

**THE COMPANIES ACT 2006**

**PRIVATE COMPANY LIMITED BY SHARES**

**WRITTEN RESOLUTIONS**

**of**

**GREENVALE AP LIMITED**

**(Company Number: 3163230)**

On 11 November 2010 the following special resolutions were passed by the Company in accordance with Chapter 2 of Part 13 of the Companies Act 2006

**SPECIAL RESOLUTIONS**

1 **THAT**, in connection with the proposed amendment and restatement of the facilities agreement originally dated 17 March 2006, as amended and restated on 3 July 2007 and as further amended and restated 15 December 2008 between, amongst others, Produce Investments Plc as Parent and Original Borrower and Clydesdale Bank PLC in its capacity as Arranger, Original Lender, Agent and Security Trustee, the terms of, entry into, execution, delivery and performance by the Company of the following documents, and the transactions contemplated thereby, more fully described and defined in the board minutes of the Company dated 11 November 2010

- (a) the Amendment and Restatement Agreement,
- (b) the Intercreditor Amendment and Restatement Agreement,
- (c) the Ancillary Letter,
- (d) the Variation Letter, and
- (e) the Director's Certificate,

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in the form approved by the directors be approved, notwithstanding any provisions of the memorandum or articles of association of the Company or any personal interest of its directors, and

2 **THAT** the existing articles of association of the Company be replaced in their entirety with the articles of association annexed to this resolution at Annex A

**THE COMPANIES ACT 1985 & 1989**

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**PRIVATE COMPANY LIMITED BY  
SHARES**

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**NEW ARTICLES OF ASSOCIATION**

**of**

**GREENVALE AP LIMITED**

(Registered Number 3163230 adopted by written resolution dated 20 September 2002 and  
amended by written resolution dated 11 November 2010)

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**THE COMPANIES ACT 1985 & 1989**

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**PRIVATE COMPANY LIMITED BY SHARES**

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**NEW ARTICLES OF ASSOCIATION**

**of**

**Greenvale AP Limited**

Registered Number 3163230

(adopted by written resolution with dated 20 September 2002 and amended by written resolution dated 11 November 2010)

**PRELIMINARY**

1 In these articles

"**Act**" means the Companies Act 1985 and every statutory modification or re-enactment thereof for the time being in force,

"**'B' Preference Shares**" means the 'B' redeemable preference shares of £1 each in the capital of the Company,

"**Ordinary Shares**" means the ordinary shares of £1 each in the capital of the Company,

"**Preference Shares**" means the redeemable preference shares of one penny each in the capital of the Company,

"**Secured Party**" means a bank or financial institution to which a security interest has been granted over the shares in the Company, or any nominee, receiver or other entity acting on its behalf,

"**Table A**" means Table A in the Companies (Tables A - F) Regulations 1985 as amended by the Companies (Tables A - F) (Amendment) Regulations 1985

2 1 The regulations contained in or incorporated in Table A shall apply to the Company save insofar as they are excluded or varied hereby or are inconsistent herewith and such

regulations (save as so excluded varied or inconsistent) and the articles hereinafter contained shall be the regulations of the Company

- 2 2 Regulations 54, 73-80 (inclusive), 85, 86, 94-98 (inclusive) and 118 of Table A shall not apply to the Company

## **SHARE CAPITAL**

- 3 The share capital of the Company is £4,130,061 divided into 1,070,000 Ordinary Shares of £1 00 each, 9,891,000 Preference Shares of £0 01 each and 2,961,151 'B' Preference Shares of £1 each. The rights attaching to the respective classes of shares shall be as follows and as otherwise set out in these articles -

### **3 1 Income**

The profits of the Company available for distribution shall be applied in paying to the holders of the Preference Shares and/or B Preference Shares and/or Ordinary Shares dividends on such shares to the extent that the Company shall determine. Every dividend shall be distributed to the appropriate shareholders pro-rata according to the amounts paid up or credited as paid up on the shares held by them respectively and shall accrue on a daily basis.

### **3 2 Capital**

On a return of assets on liquidation or capital reduction or otherwise, the assets of the Company remaining after the payment of its liabilities shall be applied as follows:

- (a) first in paying to the holders of the Preference Shares and the B Preference Shares the amount subscribed for such shares,
- (b) the balance of such assets shall be distributed amongst the holders of Ordinary Shares in proportion to the amounts paid up or credited as paid up on the Ordinary Shares held by them.

