LNG arranger, LNG Bank and security agent as from time to time supplemented, amended, novated or replaced;

"Management Team" means Michael Noakes and Stephen Harris;

"Obligor" means each member of the Group which is party to a Finance Document;

"Offer" means each of the offers made by the Purchaser to acquire the whole of, respectively the ordinary and preference share capital of the Company not already owned by the Purchaser at the date of the Offer;

"Other Facilities" where such term relates to any term in the Debenture, means the facilities made available by the senior lenders pursuant to, *inter alia*, the Senior Facilities Agreement and the Senior Further Terms Agreement, and by the loan note guarantee bank pursuant to, *inter alia*, the LNG Facility Agreement and the LNG Further Terms Facility Agreement and, where such term relates to any term in the Deed of Subordination, means the facilities made available by the senior lenders pursuant to, *inter alia*, the Senior Facilities Agreement and the Senior Further

Terms Agreement and by the loan note guarantee bank pursuant to, *inter alia*, the LNG Facility Agreement and the LNG Further Terms Agreement;

"Other Group" where such term relates to any term in the Debenture, means the persons listed in part B of schedule 3 of the Securitisation Bridge Further Terms Agreement and, where such term relates to any term in the Deed of Subordination, means the persons listed in part B of schedule 3 of the Senior Further Terms Agreement;

"Permitted Encumbrance" means any "Permitted Encumbrance" (as defined in the Senior Further Terms Agreement) and any "Permitted Encumbrance" (as defined in the Securitisation Bridge Further Terms Agreement);

"Projections" means the agreed form financial projections forming part of the Business Plan;

"Properties" means those properties referred to in clauses 3.1.1 and 3.1.2 of the Debenture;

"Receiver" means any one or more receivers and/or managers or administrative receivers appointed by the Chargee pursuant to the Debenture in respect of all or any of the Subsidiary's or over all or any of the Charged Assets;

"Regulations" means the Uncertificated Securities Regulations 1995, as subsequently amended;

"Relevant Company" means each Chargor, the Purchaser, Bidco 2 and each Controlled Subsidiary (if any) of the Company, the Purchaser or Bidco 2 which becomes, or purports to become, a party to any Finance Document;

"Relevant System" has the meaning given to that term by the Regulations and includes any other system or facility (in the United Kingdom or elsewhere) providing for the deposit of, and clearance of transactions in, the Securities;

"Secured Obligations" means all moneys, obligations and liabilities now or hereafter due, owing or incurred by the Subsidiary to the Finance Parties or any of them including, without limitation, all moneys, obligations and liabilities due, owing or incurred under or pursuant to the Finance Documents;

"Securities" means, in relation to the Subsidiary, all stocks, shares, bonds, debentures, loan stocks and securities of any kind whatsoever (including warrants and options to acquire or subscribe for the same) whether marketable or otherwise issued by any person and all other investments (whether or not marketable) now or in the future owned at law or in equity by the Subsidiary or in which the Subsidiary has an interest, including all interests in investment funds, all Derivative Securities, all securities owned by the Subsidiary in any company, all shares in any Controlled Subsidiary and all rights and entitlements in respect thereof owned by the Subsidiary and including all rights, benefits and sums now or in the future accruing to the Subsidiary as a result of any securities being held in a Relevant System (including the Subsidiary's rights against the operator of, or any participant in, the Relevant System);

"Securitisation Bridge Facilities Agreement" means, subject to clause 1.4.2 of the Debenture, the securitisation bridge facilities agreement dated 3 November 2000 and amended by amendment letters dated 21 December 2000 and on or around the date of this declaration and made between, *inter alia*, the Purchaser and Deutsche in its capacity as, *inter alia*, securitisation bridge arranger, hedge counterparty and securitisation bridge agent as from time to time supplemented, amended, novated or replaced;

“Securitisation Bridge Further Terms Agreement” means, subject to clause 1.4.2 of the Debenture, the securitisation bridge further terms agreement dated 3 November 2000 and amended by amendment letters dated 21 December 2000 and on or around the date of this declaration and made between, *inter alia*, the Purchaser and Deutsche in its capacity as, *inter alia*, securitisation bridge arranger, hedge counterparty, securitisation bridge agent and security agent as from time to time supplemented, amended, novated or replaced;

“Security Agent” means Deutsche Bank AG London acting in its capacity as security agent and includes its successors and assigns;

“Senior Facilities Agreement” means, subject to clause 1.4.2 of the Debenture, the senior facilities agreement dated 3 November 2000 and amended by amendment letters dated 21 December 2000 and on or around the date of this declaration and made between, *inter alia*, the Purchaser and Deutsche in its capacity as, *inter alia*, senior arranger, hedge counterparty and senior agent as from time to time supplemented, amended, novated or replaced; and

“Senior Further Terms Agreement” means, subject to clause 1.4.2 of the Debenture, the senior further terms agreement dated 3 November 2000 and amended by amendment letters dated 14 November 2000, 21 December 2000 and on or around the date of this declaration and made between, *inter alia*, the Purchaser and Deutsche in its capacity as, *inter alia*, senior arranger, hedge counterparty, senior agent and security agent as from time to time supplemented, amended, novated or replaced.

