

SECTION 318A COMPANIES ACTS 1985 AND 1989


WRITTEN RESOLUTIONS

OF

H M PLANT LIMITED

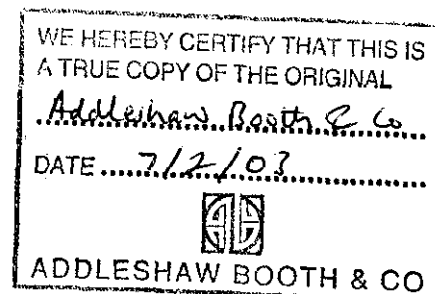
We, the undersigned, being the members of the Company for the time being entitled to receive notice of and to attend and vote at general meetings of the Company, hereby pass the following resolutions as Special Resolutions of the Company pursuant to section 381A Companies Act 1985 (as amended) and hereby agree that the said resolutions shall for all purposes be as valid and effective as if passed as Special Resolutions at a general meeting of the Company duly convened and held:

- 1 That the provisions of the documents listed in the appendix to this Written Resolution (**Documents**), which the Company is proposing to enter into in connection with the acquisition by Heavy Construction Machinery Limited (**Parent**) (company number 4184685) of the entire issued share capital of Heavy Machinery Group Holdings Limited (**Holdings**), be and are hereby approved (subject to such changes as the Company's Directors, in their absolute discretion, think fit).
- 2 That notwithstanding any provisions of the Company's Memorandum and Articles of Association or any personal interest of any of the Company's Directors, the Company's Directors and/or Secretary be and are hereby empowered, authorised and directed to execute and deliver the Documents for the Company, in such manner and subject to such changes as they, in their absolute discretion, think fit.
- 3 That notwithstanding that the execution by the Company of the Documents and the performance of its obligations thereunder would constitute the giving by the Company of financial assistance within sections 151-158 Companies Act 1985, the giving of financial assistance by the Company in the form and on the terms set out in Form 155(6)a (including the auditors' report attached thereto) be and is hereby approved.

Signature: 

For and on behalf of Heavy Machinery Group
Limited

31st January



The Appendix

The Documents

1. A counter indemnity (**Counter Indemnity**) to be executed by the Parent, the Company and each other subsidiary of the Parent pursuant to which, inter alia, the Company indemnifies Hitachi Construction Machinery (Europe) N.V. (**Hitachi**) in respect of any payment it is obliged to make:
 - a. pursuant to a guarantee which Hitachi is to provide to UFJ Bank Nederland NV (**Bank**) in respect of the payment obligations of the Parent and its subsidiaries (including the Company) to the Bank pursuant to the Facility Agreement; and
 - b. pursuant to the Indemnity Letters.
2. A debenture (**Debenture**) to be executed by the Company in favour of Hitachi pursuant to which the Company creates security in the form of fixed and floating charges over all its assets and undertaking for all monies and liabilities presently or in future due owing or incurred by the Company to Hitachi pursuant to the Counter Indemnity.
3. Legal mortgages and a standard security (**Plant Mortgages**) to be executed by the Company in favour of Hitachi in respect of Station Yard, Stonehouse, Stroud, Gloucestershire, land at Toxtton Road, Barford, Bedfordshire, MK44 3LP; land at Wardpark Road, Wardpark South Industrial Estate, Cumbernauld; 22 Kingsland Grange, Woolston, Warrington; land at Rosebay Road, Littleburn Industrial Estate, Meadowfield, Durham; land at Castlefields Industrial Estate, Wylds Road, Bridgwater, Somerset; and land at East Way, Lee Mill, South Hams, Devon for all monies and liabilities presently or in future due owing or incurred by the Company to Hitachi pursuant to the Counter Indemnity.
4. An intra group funding agreement (**Intra Group Funding Agreement**) to be entered into between the Parent, the Company and each of the other subsidiaries of the Parent pursuant to which the Company agrees to make loans to the Parent from time to time upon and subject to the terms of that agreement to enable the Parent to discharge its obligations and liabilities to the Bank.

Definitions

"**Facility Agreement**" means a facility agreement to be entered into between the Bank (1) and the Parent (2) pursuant to which the bank offers to make available to the Parent a revolving loan facility and various working capital facilities amounting to £17,700,000.

"**Indemnity Letters**" means letters of indemnity to be given by Hitachi to the Governor and Company of the Bank of Scotland (**BoS**) pursuant to which Hitachi indemnifies BoS in respect of loan note guarantees dated 24 April 2001 and 22 December 1999 granted by BoS to the various vendors of Holdings and the various vendors of Heavy Machinery Group Subsidiary Limited.