### **3 3 Redemption of Preference Shares and 'B' Preference Shares**

- (a) Subject to the provisions of the Act all the Preference Shares and 'B' Preference Shares shall be redeemed on 30 June 2007 and any Preference Shares or 'B' Preference Shares not redeemed upon the due date shall be redeemed forthwith upon redemption becoming permissible under the Act.
- (b) Subject to the provisions of the Act the Company may redeem all or (in instalments of not less than 250,000 shares) some of the Preference Shares and once all of the Preference Shares have been redeemed all or (in instalments of

not less than 250,000) some of the 'B' Preference Shares in advance of the due date for redemption and any partial early redemption

- (c) On the date fixed for any redemption the Company shall pay to each registered holder of Preference Shares or the 'B' Preference Shares the amount subscribed for such shares and upon receipt of that amount each such holder shall surrender to the Company the certificate for his shares which are to be redeemed in order that they may be cancelled provided that if any certificate so surrendered includes any shares not redeemable at that time the Company shall issue a fresh certificate for the balance of the shares not redeemable to the holder. If there is more than one holder of Preference Shares or 'B' Preference Shares any redemption shall be made among such holders pro rata (as nearly as may be) to their respective holdings in each case rounded up or down to the nearest whole share as the directors in their absolute discretion decide

#### **CLASS RIGHTS**

- 4 Whenever the capital of the Company is divided into different classes of shares the special rights attached to any class may be varied or abrogated either whilst the Company is a going concern or during or in contemplation of a winding up, only with the consent in writing of the holders of 75% of the issued shares of that class

#### **LIEN**

- 5 The lien conferred by regulation 8 of Table A shall apply to all shares of the Company whether fully paid or not and to all shares registered in the name of any person indebted or under liability to the Company whether he be the sole registered holder thereof or one of several joint holders

#### **CALLS**

- 6 The liability of any member in default in respect of a call shall be increased by the addition at the end of the first sentence of regulation 18 in Table A of the words 'and all expenses that may have been incurred by the Company by reason of such non-payment'

#### **VOTING**

- 7 1 Subject to any special rights or restrictions as to voting attached to any shares by or in accordance with these articles, on a show of hands every member who (being an individual) is present in person or (being a corporation) is present by a representative not being himself a member, shall have one vote, and on a poll every member who is present in person or by proxy or (being a corporation) is present by a representative or

by proxy shall (except as hereinafter provided) have one vote for every one Ordinary Share of which he is the holder

- 7 2 The holders of the Preference Shares and the 'B' Preference Shares shall be entitled to receive notice of all general meetings but shall not by reason of such holding be entitled to attend or vote thereat

#### **APPOINTMENT OF DIRECTORS**

- 8 1 The directors may appoint a person who is willing to act to be a director, either to fill a vacancy or as an additional director. In addition, the holders of shares representing more than half of the shares which carry the right to attend and vote at general meetings of the Company may by notice to the Company together appoint a person who is willing to act to be a director either to fill a vacancy or as an additional director
- 8 2 The number of directors may be fixed by the Company, but unless and until so fixed there shall be no maximum number of directors, and the minimum number of directors shall be two and so long as the minimum number prescribed in accordance with the articles shall be two they shall constitute together a quorum and shall have full authority to exercise all the powers of the Company and subject thereto the continuing directors on any vacancy reducing their number below that prescribed in accordance with the articles may act only for the purpose of convening a general meeting
- 8 3 The directors shall have power from time to time by resolution to appoint any one or more persons to the office of "executive director" of the Company and the following provisions shall apply to any such appointment or appointments
- (a) The appointment, tenure of office, remuneration (if any) and scope of duties of an "executive director" shall be determined from time to time by the directors with full power to make such arrangements as they think fit, and the directors shall have the right to enter into any contracts on behalf of the Company or transact any business of any description without the knowledge Or approval of an "executive director", except that no act shall be done that would impose any personal liability on any "executive director" except with his full knowledge and consent
  - (b) The directors may also from time to time remove any "executive director" from office and if they so decide appoint another in his place. The "executive director" shall not have any rights or claims arising from or out of his position or removal as an "executive director" but any such removal shall take effect without prejudice to the rights of either party under any agreement between the "executive director" and the Company