Declaration by the directors of a holding company in relation to assistance for the acquisition of shares

155(6)b

Please do not
write in this
margin

Pursuant to section 155(6) of the Companies Act 1985

**Please complete
legibly, preferably
in black type, or
bold block lettering**

To the Registrar of Companies
(Address overleaf - Note 5)

For official use

Company number

00298073

Name of company

Note
Please read the notes
on page 3 before
completing this form.

* Powell Duffryn Limited

* insert full name
of company

t/We a Please see attached Appendix 1

• insert name(s) and address(es) of all the directors

† delete as appropriate

~~the sole director~~ [all the directors][†] of the above company (hereinafter called 'this company') do solemnly and sincerely declare that:

§ delete whichever
is inappropriate

The business of this company is:

(e) that of a [recognised bank] licensed institution¹ within the meaning of the Banking Act 1979;

(b) that of a person authorised under section 3 or 4 of the Insurance Companies Act 1982 to carry on insurance business in the United Kingdom;

(c) something other than the above\$

This company is ~~the~~ [a] holding company of* Humbly Grove Sea & Land Services Limited
(the "Subsidiary") which is

proposing to give financial assistance in connection with the acquisition of shares

in [this company] [_____]
 _____ the holding company of this company [_____]

Presentor's name address and reference (if any) :

Weil, Gotshal & Manges
One South Place
London
EC2M 2WG

For official Use
General Section

The assistance is for the purpose of ~~that acquisition~~ [reducing or discharging a liability incurred for the purpose of that acquisition].† (note 1)

Please do not
write in this
margin

**Please complete
legibly, preferably
in black type, or
bold block
lettering**

The number and class of the shares acquired or to be acquired is: 78,984,893 Ordinary Shares of
50 pence each and 3,600,000 4.5% Cumulative Preference Shares of 50 pence each

The assistance is to be given to: (note 2) Prestige Acquisitions Limited
(the "Purchaser") whose registered office is at 78 Cannon Street, London
EC4P 5LN

The assistance will take the form of:

Please see attached Appendix 2

The person who [has acquired] ~~[will acquire]~~† the shares is:

The Purchaser

† delete as
appropriate

The principal terms on which the assistance will be given are:

Please see attached Appendix 3

The amount (if any) by which the net assets of the company which is giving the assistance will be reduced
by giving it is Nil

The amount of cash to be transferred to the person assisted is £ Nil

The value of any asset to be transferred to the person assisted is £ Nil

Please complete
legibly, preferably
in black type, or
bold block lettering

~~1/~~We have formed the opinion, as regards this company's initial situation immediately following the date on which the assistance is proposed to be given, that there will be no ground on which it could then be found to be unable to pay its debts. (note 3)

(a) ~~1/~~We have formed the opinion that this company will be able to pay its debts as they fall due during the year immediately following that date)* (note 3)

* delete either (a) or
(b) as appropriate

(b) ~~It is intended to commence the winding up of this company within 12 months of that date, and 1/ we have formed the opinion that this company will be able to pay its debts in full within 12 months of the commencement of the winding up.]~~* (note 3)

And ~~1/~~we make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

Declared at 17-27 QUEEN'S SQUARE
WINDLESBROUGH TS2 1AH

Declarants to sign below



Day Month Year
on

1	7	0	3	2	0	0	1
---	---	---	---	---	---	---	---

before me W. G. H.

A ~~Commissioner for Oaths or Notary Public or Justice of the Peace or a Solicitor~~ having the powers conferred on a Commissioner for Oaths.

NOTES

- 1 For the meaning of "a person incurring a liability" and "reducing or discharging a liability" see section 152(3) of the Companies Act 1985.
- 2 Insert full name(s) and address(es) of the person(s) to whom assistance is to be given; if a recipient is a company the registered office address should be shown.
- 3 Contingent and prospective liabilities of the company are to be taken into account - see section 156(3) of the Companies Act 1985.
- 4 The auditors report required by section 156(4) of the Companies Act 1985 must be annexed to this form.
- 5 The address for companies registered in England and Wales or Wales is:-

The Registrar of Companies
Companies House
Crown Way
Cardiff
CF14 3UZ

or, for companies registered in Scotland:-

The Registrar of Companies
Companies House
37 Castle Terrace
Edinburgh
EH1 2EB

Powell Duffryn Limited
(the "Company")
Company No: 00298073
Appendix 1 to Statutory Form 155(6)b

DIRECTOR:

ADDRESS:

Adrian Darling

Morningside
Knowle Grove
Virginia Water
Surrey
GU25 4JD

Stephen Harris

Northolt
Thames Street
Sunbury on Thames
Middlesex
TW16 6AG

Barry Hartiss

Robinswood
Burleigh Road
Ascot
Berkshire
SL5 7PA

John Holloway

Merry Lodge
Messingham Lane
Greetwell Crossroads
Scawby Brigg
North Lincolnshire
DN20 9NE

Michael Noakes

Arden House
72 Hamilton Road
High Wycombe
Buckinghamshire
HP13 5BQ

Mark Clarke

17 Wemyss Road
Blackheath
SE3 0TG

John Soden

98 Alleyn Road
Dulwich
C21 8AH

Powell Duffryn Limited
(the "Company")
Company No: 00298073
Appendix 2 to Statutory Form 155(6)b

- 1 A debenture as supplemented, amended and extended from time to time (the "**Debenture**") to be entered into by, *inter alia*, the Chargors (including the Subsidiary) and the Chargee. Upon execution of the Debenture the Subsidiary irrevocably and unconditionally guarantees the due performance by each Relevant Company of all its obligations under or pursuant to the Finance Documents to which it is a party and the payment of all moneys and discharge of all liabilities now or after the date of the Debenture due, owing or incurred to the Finance Parties or any of them by each Relevant Company under or pursuant to the Finance Documents. These obligations are secured by way of fixed and floating charges and the provision of a guarantee by the Subsidiary.
- 2 A deed of accession (the "**Deed of Accession**") to be made between, amongst others, the Subsidiary and the Agent under which the Subsidiary accedes to the Securitisation Bridge Facilities Agreement and the Securitisation Bridge Further Terms Agreement.

Each of the documents set out above is being entered into in connection with, and the Subsidiary under the Debenture, *inter alia*, guarantees and secures the payment of all moneys and discharge of all obligations which shall from time to time be owing in relation to:

- (a) the Senior Facilities Agreement and the Senior Further Terms Agreement under which the Banks provided term loan facilities in the maximum principal amount of £125,000,000 (the "**Term Loan Facility**") comprising a refinancing facility in the maximum principal amount of £19,400,000 to the Company, an acquisition facility in the maximum principal amount of £80,600,000 to the Purchaser and a multi-currency working capital facility in the maximum principal amount of £25,000,000 (the "**Working Capital Facility**") to the Purchaser and certain of its subsidiaries. The Term Loan Facility was used by the Purchaser, amongst other things, to pay accepting shareholders in respect of the Offer, pay related costs and fees of the Offer and the repayment of existing money borrowed by the Company and certain of its subsidiaries. The Working Capital Facility is to be used for the on-going general working capital purposes of the Group;
- (b) the Securitisation Bridge Facilities Agreement and the Securitisation Bridge Further Terms Agreement under which the Banks provided a bridge facility in the maximum principal amount of £285,000,000 (the "**Bridge Loan Facility**") comprising a tranche A equal to the amount in respect of which the rating agencies referred to in the Securitisation Bridge Facilities Agreement (the "**Rating Agencies**") have indicated that an A/A2 rating would be available, a tranche B equal to the amount in respect of which the Rating Agencies have indicated that a BBB/Baa2 rating would be available and a tranche C equal to the amount in respect of which the Rating Agencies have indicated that a BB/Ba2 rating would be available. The Bridge Loan Facility has been and is being used by the Purchaser to pay accepting shareholders in respect of the Offer, pay related fees and costs of the Offer and for any required deposits in a reserve account; and

- (c) the LNG Facility Agreement and LNG Further Terms Agreement, under which Deutsche Bank AG London ("**Deutsche**") in its capacity as LNG bank provided a loan note guarantee facility (the "**LNG Facility**") in the maximum principal amount of up to £90,000,000 by way of a guarantee of the obligations of the Purchaser in respect of principal on the loan notes issued by the Purchaser to certain accepting shareholders under the Offer. The Purchaser was required to fully cash collateralise Deutsche's obligations by depositing into a cash collateral account an amount equal to the nominal value of the loan notes issued to any accepting shareholder who opts for the loan note alternative.
- 3 An intra-group loan agreement as supplemented, amended and extended from time to time (the "**Intra-Group Loan Agreement**") to be made between, amongst others, the Subsidiary as lender and the Purchaser as borrower under which the Subsidiary would make available loan facilities to the Purchaser which may be used by the Purchaser to assist it in meeting its payment obligations under the Finance Documents.