- (c) The appointment of a person to be an "executive director" may be in place of or in addition to his employment by the Company in any other capacity but unless otherwise expressly agreed between him and the Company the appointment as "executive director" shall not affect the terms and conditions of his employment by the Company in any other capacity whether as regards duties, remuneration, pension or otherwise. The office as an "executive director" shall be vacated if he becomes of unsound mind or bankrupt or makes any arrangement or composition with his creditors generally, or becomes prohibited by law from being concerned or taking part in the management of the Company, or if he resigns his office or is removed from office by a resolution of the board.
- (d) An "executive director" shall not be or be deemed to be a director of the Company within the meaning of the word as used in the Companies Act 1985 or these Articles and no "executive director" shall be entitled to attend or be present at any meetings of the board or of any committee of directors unless the directors shall require him to be in attendance.
- (e) An "executive director" shall attend meetings of the directors and of any committee of the directors whenever called upon to do so and shall at all times be ready to give the directors the benefit of his knowledge, experience and advice.

## **PROCEEDINGS OF DIRECTORS**

- 9.1 Notice of every meeting of the directors shall be given to each director at any address supplied by him to the Company for that purpose whether or not he be present in the United Kingdom provided that any director may waive notice of any meeting either prospectively or retrospectively and if he shall do so it shall be no objection to the validity of such meeting that notice was not given to him.
- 9.2 Without limitation to the powers of the directors to regulate their proceedings any director may participate in a meeting of the directors or of a committee of directors by means of conference telephone, video-conferencing or similar communication equipment whereby all the directors participating in the meeting can hear each other and the director participating in a meeting in this manner shall be deemed to be present in person at such meeting.
- 10.1 Subject to the provisions of the Act and provided that he has disclosed to the directors the nature and extent of any material interest of his, a director notwithstanding his office
  - (a) may be a party to or otherwise interested in any transaction or arrangement with the Company or in which the Company is in any way interested,

- (b) may be a director or other officer of or employed by or be a party to any transaction or arrangement with or otherwise interested in any body corporate promoted by the Company or in which the Company is in any way interested,
- (c) may (and any firm or company of which he is a partner or member or director may) act in a professional capacity for the Company or any body corporate in which the Company is in any way interested,
- (d) shall not by reason of his office be accountable to the Company for any benefit which he derives from such office service or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit, and
- (e) shall be entitled to vote and be counted in the quorum on any matter concerning the foregoing paragraphs of this article

10 2 For the purposes of this article

- (a) a general notice to the directors that a director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the director has an interest in any such transaction of the nature and extent so specified,
- (b) an interest of which a director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his, and
- (c) an interest of a person who is for any purpose of the Act (excluding any statutory modification not in force when these articles were adopted) connected with a director shall be treated as an interest of the director and in relation to an alternate director an interest of his appointor shall be treated as an interest of the alternate director without prejudice to any interest which the alternate director has otherwise

### **DIRECTORS' BORROWING POWERS**

- 11 The directors may exercise all the powers of the Company (whether express or implied)
- (a) of borrowing or securing the payment of money,



- (b) of guaranteeing the payment of money and the fulfilment of obligations and the performance of contracts, and
- (c) of mortgaging or charging the property assets and uncalled capital of the Company and (subject to section 80 of the Act) of issuing debentures

## **TRANSFER OF SHARES AND PRE-EMPTION ON TRANSFER TO A SECURED PARTY**

- 11 2    12 1    Notwithstanding anything otherwise provided in these articles no transferor of any shares in the Company (or proposed transferor of such shares) to a Secured Party, and no Secured Party shall be required to offer the shares which are or are to be the subject of any such aforementioned transfer to the shareholders for the time being of the Company or any of them and no such shareholder shall have any right under the articles or otherwise howsoever to require such shares to be transferred to them whether for consideration or not, and the directors of the Company shall not decline to register any transfer of shares in the Company or suspend registration thereof, where such transfer of shares is to a Secured Party. Furthermore, notwithstanding anything otherwise provided in these articles, the Company and the directors shall not be entitled to exercise any lien which the Company has in respect of those shares
- 11 3    The Company shall have no lien on any shares which have been charged by way of security to a Secured Party and the provisions of Regulations 8-11 of Table A (Liens) relating to liens over shares shall not apply in respect of any such shares

## **INDEMNITY**

- 13    Subject to the provisions of the Act but without prejudice to any indemnity to which a director may otherwise be entitled, every director or other officer or auditor of the Company shall be indemnified out of the assets of the Company against all costs, charges, losses, expenses and liabilities incurred by him in the execution of his duties or in relation thereto including any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company