Powell Duffryn Limited
(the "Company")
Company No: 00298073
Appendix 3 to Statutory Form 155(6)b

1 Under the terms of the Debenture:

1.1 the Subsidiary covenants after the date of the Debenture that it will pay to the Chargee all moneys and discharge all obligations and liabilities now or after the date of the Debenture due, owing or incurred by it to the Finance Parties or any of them including, without limitation, all moneys, obligations and liabilities due, owing or incurred under or pursuant to the Finance Documents;

1.2 the Subsidiary irrevocably and unconditionally guarantees:

(a) the due performance by each Relevant Company of all its obligations under or pursuant to the Finance Documents to which it is a party; and

(b) the payment of all moneys and discharge of all liabilities now or after the date of the Debenture due, owing or incurred to the Finance Parties or any of them by each Relevant Company under or pursuant to the Finance Documents

in each case when the same becomes due for payment or discharge whether by acceleration or otherwise, and whether such moneys, obligations or liabilities are express or implied; present, future or contingent; joint or several; incurred as principal or surety; originally owing to the Finance Parties or any of them or purchased or otherwise acquired by any of them; denominated in Sterling or in any other currency, or incurred on any banking account or in any other manner whatsoever;

1.3 undertakes that if for any reason any Relevant Company fails to discharge any such obligation or liability or to pay any such moneys as is referred to in clause 2.2.1 of the Debenture, the Subsidiary shall immediately on demand by the Chargee discharge such obligation or liability or, as the case may be, pay such moneys to the Chargee;

1.4 as a separate and independent stipulation, irrevocably and unconditionally agrees that if any purported obligation or liability of any Relevant Company which would have been the subject of clause 2.2.1 of the Debenture and/or clause 2.2.2 of the Debenture had it been valid and enforceable is not or ceases to be valid or enforceable against such Relevant Company on any ground whatsoever whether or not known to the Finance Parties or any of them (including, without limitation, any irregular exercise or absence of any corporate power or lack of authority of, or breach of duty by, any person purporting to act on behalf of such Relevant Company or any legal or other limitation, whether under the Limitation Acts or otherwise, any disability or Incapacity or any change in the constitution of such Relevant Company) it shall nevertheless be liable in respect of that purported obligation or liability as if the same were fully valid and enforceable and it were a principal debtor in respect thereof. The Subsidiary irrevocably and unconditionally agrees with the Chargee (as trustee for the other Finance Parties) to indemnify and keep indemnified the Finance Parties against any loss or liability arising from any failure of a Relevant Company to perform or discharge any such purported obligation or liability or from any invalidity or unenforceability of any of the same against a Relevant Company;

1.5 with full title guarantee, charges to the Chargee as a continuing security for the payment and discharge of the Secured Obligations:

- (a) by way of first legal mortgage, all freehold and leasehold property wheresoever situate (other than any heritable property in Scotland and including, without limitation, that property set out in Schedule 2 of the Debenture) now owned by the Subsidiary or in which the Subsidiary has an interest, together with all liens, charges, options, agreements, rights and interests in or over such property or the proceeds of sale of such property and all buildings and Fixtures thereon and all rights, easements and privileges appurtenant to, or benefiting, the same;
- (b) by way of first fixed charge (to the extent not the subject of a legal mortgage by virtue of clause 3.1.1 of the Debenture) all present and future freehold and leasehold property wheresoever situate (other than any heritable property in Scotland) now or from time to time after the date of the Debenture owned by the Subsidiary or in which the Subsidiary may have an interest, together with all liens, charges, options, agreements, rights and interests in or over such property or the proceeds of sale of such property and all buildings and Fixtures thereon and all rights, easements and privileges appurtenant to, or benefiting, the same;
- (c) by way of first fixed charge, all plant, machinery and other equipment now or from time to time after the date of the Debenture owned by the Subsidiary or in which the Subsidiary has an interest and the benefit of all contracts and warranties relating to the same;
- (d) by way of first fixed charge, the Securities, including all allotments, rights, benefits and advantages whatsoever at any time accruing, offered or arising in respect of or incidental to the same and all money or property accruing or offered at any time by way of conversion, redemption, bonus, preference, option, dividend, distribution, interest or otherwise in respect thereof;
- (e) by way of first fixed charge, all book and other debts, revenues and claims, whether actual or contingent, whether arising under contracts or in any other manner whatsoever now or from time to time after the date of the Debenture owned by the Subsidiary or in which the Subsidiary has an interest (whether originally owing to the Subsidiary or purchased or otherwise acquired by it) and all things in action which may give rise to any debt, revenue or claim, together with the full benefit of any Encumbrances, Collateral Instruments and any other rights relating thereto (whether as creditor or beneficiary) including, without limitation, reservations of proprietary rights, rights of tracing and unpaid vendor's liens and associated rights, but excluding any assets the subject of a charge pursuant to clause 3.1.6 of the Debenture or 3.1.7 of the Debenture;
- (f) by way of first fixed charge, the Cash Collateral Accounts, the proceeds of collection of all Debts and any and all amounts from time to time standing to the credit of the Cash Collateral Accounts and any other bank or other account (including a current account) of the Subsidiary;
- (g) by way of first fixed charge, all moneys from time to time payable to the Subsidiary under or pursuant to the Insurances including, without limitation, the right to the refund of any premiums;

- (h) by way of first fixed charge, the goodwill and uncalled capital of the Subsidiary; and
 - (i) by way of first fixed charge, all Intellectual Property Rights now or from time to time after the date of the Debenture owned by the Subsidiary (including, without limitation, all those Intellectual Property Rights set out in Schedule 3 of the Debenture);
- 1.6 the fixed security from time to time constituted by or pursuant to the Debenture other than pursuant to any notice served in accordance with clause 3.6 of the Debenture shall not extend to the Subsidiary's interests in any Excluded Assets unless and until the relevant third party consent has been obtained;
- 1.7 the Subsidiary, with full title guarantee, charges to the Chargee by way of first floating charge as a continuing security for the payment and discharge of the Secured Obligations its undertaking and all its property, assets and rights whatsoever and wheresoever both present and future, other than any property or assets from time to time effectively charged by way of legal mortgage or fixed charge or assignment pursuant to clause 3.1 of the Debenture or otherwise pursuant to the Debenture but including (without limitation and whether or not so effectively charged) any of its property and assets situated in Scotland;
- 1.8 under clause 9.4 of the Debenture the Subsidiary undertakes to indemnify and keep indemnified the Chargee, each of the other Finance Parties, any Receiver and any attorney, agent or other person appointed by the Chargee under the Debenture and the Chargee's officers and employees (each an "**Indemnified Party**") in respect of all costs, losses, actions, claims, expenses, demands or liabilities (save to the extent caused by their negligence or wilful default) whether in contract, tort or otherwise and whether arising at common law, in equity or by statute which may be incurred by, or made against, any of the Indemnified Parties (or by or against any manager, agent, officer or employee for whose liability, act or omission any of them may be answerable) at any time relating to or arising directly or indirectly out of or as a consequence of:
 - (a) anything done or omitted to be done in the exercise or purported exercise of the powers contained in the Debenture; or
 - (b) any breach by the Subsidiary of any of its obligations under the Debenture; or
 - (c) an Environmental Claim made or asserted against an Indemnified Party which would not have arisen if the Debenture had not been executed and which was not caused by the negligence or wilful default of the relevant Indemnified Party;
- 1.9 the obligations of the Subsidiary under the Debenture (including, without limitation, the Guarantee) shall extend to the ultimate balance from time to time owing in respect of the Secured Obligations and shall be a continuing security notwithstanding any intermediate payment, partial settlement or other matter whatsoever; and
- 1.10 the Debenture contains a covenant for further assurances.

- 2 By executing the Deed of Accession the Subsidiary accedes to the Securitisation Bridge Facilities Agreement and the Securitisation Bridge Further Terms Agreement in the capacity as Obligor.
- 3 By executing the Intra-Group Loan Agreement the Subsidiary, *inter alia*, agrees to make available to the Purchaser certain loan facilities which may be used by the Purchaser in reducing or discharging liabilities incurred in connection with its acquisition of the entire issued share capital of the Company.

Powell Duffryn Limited
(the "Company")
Company No: 00298073
Definitions to Statutory Form 155(6)b

"Accountants' Reports" means the agreed form customer analysis report, group financial due diligence report, supplementary financial due diligence analysis, ports and shipping services financial summary, ports services financial due diligence report and Teesside Holdings financial due diligence report, each dated on or about 3 November 2000, compiled by PricewaterhouseCoopers and addressed to (among others) the Purchaser and the Security Agent;

"Agent" means Deutsche Bank AG London and includes any of its successors and assigns;

"Appropriate Accounting Principles" means:

- (a) the accounting principles, policies, standards, practices and bases stated in the Accountants' Report (being generally accepted in the United Kingdom), as adopted in the Projections; or
- (b) where any change in (a) above has been agreed under clause 8.1.16 of the Securitisation Bridge Further Terms Agreement such accounting principles, standards, practices and bases as have been so agreed;

"Banks" means, in relation to the Senior Further Terms Agreement and the Senior Facilities Agreement, the banks and financial institutions named in Schedule 1 of the Senior Facilities Agreement as lenders and, in relation to the Securitisation Bridge Facilities Agreement and the Securitisation Bridge Further Terms Agreement, the banks and financial institutions named in Schedule 1 of the Securitisation Bridge Facilities Agreement;

"Bidco 2" means Prestige (US) Limited (Company no. 4066335), whose registered office is at 78 Cannon Street, London EC4P 5LN;

"Business Plan" means the agreed form business plan for the Group prepared by the Management Team (and including the Projections);

"Cash Collateral Accounts" means each "Cash Collateral Account" (as defined in the Securitisation Bridge Further Terms Agreement) and **"Cash Collateral Account"** means any of them;

"Charged Assets" means, in relation to the Subsidiary, all assets of the Subsidiary described in clauses 3.1 and 3.3 of the Debenture;

"Chargee" means Deutsche Bank AG London acting as Security Agent for the Finance Parties from time to time pursuant to the Finance Documents or such other person as may be appointed Security Agent pursuant to the Finance Documents;

"Chargors" means the Subsidiary and those other companies whose names, registered numbers and registered offices are set out in Schedule 1 of the Debenture and any other company which enters into a deed supplemental to the Debenture for the purpose of assuming the rights and obligations of a **"Chargor"**, and **"Chargor"** means any one of them;

"Collateral Instruments" means negotiable and non-negotiable instruments, guarantees and any other documents or instruments which contain or evidence an obligation (with or without

security) to pay, discharge or be responsible directly or indirectly for, any liabilities of any person and includes any document or instrument creating or evidencing an Encumbrance;

“Control”, in relation to a body corporate, means the right, by virtue of holding shares in such body corporate, or by virtue of any contract or other arrangement with any holder of shares in such body corporate, to exercise or control the exercise of more than 50 per cent. of the total voting rights conferred upon the holders of the entire issued share capital for the time being of that body corporate and **“Controlled”** shall be construed accordingly;

“Controlled Subsidiary” of a person means any company or entity directly or indirectly Controlled by such person other than an Excluded Company and (in the case of the Purchaser) a member of the Other Group;

“Debts” means the assets of the Subsidiary described in clause 3.1.5 of the Debenture;

“Derivative Securities” include:

- (a) allotments, rights, money or property arising from the Securities by way of conversion, exchange, redemption, bonus, preference, option or otherwise;
- (b) dividends, distributions, interest and other income from the Securities; and
- (c) stock, shares and securities offered in addition to the substitution for the Securities;

“Encumbrances” means any mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, standard security, assignment, trust arrangement for the purpose of providing security or other security interest of any kind securing any obligation of any person (including without limitation title transfer and/or retention arrangements having a similar effect);

“Environmental Claim” means any claim, notice prosecution, demand, legal action, official warning, abatement or other order (conditional or otherwise) relating to Environmental Matters or any notification or order requiring compliance with the terms of any Environmental Licence or Environmental Law;

“Environmental Law” means all laws (including, without limitation, common law), regulations, treaties, by-laws, orders, demands, directives, codes of practice, circulars, guidance notices and the like having legal effect concerning Environmental Matters and in the case of codes of practice, circulars, guidance notices and the like with which it is customary for persons carrying on a similar business to the Group to comply;

“Environmental Licence” includes any permit, licence, authorisation, consent or other approval required at any time by any Environmental Law;

“Environmental Matters” includes (a) the generation, deposit, disposal, keeping, treatment, transportation, transmission, handling, importation, exportation, processing, collection, sorting, presence or manufacture of any waste (as defined in the Environmental Protection Act 1990) of any Environmentally Hazardous Materials; (b) nuisance, noise, defective premises, health and safety at work or elsewhere; and (c) the pollution, conservation or protection of the environment (both natural and built) or of man or any living organisms supported by the environment or any other matter whatsoever affecting the environment or any part of it;

“Environmentally Hazardous Material” means any substance whatsoever (whether in a solid or liquid form or in the form of a gas or vapour and whether alone or in combination with any other

substance) or waste (as defined in the Environmental Protection Act 1990) which gives rise to a risk of causing harm to man or any other living organism supported by the environment, or damaging the environment or public health or welfare;

"Excluded Assets" means:

- (a) the Subsidiary's interest in the whole or any part of the Properties and the fixtures or any other interest or right in any Property of the Subsidiary where the creation of any security interest therein is prohibited either absolutely or without the consent of a third party including a lessor; and
- (b) the Subsidiary's interest under any Finance Lease where the creation of any security interest therein is prohibited either absolutely or without the consent of a third party including a lessor;

"Excluded Company" means each of the companies listed in part C of schedule 3 to the Securitisation Bridge Further Terms Agreement;

"Finance Documents" means, together, the "Finance Documents" (as defined in the Senior Further Terms Agreement), the "Finance Documents" (as defined in the Securitisation Bridge Further Terms Agreement) and the "Finance Documents" (as defined in the LNG Further Terms Agreement), and **"Finance Document"** means any one of them each of which as from time to time supplemented, amended, novated or replaced;

"Finance Lease" means any lease under which a member of the Group is the lessee which is or should be treated as a finance lease under the Appropriate Accounting Principles (and includes any hire purchase contract or other arrangement which is or should be similarly treated under the Appropriate Accounting Principles);

"Finance Parties" means together, the "Finance Parties" (as defined in the Senior Further Terms Agreement), the "Finance Parties" (as defined in the Securitisation Bridge Senior Facilities Agreement) and the "Finance Parties" (as defined in the LNG Facility Agreement), and **"Finance Party"** means any of them from time to time;

"Fixtures" means, in relation to a property, all fixtures and fittings (including trade fixtures and fittings but excluding, in the case of leasehold property, landlord's fixtures and in the case of freehold property which is let to a third party, tenant's and trade fixtures and fittings legally and beneficially owned by such third party), fixed plant and machinery and other items attached to that property, whether or not constituting a fixture at law;

"Floating Charge Assets" means the assets of the Subsidiary from time to time charged by the Debenture by way of floating charge;

"Further Terms Agreements" means together, the Senior Further Terms Agreement, the Securitisation Bridge Further Terms Agreement and the LNG Further Terms Agreement;

"Group" means the Purchaser and the companies listed in part A of schedule 3 of the Securitisation Bridge Further Terms Agreement, any Controlled Subsidiaries of them whose principal business is of the same or a similar nature to that carried on by the companies listed in Part A of Schedule 3 of the Securitisation Bridge Further Terms Agreement and any company whose only material business is acting as a Holding Company for another member of the Group or issuing debt securities for the (direct or indirect) purpose of repaying the Indebtedness under the Finance Documents other than, in each case, any Excluded Company provided that, for the

purposes of clauses 7.1.1, 7.1.2, 7.3 and Schedule 4 of the Securitisation Bridge Further Terms Agreement, Indebtedness under the Other Facilities shall be ignored;

“Guarantee” means, in relation to the Subsidiary, the obligations of the Subsidiary under clause 2.2 of the Debenture;

“Holding Company” means an entity of which another person is a Controlled Subsidiary;

“Incapacity” in relation to a person, means the insolvency, liquidation, dissolution, winding-up, administration, receivership, amalgamation, reconstruction or other incapacity of that person whatsoever (and, in the case of a partnership, includes the termination or change in the composition of the partnership) or any analogous proceeding occurring in relation to that person whatsoever;

“Indebtedness” means any obligation for payment or repayment of money, whether as principal or as surety and whether present, actual or contingent;

“Insurances” means, in relation to the Subsidiary, all present and future contracts or policies of insurance (including life assurance policies) taken out by the Subsidiary or in which the Subsidiary from time to time has an interest;

“Intellectual Property Rights” means all copyrights (including rights in computer software), trade marks, service marks, business names, patents, rights in inventions, registered designs, design rights, database rights and topographical or similar rights, rights in trade secrets or other confidential information and any other intellectual property rights and any interests (including by way of licence) in any of the foregoing (in each case whether registered or not and including all applications for the same) which may subsist anywhere in the world;

“LNG Facility Agreement” means, subject to clause 1.4.2 of the Debenture, the loan note guarantee facility agreement dated 3 November 2000 and amended by amendment letters dated 21 December 2000 and on or around the date of this declaration and made between the Purchaser and Deutsche in its capacity as LNG arranger and LNG bank as from time to time supplemented, amended, novated or replaced;

“LNG Further Terms Agreement” means, subject to clause 1.4.2 of the Debenture, the loan note guarantee further terms agreement dated 3 November 2000 and made between the Purchaser and Deutsche in its capacity as LNG arranger, LNG Bank and security agent as from time to time supplemented, amended, novated or replaced;

“Management Team” means Michael Noakes and Stephen Harris;

“Obligor” means each member of the Group which is party to a Finance Document;

“Offer” means each of the offers made by the Purchaser to acquire the whole of, respectively the ordinary and preference share capital of the Company not already owned by the Purchaser at the date of the Offer;

“Other Facilities” where such term relates to any term in the Debenture, means the facilities made available by the senior lenders pursuant to, *inter alia*, the Senior Facilities Agreement and the Senior Further Terms Agreement, and by the loan note guarantee bank pursuant to, *inter alia*, the LNG Facility Agreement and the LNG Further Terms Facility Agreement and, where such term relates to any term in the Deed of Subordination, means the facilities made available by the senior lenders pursuant to, *inter alia*, the Senior Facilities Agreement and the Senior Further

Terms Agreement and by the loan note guarantee bank pursuant to, *inter alia*, the LNG Facility Agreement and the LNG Further Terms Agreement;

“Other Group” where such term relates to any term in the Debenture, means the persons listed in part B of schedule 3 of the Securitisation Bridge Further Terms Agreement and, where such term relates to any term in the Deed of Subordination, means the persons listed in part B of schedule 3 of the Senior Further Terms Agreement;

“Permitted Encumbrance” means any “Permitted Encumbrance” (as defined in the Senior Further Terms Agreement) and any “Permitted Encumbrance” (as defined in the Securitisation Bridge Further Terms Agreement);

“Projections” means the agreed form financial projections forming part of the Business Plan;

“Properties” means those properties referred to in clauses 3.1.1 and 3.1.2 of the Debenture;

“Receiver” means any one or more receivers and/or managers or administrative receivers appointed by the Chargee pursuant to the Debenture in respect of all or any of the Subsidiary’s or over all or any of the Charged Assets;

“Regulations” means the Uncertificated Securities Regulations 1995, as subsequently amended;

“Relevant Company” means each Chargor, the Purchaser, Bidco 2 and each Controlled Subsidiary (if any) of the Company, the Purchaser or Bidco 2 which becomes, or purports to become, a party to any Finance Document;

“Relevant System” has the meaning given to that term by the Regulations and includes any other system or facility (in the United Kingdom or elsewhere) providing for the deposit of, and clearance of transactions in, the Securities;

“Secured Obligations” means all moneys, obligations and liabilities now or hereafter due, owing or incurred by the Subsidiary to the Finance Parties or any of them including, without limitation, all moneys, obligations and liabilities due, owing or incurred under or pursuant to the Finance Documents;

“Securities” means, in relation to the Subsidiary, all stocks, shares, bonds, debentures, loan stocks and securities of any kind whatsoever (including warrants and options to acquire or subscribe for the same) whether marketable or otherwise issued by any person and all other investments (whether or not marketable) now or in the future owned at law or in equity by the Subsidiary or in which the Subsidiary has an interest, including all interests in investment funds, all Derivative Securities, all securities owned by the Subsidiary in any company, all shares in any Controlled Subsidiary and all rights and entitlements in respect thereof owned by the Subsidiary and including all rights, benefits and sums now or in the future accruing to the Subsidiary as a result of any securities being held in a Relevant System (including the Subsidiary’s rights against the operator of, or any participant in, the Relevant System);

“Securitisation Bridge Facilities Agreement” means, subject to clause 1.4.2 of the Debenture, the securitisation bridge facilities agreement dated 3 November 2000 and amended by amendment letters dated 21 December 2000 and on or around the date of this declaration and made between, *inter alia*, the Purchaser and Deutsche in its capacity as, *inter alia*, securitisation bridge arranger, hedge counterparty and securitisation bridge agent as from time to time supplemented, amended, novated or replaced;

“Securitisation Bridge Further Terms Agreement” means, subject to clause 1.4.2 of the Debenture, the securitisation bridge further terms agreement dated 3 November 2000 and amended by amendment letters dated 21 December 2000 and on or around the date of this declaration and made between, *inter alia*, the Purchaser and Deutsche in its capacity as, *inter alia*, securitisation bridge arranger, hedge counterparty, securitisation bridge agent and security agent as from time to time supplemented, amended, novated or replaced;

“Security Agent” means Deutsche Bank AG London acting in its capacity as security agent and includes its successors and assigns;

“Senior Facilities Agreement” means, subject to clause 1.4.2 of the Debenture, the senior facilities agreement dated 3 November 2000 and amended by amendment letters dated 21 December 2000 and on or around the date of this declaration and made between, *inter alia*, the Purchaser and Deutsche in its capacity as, *inter alia*, senior arranger, hedge counterparty and senior agent as from time to time supplemented, amended, novated or replaced; and

“Senior Further Terms Agreement” means, subject to clause 1.4.2 of the Debenture, the senior further terms agreement dated 3 November 2000 and amended by amendment letters dated 14 November 2000, 21 December 2000 and on or around the date of this declaration and made between, *inter alia*, the Purchaser and Deutsche in its capacity as, *inter alia*, senior arranger, hedge counterparty, senior agent and security agent as from time to time supplemented, amended, novated or replaced.

Arthur Andersen

1 Surrey Street

London

WC2R 2PS

Tel 020 7438 3000

Fax 020 7831 1133

www.arthurandersen.com

Auditors' report to the directors of Powell Duffryn Limited ('the Company') pursuant to section 156 (4) of the Companies Act 1985.

We have examined the attached statutory declaration of the directors of the Company dated **13** March 2001 in connection with the proposal that Humberside Sea & Land Services Limited should give financial assistance for the purchase of the whole of the issued share capital of the Company.

Respective responsibilities of directors and auditors

The Company's directors are responsible for the statutory declaration in accordance with applicable United Kingdom law. It is our responsibility as established in the United Kingdom by statute, the Auditing Practices Board and our profession's ethical guidance to review the bases for the declaration, based on our enquiries into the state of the Company's affairs, and to provide a report to the directors.

Basis of opinion

We have enquired into the state of the Company's affairs so far as necessary for us to review the bases for the statutory declaration.

Opinion

We are not aware of anything to indicate that the opinion expressed by the directors in their declaration as to any of the matters mentioned in section 156 (2) of the Companies Act 1985 is unreasonable in all the circumstances.



Arthur Andersen
Chartered Accountants

13 March 2001